

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'C' BENCH, KOLKATA**

**Before Shri J. Sudhakar Reddy, Accountant Member &  
Shri S.S.Viswanethra Ravi, Judicial Member**

**I.T.A. No. 2369/KOL/ 2013  
Assessment year : 2007-2008**

**Income Tax Officer,.....Appellant**  
**Ward-1(4), Kolkata,**  
**Aayakar Bhawan, 7<sup>th</sup> Floor**  
**P-7, Chowringhee Square, 7<sup>th</sup> Floor,**  
**Kolkata-700 069**

**-Vs.-**

**M/s. Sound Mercantile Pvt. Limited,.....Respondent**  
**P-41, Princep Street, 5<sup>th</sup> Floor, Room No. 509,**  
**Kolkata-700 072**  
**[PAN: AAICS 7561 B]**

**Appearances by:**

*Shri Debasish Lahiri, JCIT, Sr. D.R., for the Department*  
*N o n e, for the assessee*

Date of concluding the hearing : February 21, 2017

Date of pronouncing the order : February 28, 2017

**O R D E R**

**Per Shri J. Sudhakar Reddy, A.M.**

This appeal filed by the Revenue is directed against the order of Id. Commissioner of Income Tax (Appeals)-I, Kolkata dated 13.06.2013 for the assessment year 2007-08.

2. None appeared on behalf of the assessee at the time of hearing before us despite the service of notice. The case was earlier listed on 10.05.2016, 13.07.2016, 19.09.2016 and today. None of the occasions, the assessee has appeared nor authorized any Id. counsel appeared. The notice of hearing sent to the address mentioned in Form No. 36 (Column

20) was returned by the postal authorities with the remark "not known and not claimed". Under these circumstances, we dispose of the case ex-parte qua the assessee on merits after hearing the ld. D.R.

3. The grounds of appeal raised by the Revenue read as follows:-

*"1. That on the facts and circumstances of the case, the CIT(A) is not justified in admitting fresh evidence in violation of Rule 46A of I.T. Rules.*

*2. That on the facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.1,99,65,228/- made by the A. O. on account of unexplained cash credit u/s. 68 of the I.T. Act even after concluding that total deposits to bank were actually Rs.3,13,00,000/-.*

*3. That on the facts and circumstances of the case, the CIT(A) has erred in not appreciating the fact that the case was correctly assessed u/s 144 of the I. T. Act, 1961 by the Assessing Officer because of the peculiar circumstances existing during the scrutiny assessment proceedings.*

*4. That on the facts and circumstances of the case, the CIT(A) has erred in not bringing any facts etc. on record to substantiate why commission @ 0.25% on deposits made into the bank account is to be applied for determination of additional income.*

*5. That on the facts and circumstances of the case, the CIT(A) has erred in applying commission @0.25% on deposits into bank placing reliance upon some cases, without mentioning how these cases are similar to the instant case".*

4. Brief facts of the case are that the assessee claims that it is engaged in the business of providing accommodation or bogus entries for a commission. The undisputed fact is that a sum of Rs.1,99,65,228/- was deposited in the assessee's Bank account. The nature and source of these deposits was not explained by the assessee before the Assessing Officer or even before the ld. CIT(Appeals). We do not find that the assessee has furnished any evidence in support of this claim, that it was merely a conduit or pass the rough entity. We cannot accept the claim that the

assessee is in the business of providing accommodation or bogus entries for a commission. The Company has also not filed any evidence to prove the source of Bank deposits of Rs.1,99,65,228/-. Merely because, the deposits were made in Bank through banking channels it does not take away the burden that lay on the assessee-company, to prove the identity, genuineness and creditworthiness of the persons from whom the credit amounts were received. As rightly argued by the ld. D.R. the ld. CIT(Appeals) has admitted certain additional evidences without recording any reason for admission of the same. He is also right in pointing out that the Assessing Officer was not given any opportunity to examine and comment upon these additional evidences. Under these circumstances, we hold that the order of the first appellate authority is devoid of merit. The ld. CIT(Appeals) has not based his finding on any evidence. Thus we reverse the order of the first appellate authority and restore the order of the Assessing Officer passed under section 144 of the Act on 30.12.2009.

**5. In the result, the appeal of the Revenue is allowed.**

Order pronounced in the open Court on February 28, 2017.

**Sd/-  
(S.S. Viswanethra Ravi)  
Judicial Member**

**Sd/-  
(J. Sudhakar Reddy)  
Accountant Member**

**Kolkata, the 28<sup>th</sup> day of February, 2017**

Copies to : (1) **Income Tax Officer,  
Ward-1(4), Kolkata,  
Aayakar Bhawan, 7<sup>th</sup> Floor  
P-7, Chowringhee Square, 7<sup>th</sup> Floor,  
Kolkata-700 069**

(2) **M/s. Sound Mercantile Pvt. Limited,  
P-41, Princep Street, 5<sup>th</sup> Floor, Room No. 509,  
Kolkata-700 072**

(3) **Commissioner of Income-tax (Appeals)-I, Kolkata**

(4) **Commissioner of Income Tax, Kolkata**

(5) **The Departmental Representative**

(6) **Guard File**

**By order  
Assistant Registrar  
Income Tax Appellate Tribunal  
Kolkata Benches, Kolkata**