

documents/explanations/evidences on the file or as will be furnished by the assessee before him relating to the identity and financial worthiness of the share applicants, the justification of the premium received by the assessee and also relating to the genuineness of the transaction in question. The assessee will duly comply with the notices issued by the CIT(A) and will also furnish the required documents and evidences before the CIT(A) or before the Assessing Officer, as the case may be.

6. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 21st June, 2024.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 21.06.2024.

RS

Copy of the order forwarded to:

1. Deergold Vincom Pvt Ltd
2. ITO, Ward-6(1), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

The draft order was signed by the Judicial Member on 09.06.2024 and the same was sent to the Ld. Accountant Member, who is posted at Mumbai on the same day. The Ld. Accountant Member signed the order on 11.06.2024 which was forwarded vide letter dated 11.06.2024 to Kolkata Bench. Signed copy received today on 21.06.2024, hence the order is pronounced under Rule 34(4) of the I.T.A.T Rules.

Sd/-
(Sanjay Garg)

parte order as the assessee's counsel had not appeared before the CIT(A). In the letter dated 28.11.2023, it has been explained that earlier the matter of the assessee was looked after by Sri Deepak Tibrewal, CA. It has been further mentioned that Sri Deepak Tibrewal was suffering from various ailments and due to his prolonged illness, he was unable to look after this Income Tax matter and ultimately Sri Tibrewal expired on 24.11.2022. It has therefore been explained that the non-appearance before the CIT(A) by the counsel of the assessee was not intentional, rather, due to aforesaid facts, which was beyond the control of the assessee. The contents of the letter dt. 28.11.2023 are reproduced as under:

"Please refer to the above mentioned appeal fixed for hearing on 29.11.2023 before the ITAT, C-Bench.

As desired by your Honours vide hearing and order sheet noting dated 05.07.2023. we are submitting herewith following details and documents: -

1.) List of share applicants as on 31.03.2012 are enclosed

2.) Copy of ITR Acknowledgement along with Audited Financials of the company for subsequent Assessment years 2013-14 and 2014-15 are enclosed herewith. In respect of Audited Financials of earlier years, it is submitted that the appellant company was formed in the relevant assessment year i.e. 2012-13 only.

3.) Details of Directors of the company and share applicant companies as on 31.03.2023 are enclosed herewith.

Hope, your goodself will find the above in order.

It is also submitted that since assessment stage the above matter was looked after by Sri Deepak Tibrewal, CA being the Authorised Representative of the appellant company.

The directors of the company are not conversant with income tax matters and were fully dependent on CA Dipak Kumar Tibrewal for compliances

capital with premium aggregating to Rs.3,16,00,000/- as unexplained cash credit u/s 68 of Income Tax Act, 1961.

2. That the appellant craves leave to add, alter, adduce or amend any ground or grounds on or before the date of hearing of the appeal.”

4. The case was earlier fixed for hearing on 05.07.2023 and the Tribunal had passed an order on 05.07.2023. A perusal of the said order reveals that the ld. counsel for the assessee had appeared on the said date and pleaded that the order of the CIT(A) was ex parte order and that the appeal of the assessee has been dismissed for want of prosecution. On hearing the ld. counsel for the assessee, the Tribunal had passed the following order dated 05.07.2023:

“The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21st March, 2023 passed for A.Y. 2012-13.

2. The assessee has taken two grounds of appeal, out of which Ground No. 2 is a general ground, which does not call for recording of any finding.

3. In Ground No. 1, the assessee has pleaded that the ld. CIT(Appeals) has erred in confirming the order of ld. Assessing Officer vide which an addition of Rs.3,16,00,000/- was made to the taxable income of the assessee with the aid of section 68 of the Income Tax Act.

4. The ld. Counsel for the assessee at the very outset submitted that the impugned order of the ld. CIT(Appeals) is a non-speaking order. The ld. CIT(Appeals) has dismissed the appeal of the assessee for want of prosecution. However, we find that the impugned order is running into 16 pages. The ld. CIT(Appeals) has provided nine opportunities to the assessee for submission of the details, but it failed to give submissions which can rebut the finding of the ld. Assessing Officer in the assessment order.

5. It emerges out from the record that the assessee has filed return of income declaring total income at Rs.959/- only. Its case was selected for scrutiny and a notice under section 143(2) was issued and served upon the assessee. The ld. Assessing Officer has observed that the assessee has received share capital and share premium. The scrips having face value of Rs.10/- were sold at Rs.500/-, which means Rs.490/- were taken as a premium. The ld. Assessing Officer has examined the details and thereafter made an addition of Rs.3,16,00,960/-.