

IN THE INCOME TAX APPELLATE TRIBUNAL “A”

(Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI J. SUDHAKAR REDDY, AM & SHRI S. S. GODARA, JM

आयकर अपीलसं./I.T.A Nos.1418&619/Kol/2019

(निर्धारण वर्ष / Assessment Years: 2011-12 & 2012-13)

Efthalia Mercantile Pvt. Ltd. P54/1, Rafi Ahmed Kidwai Road, Kolkata-700016.	Vs.	DCIT, Circle-8(2), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAACN8795Q		
(Appellant)	..	(Respondent)

Appellant by : Shri M. D. Shah, AR

Respondent by : Shri Ram Bilash Meena, CIT-DR

सुनवाईकीतारीख/ Date of Hearing : 30/09/2020

घोषणाकीतारीख/Date of Pronouncement : 14/10/2020

आदेश / ORDER

Per Shri S. S. Godara:

These assessee's two appeals for assessment years 2011-12 & 2012-13 arise against the Commissioner of Income Tax (A) - 15, Kolkata & Commissioner of Income Tax (A) - 3, Kolkata's separate orders; dated 28.03.2019 & 21.03.2017, passed in Case No.286/CIT(A)-15/18-19/Cir-8(2)/R&T/KOL & 729/CIT(A)-3/DCIT,C-8(1)/Kol/15-16 involving proceedings u/s 147/143(3) & 143(3) of the Income Tax Act, 1961 respectively; in short 'the Act'.

Heard both the parties. Case files perused.

2. The assessee's identical twin substantive grounds in both these appeals seek to reverse the lower authorities' action treating its share application/premium sum of Rs.13,60,00,000/- as section 68 unexplained cash credits and section 14A disallowance of Rs.4,476/- in former and similar share capital/premium sum of Rs.9,02,00,000/- followed by unsecured loans added of Rs.1,58,61,644/- and section 14A disallowance of Rs.39,086/-; assessment year wise, respectively. We notice at the outset with the able assistance of both the learned representatives that

the lower appellate orders under challenge; passed ex parte, the impugned additions on merits in paras 3.8 and 4 to 7; respectively in these assessment years without discussing the corresponding detailed evidence as required u/s 250(6) of the Act requiring framing of points of determination followed by an elaborate discussion thereupon as per law.

3. Learned counsel next submitted that Assessing Officer in both these cases has gone by the alleged statements collected at assessee's back whilst carrying out the necessary enquiries for verification of the investor parties in Mumbai. He invited our attention to para 3 in assessment order dated 29.03.2015 pertaining to assessment year 2012-13 to this effect. These clinching aspects have gone unrebutted from the Revenue side. Faced with this situation, we deem it appropriate to restore the assessee's grievances raised in these two appeals back to the Assessing Officer for his afresh adjudication on merits so as to verify identity, creditworthiness and genuineness of the investor parties having subscribed to the assessee's share capital. Learned counsel lastly made a very fair statement that the assessee also could not respond to section 131 notices issued at the Assessing Officer's behest. He undertakes to comply with the same in the consequential proceedings as well. We therefore restore all the issues raised in these two appeals back to the Assessing Officer in light of the above specific observations.

4. These assessee's two appeals are allowed for statistical purposes in above terms.

Order is pronounced in the open court on 14.10.2020.

Sd/-
(J. Sudhakar Reddy)
ACCOUNTANT MEMBER

Sd/-
(S. S. Godara)
JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 14/10/2020

RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- Efthalia Mercantile Pvt. Ltd.
2. The Respondent- DCIT, Circle-8(2), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.