

**आयकर अपीलिय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 332/Kol/2023**  
**Assessment Year: 2014-15**

Genesis Trade Links (P) Ltd. (PAN: AACCG 4903 H)	Vs.	ITO, Ward-2(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	25.05.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	21.08.2023
For the Appellant/ निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent/ राजस्व की ओर से	Shri Rakesh Kumar Das, CITDR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 15.11.2022 for the AY 2014-15.

2. The only issue raised by the assessee in the various ground of appeal is against the confirmation of addition of Rs. 10,48,96,895/- by the Ld. CIT(A) as made by the AO on account of share capital and share premium being unexplained cash credit u/s 68 of the Act.

3. Facts in brief are that the assessee filed return of income on 18.10.2014 declaring total loss at Rs. 14,701/-. Thereafter the case was selected for scrutiny for

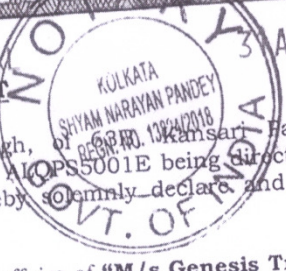
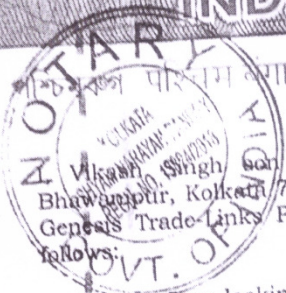
large share premium and share capital and statutory notices were duly issued and served on the assessee. The AO issued questionnaire to the assessee along with notice u/s 142(1) of the Act and the assessee accordingly filed written submission along with necessary documents before the AO. The assessee submitted before the AO that assessee has not any share capital and share premium during the year however the return of income filed for the year states that the assessee had received share capital and share premium to the tune of Rs. 10,48,96,895/-. Finally, the AO added a sum of Rs. 10,48,96,895/- on account of share capital/premium received as unexplained cash credit to the income of the assessee when the failed to reply to the various notices issued or record personal appearance.

4. The issue was challenged before the Ld. CIT(A) however the Ld. CIT(A) also dismissed the appeal in limine after assessee failed to appear despite 4 opportunities.

5. We have perused the facts on record and heard the rival contentions. We note that the assessee has not issued any share capital during the year and this fact was also placed before the Id AO by means of written submissions dated 24.08.2016 notwithstanding the assessee has shown in the return of income the increase in share premium and share capital. It was pointed out that while uploading the return of income due to wrong tagging, the said mistake has happened. We have also examined the audited balance Sheet as at 31.03.2014 dated 22.08.2014 and observe that the share capital as on 31.3.2014 vis-a-vis 31.3.2013 was same and there was no increase in share capital and share premium. The Id CIT(A) dismissed the appeal in limine on account of appeal not attended by anyone on behalf of the assessee. Similarly, the AO has ignored the documents filed to arrive at a correct conclusion on the issue of share capital and share premium whereas there has been no such issue of share at a premium during the year. We also note that the fact is apparent from the balance sheet of the assessee is also reproduced as under for ready reference:



Sl. NO. 26 DT. 20.05.2023



**AFFIDAVIT**

I, Vikash Singh son of Shri Rajgrihi Singh, of Kansari Para Road, Bhawanipatir, Kolkata 700025 having PAN no. ALOPS5001E being director of M/s Genesis Trade-Links Private Limited do hereby solemnly declare and affirm as follows:

1. That I am looking after all the taxation affairs of "M/s Genesis Trade-Links Private Limited".

That on 27.10. 2022, a hearing had been fixed by the Commissioner of Income Tax (Appeals) in connection with appeal of Genesis Trade-Links Private Limited against the order u/s 143(3) of the Act dated 14.11.2016, however I was suffering from Hyper Tension and Vertigo and was advice strict and complete bed rest. I was on bed rest from 10.2022 to 15.11.2022, therefore I could not appeared on 27.10.2022 in such hearing.

That as a result of above, the Commissioner of Income Tax (Appeals) dismissed the said appeal ex-parte without consider the material in the record.

That non-appearance on 27.10. 2022 was not due to any malafide reasons but due to the above stated reason.

That whatever is declared herein above is true to the best of my knowledge and belief.

Solemnly declared and affirmed by the declarant Vikash Singh on this 20 day of May, 2023.

Identified by me  
Piyush Kumar, Adv  
F/2411/2022

Vikash Singh  
Director of Genesis Trade-Links Private Limited

20 May 2023

Solemnly Affirm & Declarec  
Enfore Me on Identification  
of Ld. Advocata

SHYAM NARAYAN PANDEY  
NOTARY, GOVT. OF INDIA  
REGN. No. 13024/2016

In our opinion both the authorities below hopelessly failed to appreciate the facts on record that the assessee has not issued any share capital or received any premium during the year. We are not sending the case to the file of Ld. CIT(A) as the facts are apparent on record and in case, we do so, it would lead to wastage of time and resources of the revenue. Since the case is apparent that there has been no issuance of share capital during the year, we are inclined to set aside the order of Ld. CIT(A) and direct the AO to delete the addition of Rs. 10,48,96,895/-

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 21<sup>st</sup> August, 2023

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 21<sup>st</sup> August , 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Genesis Trade Links Pvt. Ltd., R Singh & Associates, Room no. 215, 2<sup>nd</sup> Floor, Hastings Chambers, 7C, Kiran Shankar Roy Road, Kolkata-700001.
2. Respondent – ITO, Ward-2(2), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata