

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
SHRI SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No. 1260/Kol/2024
Assessment Year : 2012-2013**

M/s Emerald Properties Pvt. Ltd.,
(successor to Fast Mercantiles Pvt. Ltd.),
113, N.S. Road, 5th Floor, Room No. 93,
Kolkata - 700001
[PAN: AAACE5407E]

..... **Appellant**
vs.

ITO, Ward – 5(4), Kolkata,
Aayakar Bhawan, P-7,
Chowringhee Square,
Kolkata - 700069

..... **Respondent**

Appearances by:

Assessee represented by : Miraj D Shah, AR
Department represented by : Sandeep Kumar Mehta, Addl. Sr. DR

Date of concluding the hearing : 04.09.2025
Date of pronouncing the order : 28.10.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER:

The present appeal is filed against the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), dated 29.12.2022, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereafter "the Ld. CIT(A)").

2. At the outset, it is noted that there is a delay of 462 days in filing the appeal before this Tribunal. The assessee has filed a petition along with an affidavit explaining the reasons for the delay. After considering the petition and the submissions made, we are satisfied that there was sufficient cause for the delay. Accordingly, the delay is condoned, and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee-company had filed its return of income for the relevant assessment year declaring total income of ₹27947 The case was selected for scrutiny.

4. During the course of assessment proceedings, it was observed from the balance sheet that the assessee had issued 1,04,110 equity shares of ₹10 each at a premium of ₹490 per share, thereby receiving a total sum of ₹5,20,55,000, which included share premium of ₹5,10,13,900 during the financial year 2011-12. In order to verify the genuineness of the share capital and share premium, summons under section 131 of the Income-tax Act, 1961, were issued to the directors and share applicants requiring them to personally appear and furnish details and documentary evidences in support of the investments made. However, none of the parties complied with the said notices. The Assessing Officer, therefore, required the assessee to explain the nature and source of the share capital and share premium received. Since the assessee failed to offer any satisfactory explanation or supporting documents, the Assessing Officer treated the sum of ₹5,20,55,000 as unexplained cash credit under section 68 of the Act and added the same to the total income of the assessee.

5. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). However, the notices issued by the CIT(A) were returned unserved, and there was no appearance on behalf of the assessee on consecutive hearing dates. Accordingly, the Ld. CIT(A) dismissed the appeal ex parte, upholding the order of the Assessing Officer.

6. Before us, the learned authorised representative (AR) submitted that the assessee could not properly represent its case before the lower

authorities due to non-receipt of notices. It was submitted that the matter involves verification of documentary evidences relating to share capital and premium, and therefore, in the interest of justice, the assessee may be given an opportunity to produce the relevant evidences before the Assessing Officer.

7. The learned departmental representative (DR), on the other hand, did not seriously object to the prayer of the assessee for remand, but submitted that the assessee should cooperate fully in the set-aside proceedings.

8. We have considered the rival submissions and perused the materials on record. It is noted that both the Assessing Officer and the CIT(A) decided the matter *ex parte* in absence of the assessee. Since the addition of ₹5,20,55,000 under section 68 of the Act involves verification of primary evidences such as confirmation of investors, PAN, bank statements, and financial capacity, we are of the considered view that one more opportunity should be granted to the assessee to substantiate its claim.

9. Accordingly, in the interest of justice and fair play, we deem it proper to set aside the impugned order of the CIT(A) and restore the matter to the file of the Assessing Officer with a direction to re-examine the issue afresh after affording due opportunity of being heard to the assessee. The assessee shall produce all necessary documentary evidences in support of the identity, creditworthiness of the share applicants, and genuineness of the share capital/premium received. The Assessing Officer shall pass a speaking and reasoned order in accordance with law. It is clarified that if the assessee fails to cooperate, the Assessing Officer shall be at liberty to decide the issue on the basis of material available on record.

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

Order pronounced on 28.10.2025

Sd/-
(Rajesh Kumar)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 28.10.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches