

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
DR. B. R. R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 1428/DEL/2017 ( A.Y 2012-13)  
(THROUGH VIDEO CONFERENCING)**

ITO Ward-2(2), Room No. 375, C. R. Building, I. P. Estate, New Delhi <b>(APPELLANT)</b>	Vs	All time Softech Pvt. Ltd. 1/3866, Bhagwanpur Khera, Bhagirath Vihar, Loni Road Delhi AAKCA0326Q  <b>(RESPONDENT)</b>
---	----	---

<b>Appellant by</b>	<b>Sh. Virender Singh, Sr. DR</b>
<b>Respondent by</b>	<b>None</b>

<b>Date of Hearing</b>	<b>28.09.2021</b>
<b>Date of Pronouncement</b>	<b>05.10.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeals is filed by the Revenue against the order dated 05/1/2016 passed by CIT(A)-1, New Delhi for Assessment Year 2012-13.

2. The grounds of appeal are as under:-

1. *The Ld CIT(A) erred in law and on facts in holding that the sum of Rs. 17,34,797/- is taxable , on receipt basis which is against the method of accounting followed by the assessee company as accrual of income is evidenced by deduction of tax thereon during the previous year under consideration.*

2. *Ld CIT(A) erred in law and on facts in deleting addition of Rs.3,51,90,000/- made u/s 68 of IT Act, 1961 for the following reasons:*

2.1 *Ld C1T(A) erred in law in admitting additional evidence Without*

*recording reasons in writing as mandated by Rule 46A(2) of I. R. Rule 1962.*

*2.2 The admission of additional evidence produced in the hearing by the assessee, by the CIT(A) cannot be inferred by the fact that these were forwarded to the AO seeking remand report or providing opportunity is regulated by Rule 46A(3) of the Rules.*

*2.3 Ld CIT(A) erred in law and on facts in relying upon AO's report as it does not record any finding regarding creditworthiness of so called investors and genuineness of related transactions.*

*2.4 Ld CIT(A) out to have recorded a clear finding of creditworthiness of share applicants and genuineness of related transactions particularly when assessee did not appear before the AO in course of assessment proceedings.*

3. The assessee company is engaged in manpower supply and software services. Return of income was filed on 31.03.2013 declaring nil income. Assessment u/s 144 was made on 13.03.2015 determining total income at Rs.3,69,34,060/-. In the assessment order passed u/s 144, the Assessing Officer has added Rs.17,34,797/- on account of TDS receipts recorded in AS 26. The Assessing Officer also added Rs.3,51,90,000/- on account of share capital including share premium of Rs.3,15,81,000/- received by the assessee during the year.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee.

5. At the time of hearing despite giving notice none appeared on behalf of the assessee. Therefore, we are proceeding on the basis of assessment order, order of the CIT(A) and the submissions made before the Revenue Authorities by the assessee/AR.

6. The Ld. DR submitted that the CIT(A) erred in holding that a sum of Rs. 17,34,797/- is taxable on receipt basis which is against the method of

accounting followed by the assessee company as accrued of income is incurred by deduction of tax thereon during the previous year under consideration. As regards, deletion of addition of Rs.3,51,90,000/- made u/s 68 of the Income Tax Act, 1961, the Ld. DR submitted that the CIT(A) erred in admitting the additional evidence without recording reasons in writing as mandated by Rule 46A (2) of the Income Tax Rules 1962. The Ld. DR further submitted that simply relying with remand report of the Assessing Officer without recording any reasons regarding creditworthiness of so called investors and genuineness of related transactions cannot be the ground for deletion of the addition. Thus, the Ld. DR submitted that the matter may be remanded back to the file of the Assessing Officer for proper adjudication of the evidences.

7. We have heard Ld. DR and perused the material available on record. As regards Ground No. 1, the CIT(A) has given the categorical finding that the assessee is following accrual method of accounting. Therefore, it has not recognized the revenue during Financial Year 2011-12 and not reported the said amount to the income tax, but the assessee has offered this income in Assessment Year 2013-14 and the assessee has filed copy of confirmation of account from the parties which received on 4/6/2012. Thus, no payment was received by the assessee in the year 2011-12 and only the TDS was deducted by Ms MEP Engineering and contracting company. Therefore, the CIT(A) has rightly deleted the addition of RS. 17,34,797/-. There is no need to interfere with the order of the CIT(A). Thus, Ground No. 1 is dismissed. As regards admission of the additional evidences, the CIT(A) in Para 5 has categorically given the reason as to why said additional evidence has to be admitted. There is no need to interfere with the findings of the CIT(A). Thus, Ground No. 2 is dismissed. The appeal of the Revenue is dismissed.

8. In result, the appeal of the Revenue is dismissed.

**Order pronounced in the Open Court on this 05<sup>th</sup> Day of October,  
2021**

**Sd/-  
(B. R. R. KUMAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 05/10/2021  
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI