

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 1232/Kol/2024**  
**Assessment Year: 2012-13**

M/s Emerald Properties Pvt. Ltd.  (PAN: AAACE 5407 E)	Vs.	ITO, Ward-13(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	11.12.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	23.01.2025
For the assessee / निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the revenue / राजस्व की ओर से	Shri Abhijit Kundu, CITDR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 08.09.2024 for AY 2012-13.

2. Brief facts of the case of the assessee are that the assessee company filed his return of income declaring total income at Rs. 35,220/-. The case was selected for

scrutiny, notices u/s 143(2) was served. The assessee has also been show caused as there was non-compliance of the notice u/s 142(1), there was also non-compliance in attending the hearing instead of personal appearance as against the notices u/s 131 of the Act., the AO find that during the FY 2011-12 the assessee company made a cash deposit of Rs. 2,44,000/- and Rs. 2,00,000/- in Union Bank of India as the assessee did not come forward to produce the books of account and/or explaining the bank book such cash deposit remained unexplained. The AO further observed from the balance sheet and list of parties to whom advance was given credit to Rs. 57,23,000/- as on 31.03.2011 and got reduced to Rs. 34,73,000/- by way of repayment of advance received by the assessee company. The identity of parties, genuineness of transaction and creditworthiness of the party to pay the amount remained unexplained. The AO further find the new head current liabilities of the balance sheet. It is observed that the assessee has increased the advances from Rs. 25,00,000/- to Rs. 1,44,50,000/-. The assessee never appeared to produce the books of account, as a result of which, the amount of Rs. 1,19,50,000/- added back to the total income of the assessee u/s 68 of the Act. The AO has assessed the income of the assessee as follows:

3. total income of the assessee is computed as follows:

Total income of the Assessee as per ITR filed	Rs. 35,220/-
Add: Disallowance of unexplained Cash Credit u/s 68 [para-6]	Rs. 11,61,01,000/-
Add: Addition on account of disallowed Speculation Loss [para-7]	Rs. 8,74,594/-
Add: Disallowance of unexplained money etc. u/s 69A [para-8]	Rs. 4,40,000/-
Add: Disallowance of unexplained Cash Credit u/s 68 [para-9]	Rs. 54,50,000/-
Add: Disallowance of unexplained Cash Credit u/s 68 [para-10]	Rs. 1,19,50,000/-
Add: Disallowance of estimated expenses [para-11]	Rs. 6,183/-
<b>TOTAL INCOME</b>	<b>Rs. 13,48,56,997/-</b>

Being aggrieved and dissatisfied the assessee has preferred the appeal before the Ld. CIT(A).

3. The said order has been challenged by the assessee before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed by holding that the assessee opted for VSVS scheme vide application dated 31.03.2021.

4. The Ld. Counsel of the assessee challenges the very impugned order, thereby submitting that the Ld. CIT(A) failed to appreciate that the assessee's application under the VSVS Scheme vide declaration dated 31.03.2021 was in fact against the penalty order passed by the AO on 30.09.2015. The Ld. Counsel submits that there was no application filed by the assessee against the said order before the Ld. CIT(A). The Ld. Counsel further submits that the assessee could not be able to appear before the AO to substantiate his claim. He has filed papers in two sets in P.B1 and P.B 2, details of which are as follows:

SN	Description	Page No	Page No
1	Details of shareholders	01	03
2	Details of share Application amount	04	06
3	Calculation of Book Value	07	07
4	List of Share Applicants related parties	08	09
5	List of Allotees	10	12

SN	Description	Page No	Page No
1	Income Tax Return of the assessee for AY 2012-13	1	1
2	Income Tax Form (ITR – 6)	2	23
3	Computation of income of the assessee for AY 2012-13	24	25
4	Audited Accounts of the assessee for AY 2012-13	26	37
5	Return of Allotment of shares of the assessee for AY 2012-13	38	42
6	Details of Share Application Money (Credit and Debit)	43	53
7	Form 2 & 5	54	64
8	Notice u/s 143(2) for AY 2012-13 for 143(3) proceedings	65	66
9	Notice u/s 142(1) for AY 2012-13 for 143(3) proceedings	67	70
10	Notice u/s 131 Reply filed by - Mr. Berisal Singh on 20.03.2015 - M/s. Siba Lal Guha on 20.03.2015 - Mr. Berisal Singh on 20.03.2015	71 71 73 75 87	86 72 74 86 87
11	Detail of Advances (Credit)	88	156
12	Detail of Advance (Debit) & Deed on Conveyance	190	190
13	Detail of Trade Receivable	157	1758
14	<b>Documents of Share Applicants</b>	157	189
<b>Name: M/s Aakansha Commercial Pvt Ltd</b>			
	(a) Income Tax Return for AY 2012-13	157	157
	(b) Certificate of incorporation	158	159
	(c) Audited Accounts for AY 2012-13	160	172
	(d) Share Allotment Letter	173	173
	(e) Bank Statement	174	175
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	(g) Ledger Etc	179	179
	(h) Share Application	180	181
	(i) Order Copy of Scrutiny for the AY 2012-13	182	189
		191	219
<b>Name: M/s Aristo Trade &amp; Credit Pvt Ltd</b>			
	(a) Income Tax Return for AY 2012-13	191	191

5. The Ld. D.R supports the impugned order.

6. On perusal of the order of AO there is no denying to this fact that it has been passed in absence of the assessee. The Ld. CIT(A) has also dismissed the appeal of the assessee by holding that the assessee opted for VSVS Scheme. The assessee has clearly stated that he filed application under VSVS Scheme against the penalty order not against the order passed by the AO on 29.03.2015. Before us, the assessee has filed bunch of papers and also given a certificate that the paper book submitted by the assessee contains the new documents which were not filed before the authorities below. In the interest of justice, we are inclined to give an opportunity to the assessee to place his case before the AO. Accordingly, the order was passed by the AO confirmed by the Ld. CIT(A) is hereby set aside. The assessee has been given an opportunity to place all these papers which he filed before us before the A.O. The AO is directed to pass a fresh order and after hearing the assessee and going over the documents.

In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 23<sup>rd</sup> January, 2025

Sd/-

Sd/-

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

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

Dated: 23<sup>rd</sup> January, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Emerald Properties Pvt. Ltd. (successor to Longview Finvest Pvt. Ltd.), 113, N. S. Road, Kolkata-700001
2. Respondent – ITO, Ward-13(2), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata