

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'A': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE Ms. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1532/Del/2018
(Assessment Year: 2013-14)
ITA No:- 1533/Del/2018
(Assessment Year: 2014-15)**

Apollo Fiege Integrated Logistics Pvt. Ltd. Plot No. 20, Sector-44, Gurgaon, Haryana- 122002	Vs .	DCIT, Circle-3(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AALCA0748D		

Assessee By : Shri Pulkit Verma, Adv.
Revenue By : Shri Satpal Gulati, CIT- DR

Per Anadee Nath Misshra, AM

(A) The aforementioned appeals in the case of the Assessee are taken up together for the sake of convenience and brevity; and are hereby disposed off through this Consolidated Order. Grounds taken in these appeals of Assessee are as under:

ITA No:- 1532/Del/2018

"The appellant respectfully submits as under:

Disallowance of share premium under section 56(2)(viib) of the Act- INR 4,59,45,168

1. *Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in not addressing "Ground (u)" raised by the Appellant as per the Grounds of Appeal filed with him that the original assessment order of The Deputy Commissioner of Income tax, Circle 3(1) ("the Ld. AO") has been made without giving proper opportunity to the Appellant to explain/cross examine the grounds in which the additions are made which is against the principles of natural justice and the order passed by Ld. A. O. itself be quashed*

2. *Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in upholding the disallowance of INR 4,59,45,168 under section 56(2)(viib) of the Act, being the amount of share premium received by the Appellant from its holding company M/s Apollo Logisolutions Limited.*

3. *Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in rejecting the certificate from an Accountant for valuation of shares submitted by the Appellant. Such certificate was obtained as per the provisions of Section 56(2)(viib) of the Act read with Rule 11U & 11UA of the Income Tax Rules, 1962 based on the business projections at that time.*

The above grounds of appeal are without prejudice to and independent of one another.

The appellant craves leave to add, supplement, amend, vary, withdraw or otherwise modify the grounds mentioned herein above at or before the time of hearing.

The appellant prays for appropriate relief based on the said grounds of appeal and the facts and circumstances of the case."

ITA No:- 1533/Del/2018

The appellant respectfully submits as under:

Disallowance of share premium under section 56(2)(viib) of the Act- INR 4,47,23,260

1. *Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in upholding the disallowance of INR 4,47,23,260 under section 56(2)(viib) of the Act, being the amount of share premium received by the Appellant from its holding company M/s Apollo*

Logisolutions Limited.

2. *Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in rejecting the certificate from an Accountant for valuation of shares submitted by the Appellant. Such certificate was obtained as per the provisions of Section 56(2)(viib) of the Act read with Rule 11U & 11UA of the Income Tax Rules, 1962 based on the business projections at that time.*

The above grounds of appeal are without prejudice to and independent of one another.

The appellant craves leave to add, supplement, amend, vary, withdraw or otherwise modify the grounds mentioned herein above at or before the time of hearing.

The appellant prays for appropriate relief based on the said grounds of appeal and the facts and circumstances of the case."

(B) At the time of hearing, at the outset, the learned Counsel for the Assessee informed us that the assessee has opted to settle the aforementioned appeals under Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that the assessee has already filed the relevant forms. The Ld. Counsel for assessee also drew our attention to letter dated 13th January, 2021 filed in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation for the same, and requesting to withdraw both these appeals.

(B.1) At the time of hearing before us, the Ld. Counsel for assessee as well as the learned Senior Departmental Representative ("Ld. Sr. DR", for short) submitted before us that these appeals may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration, and in view of the foregoing; and as both sides have agreed to this; we are of the view that both these appeals have become infructuous, and we treat these appeals as withdrawn on account of the aforesaid VSVS. Accordingly,

these appeals having become infructuous, are hereby dismissed as withdrawn, subject to settlement of the disputes in the appeals under the aforesaid VSVS.

(C) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under these appeals before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of these appeals, in accordance with law.

(D) In the result, these appeals are dismissed.

This order has been already pronounced on 10th February, 2021 in Open Court, in the presence of Representatives of both sides; after conclusion of the hearing.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 11/02/2021
Binita

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

