

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. Nos.30 & 31/Kol/2025
Assessment Years: 2012-13**

M/s. Amritlaxmi Dealcom Pvt. Ltd. **Appellant**
1, British Indian Street, Dalhousie,
Kolkata-700069.
(PAN: AAJCA2805P)

vs.

ITO, Ward-3(1), Kolkata. **Respondent**

Appearances by:

Shri Miraj D. Shah, AR appeared on behalf of the Appellant.

Shri Bonnine Debbarma, Addl. CIT, DR appeared on behalf of the Respondent

Date of concluding the hearing :May 5, 2025

Date of pronouncing the order :May 07, 2025

ORDER

Per Rajesh Kumar, Accountant Member :

Both the captioned appeals have been preferred by the assessee against the orders dated 12.01.2024 & 28.02.2024 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as the "Ld. CIT(A)"] for Assessment Year 2012-13.

2. Both the appeals of the assessee are time barred by 282 days. In support of the condonation of delay assessee filed an application for condonation of delay along with an affidavit where in it has been stated that the assessee did not receive any real time alert regarding passing of appellate order and, therefore, the assessee was not aware of the passing of the appellate order. Assessee also averred that the assessee received a call from CPC Bengaluru call centre on 02.01.2025 to pay

the outstanding demand wherein the assessee came to know that the appellate order has been passed and then the assessee contacted their counsel who downloaded the order and advised the assessee to file an appeal before the Hon'ble ITAT and accordingly, the appeal was prepared. Ld. AR, therefore, prayed before the Bench to condone the delay in filing the appeal and admit the appeal for hearing. Hence, with the consent of the Ld. DR, we condone the delay and admit the appeal for hearing.

ITA No. 30/Kol/2025

3. The assessee in this appeal is aggrieved by the action of the lower authorities in making/confirming the addition of Rs.5,46,00,000/- on account of alleged share application/share allotment money and confirming the disallowance of Rs.11,492/- u/s. 14A of the Act.

3. At the outset, Ld. Counsel for the assessee has submitted that the impugned order of the Ld. CIT(A) is an ex parte order without giving proper opportunity of hearing to the assessee. The Ld. Counsel has further submitted that necessary details were furnished before the Ld. CIT(A), however, the revenue authorities have not properly appreciated the evidence filed. The Ld. Counsel, therefore, has submitted that the matter may be restored to the file of the Ld. CIT(A) so that the assessee may explain the facts of the case and produce all the evidences for disposal on merits.

4. The Ld. DR has not agreed to the same. Considering the above submissions, in our view, the interest of justice will be served if the assessee is allowed to present its case and explain the same before the Ld. CIT(A). The impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the Ld. CIT(A) for passing a fresh order in this respect after considering the explanations and submissions, if

any, submitted by the assessee. The assessee is also directed to promptly participate in the proceedings before the Ld. CIT(A) and furnish the necessary details. In view of this, the present appeal of the assessee is treated as allowed for statistical purposes.

ITA No.31/Kol/2025

5. The present appeal has been preferred by the assessee adjudicating against the levy of penalty u/s. 271(1)(c) of the Act. Admittedly, the basis of the penalty in this appeal is the quantum additions which have been contested by the assessee in the appeal in ITA No. 30/Kol/2025. As discussed above, since the matter relating to the quantum addition has been restored to the file of the Ld. CIT(A), therefore, the impugned penalty levied by the AO has no legs to stand and the same is accordingly ordered to be deleted. However, it is made clear that if in the set aside proceeding the Ld. CIT(A) would be of the view that it is a case of levy of penalty, the Ld. Assessing Officer will be at liberty to initiate fresh penalty proceedings accordingly.

6. In the result, the appeal of the assessee in ITA No. 30/Kol/2025 stands allowed for statistical purposes and ITA NO. 31/Kol/2025 of the assessee is treated as allowed.

Order is pronounced in the open court on 7th May, 2025.

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 07.05.2025.

JD Sr. P.S

Copy of the order forwarded to:

1. **Appellant – M/s. Amritlaxmi Dealcomm Pvt. Ltd.**
2. **Respondent – ITO, Ward-3(1), Kolkata.**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

BY ORDER,

**Assistant Registrar
ITAT, Kolkata**