

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. AMIT SHUKLA, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 4097/Del/2018
(for Assessment Year : 2014-15)

ITO Ward – 19(3) New Delhi PAN No. AAACP 5269 R (APPELLANT)	Vs.	Pacific Projects Ltd. 301-307, 2 nd Floor, Plot No.9, DDA Service Centre, Sector – 5, Rohini, New Delhi – 110 085 (RESPONDENT)
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Assessee by	Shri S. K. Goyal, C.A. Shri Vikas Goyal, C.A.
Revenue by	Shri Sanjay Tripathi, Sr. D.R.

Date of hearing:	25.01.2022
Date of Pronouncement:	31.01.2022

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 08.03.2018 passed by the Commissioner of Income Tax (Appeals)-XXV, New Delhi relating to Assessment Year 2014-15.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company stated to be engaged in the business of Civil Construction and taking the contract for construction of building for Government as well as Private Sector. Assessee electronically filed its return of income for A.Y. 2014-15 on 12.01.2015 declaring loss of Rs.11,08,320/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 26.12.2016 and the total income was determined at Rs.2,14,20,640/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 08.03.2018 in Appeal No.267/17-18 granted partial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

1. *“On the facts and under the circumstances of the case, the ld.CIT(A) has erred in law and facts in giving opportunity to the Assessing Officer to verify the fact of year receipt of the amount received on account of issue of shares.*
2. *On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law in appreciating the facts that share capital has increased by the amount of Rs.2,50,00,000/- in the financial statement of the assessee for the year ended on 31.03.2014.*
3. *On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law and fact in deleting the amount of Rs.2.25 cr without correlating the bank account and financial statement.*
4. *On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law in not giving any direction to Assessing Officer to take necessary action u/s 68 in the year of receipt when it has been held*

that these payments have been received during the AY 2013-14.

5. *On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law not giving any finding on the issue of identity, creditworthiness and genuineness of transaction.*
6. *The appellant craves to be allowed to add and alter any fresh ground(s) of appeal of /or delete or amend any of the ground(s) of appeal.”*

4. All the grounds are interconnected and are with respect to the deletion of addition of Rs. 2,50,00,000/- made by AO.

5. During the course of assessment proceedings, AO noticed that assessee had issued 25,00,000 equity shares at face value of Rs.10 for total amount of Rs.2,50,00,000/-. The assessee was *inter alia* asked to prove the genuineness and creditworthiness of the transactions. The submissions made by the assessee about the genuineness and creditworthiness of the transaction was not found acceptable to AO. He was of the view that assessee has failed to prove identity, creditworthiness and genuineness of the transactions in all the cases. He accordingly made addition of Rs.2,25,00,000/- out of the total amount Rs.2,50,00,000/- received by the assessee. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) after considering the submissions of the assessee deleted the addition made by AO. While deleting the addition CIT(A) noted that the amount of Rs.2.25 Crore received from five different parties (as listed on

page 37 of his order) was received by the assessee in Financial Year 2012-13 relating to A.Y. 2013-14 and not in the year under consideration i.e. A.Y. 2014-15. He therefore held that when the amount was not received in the year under consideration, but was received in earlier years, the AO could not proceed to make addition u/s 68 of the Act. He accordingly deleted the addition. Aggrieved by the order of CIT(A), Revenue is now before us.

6. Before us, Learned DR supported the order of AO.

7. Learned AR on the other hand reiterated the submissions made before the lower authorities and supported the order of CIT(A).

8. We have heard the rival submissions and perused the materials available on record. The issue in the present ground is with respect to the deletion of Rs.2.25 Crores made u/s 68 of the Act. We find that CIT(A) while deleting the addition has given a finding that the amount of aggregating to Rs.2.25 Crores was received by the assessee in Financial Year 2012-13 relating to A.Y. 2013-14 and not in the year under consideration i.e. A.Y. 2014-15. The aforesaid finding of CIT(A) has not been controverted by Revenue by bringing any contrary material on record. Further, Revenue has also not pointed to any fallacy in the finding of CIT(A). In such a situation, we find no reason to

interfere with the order of CIT(A) and **thus the ground of Revenue are dismissed.**

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

Order pronounced in the open court on 31.01.2022, immediately after conclusion of the hearing of the matter in virtual mode.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 31.01.2022

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI