

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A", NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER  
AND  
SH. KULDIP SINGH, JUDICIAL MEMBER**

ITA No.4551/Del/2015  
Assessment Year: 2011-12

ITO Ward-15 (1), Room No.308A, C. R. Building, I. P. Estate New Delhi-110002	Vs	M/s LR Finvest Pvt. Ltd. 65A, Ompro Tower, Kalu Sarai, Sarvapriya Vihar, New Delhi -110016 <b>PAN AAACL1553E</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh.B. P. Singh, Sr. DR
Respondent by	None

Date of hearing:	18/10/2018
Date of Pronouncement:	30/11/2018

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the revenue is directed against the order dated 20.04.2015 of the CIT(A)-V, New Delhi relating to A.Y. 2011-12.

2. None appeared on behalf of the assessee despite service of notice. We, therefore, proceed to decide the appeal on the basis of material available on record and after hearing the Ld. DR.

3. Facts of the case, in brief, are that the assessee is a company and filed its return of income on 30.09.2011 declaring nil income being loss of Rs.14,47,28,576/-. Subsequently, revised return was filed on 12.11.2011 declaring loss of Rs.8,82,373/-. The reasons for filing revised returns are

due to non allowability of Short Term Capital Gain loss adjusted in the original return. This return was processed u/s 143 (1).

4. Subsequently, on the basis of information received from the investigation wing of the income tax department that assessee has received accommodation entries amounting to Rs.40,00,000/- from four companies, the case of the assessee was reopened u/s 147 of the IT Act after recording reasons. In response to notice u/s 148, the assessee in its reply submitted that the original return filed may be treated as return filed in response to notice u/s 148. The Assessing Officer issued notice u/s 143 (2)/142 (1) alongwith questionnaire in response to which, the assessee filed its reply from time to time. Notice u/s 133 (6) were sent to the four companies parties who had given time share money of Rs.10 lacs each to the company M/s. LR Finvest Private Limited to file confirmations alongwith copy of their ITR, balancshseet, P& L account and bank statement in respect of the said transaction. The assessee was also asked to file the confirmations alongwith copy of ITR, Balance Sheet, P & L A/c and Bank Statement in respect of the parties/ companies M/s. Lunar Gold International Pvt. Ltd. M/s.Blue Bell Finance Ltd. M/s. Edoptica Developers and M/s. Yuvraj Exports Pvt. Ltd. who have applied for Time share Membership in the company. In response to Notices u/s 133 (6) no reply was received from M/s. Lunar Gold International Pvt. Ltd., M/s Blue Bell Finance Ltd, M/s Edoptica Developers and M/s. Yuvraj Exports Pvt Ltd. Further summons u/s 131 were issued on 24.01.2014 to the companies/ parties viz, M/s. Lunar Gold International Pvt. Ltd., M/s. Lunar Gold International Pvt. Ltd., M/s Blue Bell Finance Ltd, M/s Edoptica Developers and M/s Yuvraj Exports Pvt Ltd to furnish the following information and produce the directors for personal deposition of the above said companies on 05.02.2014.

1. Confirmation alongwith Confirmation alongwith nature and source of transaction with the above company.
2. Copy of your I.T. return alongwith computation of income, Balance-sheet and P & L A/c for the A. Y 2011-12.

3. Copy of Bank Statement for the period 01.04.2014 to 31.03.2011.

4. Personal Deposition alongwith proof of identity.

5. Since there was no compliance from the above companies, the Assessing Officer asked the assessee to produce the directors of the companies for their personal deposition. However, the assessee did not produce the directors but filed their confirmations only. Since the assessee failed to prove the identity of the companies, viz M/s. Lunar Gold International Pvt. Ltd. M/s. Blue Bell Finance Ltd. M/s. Edoptica Developers India Ltd. and M/s. Yuvraj Exports Pvt. Ltd. who had given time share money to the company of Rs.10,00,000/-each during the relevant year and also failed to establish genuineness & creditworthiness of the said companies with reference to transaction in respect of time share money amounting to Rs. 40,00,000/-, the Assessing Officer treated the same as unexplained cash credit under the provisions of Section 68 of the I. T. Act, 1961. Considering, the role of intermediaries with the entry provider, he adopted the rate of commission paid by the assessee (beneficiary) @ 2% of the amount of accommodation entry and added an amount of Rs.80,000/- being commission paid out of undisclosed sources.

6. The Assessing Officer also made addition of Rs.90,10,000/- being the amount received from the following seven parties from whom the assessee has received share application money / securities / premium during the year in absence of furnishing of the requisite details in support of such claim :-

S. No.	Name of the Party/ Person	Amount (Rs.)
1	Girish Batra	27,50,000/-
2	Puff India Pvt. Ltd.	1,50,000/-
3	Ravi Chopra	20,00,000/-
4	Royal Softwares Ltd.	1,60,000/-

5	Sanjay Khanna	10,000/-
6	Santosh Batra	4,00,0000/-
7	Vansh Industries Ltd.	21,00,000/-
	Total	90,10,000/-

7. The Assessing Officer accordingly determined the income of the assessee at Rs.1,22,07,630/-.

7.1 Before CIT(A) the assessee made elaborate submissions and filed various details in shape of additional evidences. The Ld. CIT(A) forwarded the additional evidences to the Assessing Officer and called for a remand report from him. After considering the remand report of the Assessing Officer and submission of the assessee to such remand report the Ld. CIT (A) deleted the addition made by the Assessing Officer by observing as under :-

*“The matter was remanded to the AO on the request of the Authorized Representative!, where theAO issued fresh notices to the four parties; and issued 131 summons to four persons i.e. Managing Directors/ Directors of the company. The above persons appeared on 24.03.2015 before AO and the statement have been recorded on oath. They have filed their copy of identity proof, copy of ITR and bank statement. The AO examined the bank accounts and the amount paid is out of their bank account of share application money. Confirmation letters are also filed as per paper book and found to be correct. They are all assessed to tax and shown in their books of accounts. The AO is satisfied that all the share application money / time membership fees paid by the four companies of Rs. 10,00,000/- each and 90,10,000/- of share application money given by to seven persons are satisfactorily paid out of their bank account and returns have been filed. There is no bogus cash credit entry provided by these persons,, therefore, the AR argued that the addition made by the AO of Rs. 1,30,90,000/- is not proper and justified. Therefore, after M/s L.R Finvest (P) Ltd. Appeal No. 405/2013-14 A.Y, 2011-12 verifying the remand report and examining the evidences produced by the AR, I found it fit to delete the addition of Rs. 1,30,90,000/-.*

8. Aggrieved with such order of the CIT(A), the revenue is in appeal before the Tribunal by raising the following grounds of appeal :-

1. *“That on the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 40,00,000/- made by AO on account of share capital by accepting the additional evidences during the appellate proceedings even before giving an opportunity to the Assessing officer to raise any objection against such admittance of additional evidences. Further the assessee has explained the additional evidences before the Ld. CIT(A) that there was no Share application money of Rs. 40,00,000/- but it was only Time membership fees of Rs. 10 lakh each from 4time members.*
2. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in deleting the additions of Rs. 90,10,000/- made by AO on account of share application money by accepting the additional evidences during the appellate proceedings even before giving an opportunity to the Assessing officer to raise any objection against such admittance of additional evidences.*
3. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in deleting the additions of Rs. 40,00,000/- made by AO on account of share capital.*
4. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in deleting the additions of Rs. 90,10,000/- made by AO on account of share application money.*
5. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in deleting the additions of Rs. 80,000/- made by AO on account of unexplained commission.*
6. *That the order of the Ld. CIT(A) is erroneous and is not tenable on facts and in law*
7. *That the grounds of appeal are without prejudice to each other.*
8. *That the appellant craves leave to add, alter, amend or forego any ground(s) of the appeal raised above at the time of the hearing.”*

9. We have heard the Ld. DR and perused the material available on record. We find the Ld. CIT(A) deleted the addition on the basis of remand report given by the Assessing Officer wherein the Assessing Officer recorded the statement of the four contributors who had contributed towards time membership. They filed their audit report, copies of income tax return and bank statements. The other share applicants also appeared before the

Assessing Officer and filed their bank statements and confirmed to have contributed to the share application amount. Under these circumstances the ground raised by the revenue that CIT(A) has not given any opportunity to the Assessing Officer to raise any objection against the admission of additional evidence is without any merit. Since the Ld. CIT(A) has deleted the addition on the basis of remand report of the Assessing Officer wherein he has accepted the contribution towards time membership and the share application money as genuine, therefore, in absence of any contrary material brought to our notice by the Ld. Dr we do not find any infirmity in the order of the CIT(A) in deleting the addition made by the Assessing Officer on account of time membership, commission for arranging the accommodation entries and the share application money. The grounds raised by the revenue are accordingly dismissed.

10. In the result, the appeal filed by the Revenue is accordingly dismissed.

Order pronounced in the open Court on 30.11.2018.

Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER  
Dated: 30-11-2018.  
*\*Neha\**

Sd/-  
(R. K. PANDA)  
ACCOUNTANT MEMBER

*Copy of order to: -*

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The DR, I.T.A.T., New Delhi

Assistant Registrar  
ITAT, New Delhi

Date of dictation	29.10.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	30.11.2018
Date on which the final order is uploaded on the website of ITAT	30.11.2018
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	