

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

[Before Shri Sonjoy Sarma, Judicial Member &
Shri Girish Agrawal, Accountant Member]

I.T.A. No. 1038/Kol/2023
Assessment Year : 2012-13

M/s. OM Enclave Pvt. Ltd.	vs	ITO, Ward-8(2), Kolkata
PAN: AABCO 4774 B		
Appellant		Respondent

Date of Hearing	24.01.2024
Date of Pronouncement	25.01.2024
For the Assessee	Shri Miraj D. Shah, AR
For the Revenue	Shri S. Datta, CIT, DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 09.08.2023 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)'].

2. At the outset the ld. AR brought to our knowledge that a new development has taken place in the case of assessee. As per the ld. AR, after the assessment was framed against the assessee, a search was carried out on 03.01.2018 wherein the statement of director of this assessee company was also recorded u/s 132(4) of the Act wherein for question no. 9 the director has accepted that the assessee company which is seen at serial no. 12 of the table given under answer to question no. 9 that it was controlled and managed by him and that the assessee company is a paper / shell company formed with the sole purpose of providing accommodation entries in the form of bogus share premium / bogus unsecured loans to different beneficiaries. In the light of the aforesaid development, in the interest of justice and fair play, the assessment made, need to

be framed afresh. On the other hand, ld. DR has no objection to such prayer made by ld. AR of the assessee. In the light of the aforesaid new development, and keeping in mind, the settled position of law that the tax has to be assessed on the right person, right income and in the right assessment year, we set aside the impugned order and remit the matter back to the file of the Assessing Officer for de novo adjudication in the light of the new development after the search which happened on 03.01.2018.

3. In the result, the appeal of the assessee is allowed statistical purposes.

Order pronounced in the open court on 25.01.2024.

Sd/-

Sd/-

(Girish Agrawal)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 25.01.2024

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. OM Enclave Pvt. Ltd., 53A, 4th Floor, Mirza Ghalib Street, Kolkata-700016.
2. Respondent – ITO, Ward-8(2), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata