

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH '(SMC)', KOLKATA  
[Before Shri P.M. Jagtap, Vice President, KZ]**

**I.T.A. No. 1550/Kol/2018**  
Assessment Year: 2012-13

***Trend Sales Pvt. Ltd.....Appellant***  
***33/1, N.S. Road, Ground Floor,***  
***Room No. 33,***  
***Kolkata - 700 001.***  
***[PAN: AABCT 2629 Q]***

***ITO, WARD - 4(1) Kolkata.....Respondent***  
***P-7, Chowringhee Square,***  
***Kolkata - 700 069.***

**Appearances by:**

*Shri Pratyush Jhunjunwala, Advocate appearing on behalf of the Assessee.*  
*Smt. Ranu Biswas, Addl. CIT, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : April 24, 2019

Date of pronouncing the order : May 01, 2019

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 2, Kolkata dated 13.04.2018 and the solitary issue involved therein relates to the addition of Rs. 7,24,500/- made by the AO and confirmed by the Ld. CIT(A) on account of unexplained cash credit u/s 68.

2. The assessee in the present case is a company which filed its return of income for the year under consideration on 23.03.2014 declaring a total income of Rs. 1,740/-. During the course of assessment proceedings, the AO noticed that there was an increase of Rs. 7,24,500/- in the shareholders fund of the assessee-company. He, therefore, required the assessee to establish the identity and capacity of the concerned share subscribers as well as the genuineness of the

relevant transactions. As noted by the AO in the assessment order, the assessee-company could not produce the concerned share subscribers and also failed to file their bank statements, copies of Income Tax returns etc. He, therefore, treated the amount of Rs. 7,24,500/- representing increase in shareholders fund as unexplained cash credit and addition to that extent was made by him to the total income of the assessee u/s 68 in the assessment completed u/s 143(3) vide an order dated 12.03.2015.

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and the following submissions were made on behalf of the assessee in writing before the Ld. CIT(A) in support of his case that the addition made by the AO u/s 68 was not sustainable:

*“That the assessee filed its return of income for the A.Y. 2012-13 showing an income of Rs. 1,742/-.*

*That the case for A.Y. 2012-13 was selected for scrutiny assessment through Computer assisted Scrutiny Selection (CASS) with the reason ‘Large Share Premium received’.*

*That the assessment in the instant case was completed by the assessing officer at an income of Rs. 7,26,240/- by adding a sum of Rs. 7,24,500/-.*

*That the addition was on account of increase of shareholders fund as compared to F.Y. 2008-09.*

*The copy of assessment order is enclosed as Annexure – 1(Pg no. 1 to 5).*

*The assessee-company is enclosing herewith the chart showing source of fund for the F.Y. 2008-09, 2009-10, 2010-11 and 2011-12 (Annexure 2) (Pg no. 1)*

*The copy of balance sheet as at 31.03.2009, 31.03.2010, 31.03.2011 and 31.03.2012 of the company is enclosed as per Annexure 3, Pg. No. (1-47).*

*Are enclosed*

*From the above chart showing year wise break up of source of fund and copy of balance sheets of company for the relevant period it is evident that the company has not received any share premium account during F.Y. 2008-09 to 2011-12. The assessing officer has confirmed the same in his assessment order.*

*However on perusal of the return filed by the assessee company for the A.Y. 2009-10, it is found that the figures of share capital issued and premium was same in as appearing in the ITR for the A.Y. 2012-13.*

*The Assessing Officer has compared figures of F.Y. 2008-09 with figures of F.Y. 2011-12 and added Rs. 7,24,500/- on account of increase of shareholders fund.*

*During the financial year 2008-09 in the balance sheet Rs. 7,25,000/- was shown unsecured loan from Directors which actually was in the nature of share application money but wrongly shown under head share application money. Subsequently the same was rectified during F.Y. 2009-10 and merged with the figures of share application money received.*

*Hence there is no increase of any shareholders fund during any of the financial years.*

*The copy of bank statement of the company for the period from 01.04.2008 to 11.04.2018 of Central Bank of India, Main Branch Kolkata, A/c No. 1209566369 is enclosed as Annexure-4 (Page - 1)*

*From the above bank statement it is evident that there is no transaction except bank charges.*

*The copy of bank statement of the company for the period from 01.01.2007 to 31.03.2012 of Canara Bank N.S. Road Branch Kolkata A/c No. 2213201020526 is enclosed as Annexure - 5 (page 1-3)*

*From the above bank statement it is evident that there is no transaction except bank charges and some recovery of advance given or sundry debtors during these periods.*

*From the details and supporting enclosed above it is clear that there was no increase of shareholders fund and no share premium money was received by company during F.Y. 2008-09 to 2011-12.*

*Hence the addition made by the A.O. should be deleted."*

4. The Ld. CIT(A) did not find merit in the above submissions made by the assessee and proceeded to confirm the addition made by the AO u/s 68 to the total income of the assessee. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. I have heard the arguments of both the sides and also perused the relevant material available on record. The learned counsel for the assessee has submitted that the amount of Rs. 7,24,500/- in question having been received by the assessee during the Financial Year 2008-09

relevant to Assessment Year 2009-10, the same cannot be added to the total income of the assessee for the year under consideration i.e. A.Y. 2012-13 u/s 68. He has submitted that the said amount received in the F.Y. 2008-09 was wrongly shown as unsecured loan instead of share application money and this mistake was rectified in the books of account for F.Y. 2009-10 by transferring this amount from unsecured loan to shareholders fund. He has contended that the AO however added the said amount u/s 68 as unexplained cash credit assuming that the same was received by the assessee during the year under consideration. He has contended that this aspect was specifically brought to the notice of the Ld. CIT(A) by the assessee in the written submissions filed during the course of appellate proceedings, but he failed to taken cognizance of the same. The learned DR, on the other hand, has contended that the claim of the assessee of having received the amount in question during the previous year relevant to A.Y. 2009-10 and not in the year under consideration requires verification and since neither the AO nor Ld. CIT(A) has verified the same, the matter may be sent back to the AO for such verification. I find merit in this contention of the learned DR. The impugned order of the Ld. CIT(A) on this issue is accordingly set aside and the matter is restored to the file of the AO for verifying the exact period in which the amount in question was received by the assessee. If it is found on such verification that the said amount was actually received by the assessee in the earlier year and not in the year under consideration as claimed by the assessee, the same cannot be added to the total income of the assessee u/s 68 as the said provision is applicable only where any sum is found credited in the books of assessee maintained for the relevant previous year.

**5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.**

Order Pronounced in the Open Court on 1<sup>st</sup> May, 2019.

Sd/-  
(P.M. Jagtap)  
VICE PRESIDENT

**Dated: 01/05/2019**

Biswajit, Sr. PS

Copy of order forwarded to:

1. Trend Sales Pvt. Ltd., 33/1, N.S. Road, Ground Floor, Room No. 33, Kolkata – 700 001.
2. ITO, WARD-4(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.  
ITAT, Kolkata