

**आयकर अपीलिय अधिकरण, कोलकाता पीठ 'C', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No.1235/Kol/2024  
Assessment Year: 2012-13  
&  
I.T.A. No.1229/Kol/2024  
Assessment Year: 2013-14  
&  
I.T.A. No.1230/Kol/2024  
Assessment Year: 2013-14**

**Pingle Commotrade Pvt. Ltd. .... Appellant**  
**77/79, Netaji Subhash Road, 5<sup>th</sup> Floor,**  
**Room No. 5, Kolkata-700001.**  
**(PAN: AADCP1882D)**

**vs.**

**ITO, Ward-5(1), Kolkata ..... Respondent**

**Appearances by:**

Shri Miraj D. Shah, AR appeared on behalf of the Appellant  
Shri Subhro Das, Addl. CIT, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing: 26/11/2024  
Date of pronouncing the order: 17/12/2024

**आदेश / ORDER**

**Per Sanjay Garg, Judicial Member :**

ITA Nos. 1235 & 1229/Kol/2024 for Assessment Years (AY) 2012-14 and 2013-14 respectively have been preferred by the assessee against the separate orders dated 26.07.2023 and 17.11.2023 of the Ld. Commissioner of Income Tax, (Appeal), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") relating to the quantum additions, whereas ITA No. 1230/Kol/2024 has been preferred by the assessee against the order dated 17.11.2023 of the Ld. Commissioner of Income Tax, (Appeal), National Faceless Appeal Centre (NFAC), Delhi passed in the appeal against the levy of penalty order u/s.

271(1)(c) of the Act by the Assessing Officer (AO), National Faceless Assessment Centre, Delhi for Assessment Year (AY) 2013-14.

2. Since facts are identical, issues are common in all the appeals, hence, we dispose of all the captioned appeals by this consolidated order for the sake of convenience and brevity.

3. ITA Nos. 1229 & 1230/Kol/2024 are time barred by 134 days and ITA No. 1235/Kol/2024 is time barred by 248 days. At the outset, the Ld. Counsel for the assessee has invited our attention to the impugned orders of the Ld. CIT(A) in all the appeals to submit that the same are ex parte orders of the Ld. CIT(A). The Ld. Counsel has further submitted that no notice of the dates of hearing before the Ld. CIT(A) was ever received by the assessee in physical mode. That the alleged notices were sent through e-mail which went to spam box of the assessee's mail and could not be noticed, resulting into non-appearance of the assessee before the Ld. CIT(A). It has been further submitted that even the assessee did not receive the final order of the Ld. CIT(A) resulting into the aforesaid delay in filing the appeals. Considering the aforesaid facts, we condone the delay in filing the appeals by the assessee and the appeals are admitted for adjudication.

**ITA Nos. 1229 & 1235/Kol/2024:**

4. The assessee in ITA No. 1235/Kol/2024 for AY 2012-13 has contested the addition of Rs.5,75,00,000/- and in ITA No. 1229/Kol/2024 for AY 2013-14 has contested the addition of Rs.1,42,50,000/- made/confirmed by the lower authorities on account of unexplained cash credit/share application money received by the assessee.

5. At the outset, the Ld. Counsel for the assessee, inviting our attention to the impugned orders of the Ld. CIT(A), has submitted that in

both the cases, the aforesaid orders of the Ld. CIT(A) are ex parte orders. He has further submitted that, in fact, no physical notice for date of hearing was ever received by the assessee. The Ld. Counsel for the assessee further inviting our attention to the impugned assessment orders has submitted that the additions have been made by the AO in these cases mainly because the assessee could not produce the directors of the shareholders despite notices issued to them by the AO u/s. 131 of the Act. The Ld. Counsel has submitted that the assessee may be given an opportunity to present its case before the Ld. CIT(A) and, if so, required the assessee is also ready to produce the directors of the share subscribers.

6. Considering the above submissions of the Ld. Counsel for the assessee and after hearing the Ld. DR, we are of the view that interests of justice will be well served, if the assessee is given an opportunity to present its case before the Ld. CIT(A). The impugned orders of the Ld. CIT(A) are accordingly, set aside and the matter in both the appeals is restored to the file of the Ld. CIT(A). It is directed that the assessee will duly check its e-mail box regarding notices, if any, sent by the Ld. CIT(A) regarding dates of hearing and will promptly appear and present its case as and when called for by the Ld. CIT(A). With the above observations, both the appeals of the assessee are treated as allowed for statistical purposes.

**ITA No. 1230/Kol/2024 :**

7. In this appeal, the assessee has agitated the levy of penalty u/s. 271(1)(c) of the Act. The basis of the impugned penalty is the impugned addition made by the AO in respect of the share capital as discussed above in ITA No. 1229/Kol/2024. Since we have set aside the matter relating to the quantum addition to the file of the Ld. CIT(A), therefore, this appeal

relating to penalty is also set aside to the Ld. CIT(A) to be decided along with the ITA No. 1229/Kol/2024.

8. In the result, all the appeals of the assessee stand allowed for statistical purposes.

Order is pronounced in the open court on 17.12.2024.

Sd/-

**[Rajesh Kumar]**  
लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**  
न्यायिक सदस्य/Judicial Member

Dated: 17.12.2024.

*JD Sr. P.S*

*Copy of the order forwarded to:*

1. **Appellant – Pingle Commotrade Pvt. Ltd.**
2. **Respondent – ITO, Ward-5(1), Kolkata**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar, ITAT, Kolkata