

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

Before **Shri N.V.Vasudevan, Judicial Member** and
Shri Waseem Ahmed, Accountant Member

ITA No.340/Kol/2017
Assessment Year :2012-13

M/s Manipur Fiscal Services Pvt. Ltd., 501A, Diamond Prestige, 5 th Floor, 41A, A.J.C. Bose Road, Kolkata-17 [PAN No.AABCM 8979 J]	V/s.	Income Tax Officer, Ward-8(1), P-7, Chowringhee Square, Aayakar Bhawan, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri S.M. Surana, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Saurabh Kumar, ACIT-SR-DR
सुनवाई की तारीख/Date of Hearing	11-05-2017
घोषणा की तारीख/Date of Pronouncement	02-06-2017

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-3, Kolkata dated 25.01.2017. Assessment was framed by ITO Ward-8(1), Kolkata u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide his order dated 23.03.2015 for assessment year 2012-13.

Shri S.M. Surana, Ld. Advocate appeared on behalf of assessee and Shri Saurabh Kumar, Ld. Departmental Representative represented on behalf of Revenue.

2. The grounds raised by assessee per its appeal are as under:-

- “1. For that the order of the Ld. CIT(A) is arbitrary, illegal and bad in law.*
- 2. For that the Ld. CIT(A) erred in passing the order ex parte without allowing the appellant any proper opportunity of being heard when the notice of hearing was not served and the Ld. AO.*
- 3. For that the Ld. CIT(A) erred in summarily rejecting the grounds of appeal raised when all the details were filed and were record of the AO, the AO did not proceed further to examine various details duly filed.*
- 4. For that the Ld. CIT(A) erred in confirming the addition of Rs.6,50,00,000/- made by the AO holding that the identity, creditworthiness and genuineness was not proved simply because the capital was raised at huge premium or the Directors of the shareholder companies were not produced.*
- 5. For that on the facts and in the circumstances of the case the Ld. CIT(A) erred in confirmation the addition of Rs.6,40,00000/-*
- 6. For that on the facts and circumstances of the case the order of the CIT(A) be modified and the assessee be given the relief prayed for.”*

3. At the outset, it was observed that Ld. CIT(A) has passed *ex parte* order on the ground that nobody from the side of assessee attended the hearing at the appellate stage in spite of the fact that the notice of hearing was served upon the assessee. However, Ld. AR for the assessee before us submitted that there was change in the address of the assessee and this fact was duly brought to the notice of the same was not communicated to Ld. CIT(A). Ld AR further requested the Bench to restore the matter to the file of AO for fresh consideration in the above circumstances.

On the other hand, Ld. DR before us submitted that the AO has passed a speaking order after considering all the necessary facts of the case and therefore it should be restored back to the file of Ld. CIT(A). He vehemently relied on the order of Authorities Below.

4. We have heard the rival contentions of the parties and perused the material available on record. From the foregoing discussion, we find that Ld. CIT(A) has passed *ex parte* order by observing that assessee failed to appear before him at the time of hearing of the case. We further find that the AO has passed a speaking order after giving reasonable opportunity of being heard to

assessee and considering the necessary documents. In this view of the matter and for the interest of natural justice we are inclined to restore the matter back to the file of Ld. CIT(A) for fresh adjudication in accordance with law. Needless to say that assessee should co-operate in the appellate proceedings as and when asked by Ld. CIT(A). Hence, this appeal of assessee's appeal is allowed for statistical purpose.

5. In the result, assessee's appeal stands allowed for statistical purpose.

Order pronounced in the open court 02/06/2017

Sd/-
(न्यायिक सदस्य)
(N.V.Vasudevan)
(Judicial Member)
Kolkata,

Sd/-
(लेखा सदस्य)
(Waseem Ahmed)
(Accountant Member)

*Dkp, Sr.P.S

दिनांक:- 02/06/2017 कोलकाता ।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Manipur Fiscal Services Pvt. Ltd., 501A, Diamond Prestige, 5th Floor, 41A, A.J.C. Bose Road, Kolkata-17
2. प्रत्यर्थी/Respondent-ITO, Ward-8(1), P-7, Chowringhee Square, Aayakar Bhawan, Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

Sr. Private Secretary, Head of
Office/DDO
आयकर अपीलीय अधिकरण,
कोलकाता ।