

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER  
&  
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

**I.T.A. No. 773/Kol/2022**  
**Assessment Year: 2014-15**

<b>M/s. Swaviman Services Private Limited</b> 84, Panchanantal Road 2 <sup>nd</sup> Floor, Block-A Flat No. 204 Liluah Howrah - 711204 <b>[PAN : AADCS5897D]</b>	Vs	<b>Income Tax Officer, Ward-12(2), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Sunil Surana, A/R
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 18/03/2024  
घोषणा की तारीख /Date of Pronouncement: 08/04/2024

**आदेश/ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the assessee against the order of the learned Commissioner of Income Tax (Appeals) - 4, Kolkata (hereinafter the "Id. CIT(A)") dated 27/12/2019, passed u/s 250 of the Income Tax Act, 1961 ('the Act'), for Assessment Year 2014-15.

2. At the outset the Id. Counsel for the assessee submitted that the order of the Id. Assessing Officer is *ex-parte* and assessee also failed to appeal before the Id. CIT(A) and the impugned additions are on account of unexplained share capital and share premium. Referring to the audited balance sheet, he submitted that the assessee has not received any share capital and share premium during the year. However, since the assessee did not appear before the lower authorities, an opportunity may be granted to furnish necessary details to prove that no fresh share capital and share

premium was received during the year and, therefore, no addition u/s 68 of the Act is called for.

On the other hand, the ld. D/R vehemently argued supporting the orders of the lower authorities.

3. We have heard rival contentions and perused the material placed on record. The addition u/s 68 of the Act is in challenged before us which is made by the Assessing Officer for unexplained share capital and share premium amounting to Rs.1,57,00,000/-. The assessee is a private limited company furnished return for Assessment Year 2014-15 on 23/06/2015 declaring loss of Rs. 71,779/-. After the case being selected for scrutiny through CASS, followed by service of notice u/s 143(2) and 142(1) of the Act, the assessee did not comply to the notices by neither appearing in person nor through his authorised representative nor filed any documents. The ld. Assessing Officer based on the records available before it, came to the conclusion that the assessee has received share application and share premium totaling to Rs.1,57,00,000/- during the year but for lack of evidence, he invoked section 68 of the Act and made the addition for the alleged sum. We further notice that in the appeal before the ld. CIT(A), assessee again did not appear and ld. CIT(A) has dismissed the appeal *in limine* for non-appearance and made no discussion on merits. Before us, copy of the audited balance sheet has been filed in support of the claim that no fresh share capital and share premium has been received during the year. However, since this fact was not brought before the lower authorities, we in the interest of justice and being fair to both the parties, restore the issues on merits to the file of the Assessing Officer for *de novo* adjudication after considering the details to be filed by the assessee for which necessary opportunity may be granted.

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

**Order pronounced in the Court on 9<sup>th</sup> April, 2024 at Kolkata.**

*Sd/-*

**(SANJAY GARG)  
JUDICIAL MEMBER**

*Sd/-*

**(DR. MANISH BORAD)  
ACCOUNTANT MEMBER**

Kolkata, Dated 09/04/2024

*SJG*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata