

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

**BEFORE,  
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.781/Del/2021  
(ASSESSMENT YEAR 2016-17)**

Logicladder Technologies Pvt. Ltd. 204, Unitech Arcadia South City-II Sector 49 Gurgaon -122 018  PAN-AABCL 9980G <b>(Appellant)</b>	Vs.	Pr. CIT Faridabad      <b>(Respondent)</b>
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Appellant by	Sh. Surajbhan Nain, Advocate
Respondent by	Ms. Rinku Singh, Commissioner of Income Tax- Departmental Representative ("CIT-DR" for Revenue)

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Assessee is filed against the order of Learned Principal Commissioner of Income Tax, Faridabad ["Ld. Pr.CIT", for short], dated 15.03.2021 for Assessment Year 2016-17,

passed u/s 263 of Income Tax Act [“IT Act”, for short]. Grounds taken in this appeal are as under:

- “1. That on the facts and circumstances of the case and in law, the order passed by the Id PCIT Faridabad, u/s 263 of the Income Tax Act, 1961 (the Act) setting aside the assessment framed u/s 143(3) of the Act as erroneous and prejudicial to the interest of the revenue is without jurisdiction and bad in law.
2. That the Id AO having called for the information and documents and after due application of mind passed the assessment order u/s 143(3) and adopted the permissible view in law, the assessment order cannot be said to be erroneous and thus the order is bad in law and facts of the case.
3. That the Id PCIT Faridabad has erred in holding that the provisions section 56(2)(viib) of the Act are applicable to the assessee in spite CBDT Notification dated 14<sup>th</sup> June 2016 and thus the order u/s 263 of the Act is without jurisdiction.
- 4 That the Id PCIT Faridabad has erred in holding that the assessee's registration as a Start Up Company is not valid unless obtained from Inter Ministerial Board of Certification and thus the order u/s 263 of the Act is bad and contrary to law.
5. That as per the Show Cause Notice dated 31-12-2020 issued by the Id PCIT Faridabad, the proceedings having been initiated on the basis of discrepancies noticed without making any enquiry, is contrary to the scheme of section 263 of the Act and thus cannot be said to be erroneous and the initiation is bad and contrary to law.
6. That the order u/s 263 has been passed without giving sufficient opportunity to the assessee to explain the applicability of certificate of registration as a Start Up Company in terms of CBDT Notification dated 14<sup>th</sup> June 2016 as the same was an afterthought as it did not mention in the Show Cause Notice and thus the proceedings are against the principles of Natural Justice
7. That the order u/s 263 is bad in law and facts of the case.
8. That your appellant Prays that he be allowed to add, amend or withdraw any of the above Grounds at the time of hearing of appeal.”

(B) In this case, the assessment order dated 12/12/2018 was passed by the Assessing Officer [“AO” for short] u/s 143(3) whereby the assessee’s total income was determined at Rs.25,20,430/-. Vide impugned revision order u/s 263 of Income Tax Act passed by the Ld. Pr. CIT, he directed the AO to tax the excess share premium of Rs.1,14,43,484/- under section 56(2)(viib) of IT Act. This present appeal has been filed by the assessee against the aforesaid impugned revision order dated 15/03/2021 of the Ld. Pr. CIT.

(B.1) In the course of the appellate proceedings in Income Tax Appellate Tribunal, two separate letters dated 08/10/2021 and 09/07/2022 were filed from the assessee’s side, requesting for admission of additional evidences in the nature of Valuation Reports of Fair Value of Unquoted Equity Shares for the purposes of Section 56(2)(viib) read with Rule 11UA (2)(b) of the Income Tax Rules. The aforesaid Valuation Reports are dated 25.03.2014 and 12.04.2015 respectively. It was explained by the Ld. Authorized Representative (“Ld. AR” for short) of the appellant assessee in aforesaid letters dated 08/10/2021 and 09/07/2022 that the

assessee was prevented by sufficient cause in not producing documents (i.e. the Valuation Reports). At the time of hearing before us, the Ld. AR for the assessee once again submitted that the assessee was prevented by sufficient cause in not producing the aforesaid Valuation Reports dated 25.03.2014 and 12.04.2015 before the lower authorities. He also submitted that the aforesaid documents (Valuation Reports) in the nature of additional evidences are relevant for deciding the issues in this appeal; and it would cause great prejudice to the assessee if these are not admitted. He further submitted that the additional evidences by way of aforesaid Valuation Reports should be admitted and the issues in dispute in the present appeal should be set aside to the file of the Ld. Pr. CIT with direction to pass a fresh order after giving due consideration to the Valuation Reports and after providing reasonable opportunity to the assessee. The Ld. CIT-DR for Revenue was in agreement with the submissions of the Ld. AR of the assessee, at the time of hearing before us; and submitted that the aforesaid Valuation Reports dated 25.03.2014 and 12.04.2015 may be admitted as additional evidences, and further that the issues in dispute in the

present appeal should be set aside to the file of the Ld. Pr. CIT with the direction to pass a fresh order after giving due consideration to the aforesaid Valuation Reports and after providing reasonable opportunity to the assessee.

(B.2) We have heard both sides. At the time of hearing before us, there was no material dispute between the representatives of the two sides. The Ld. AR for assessee as well as the Ld. CIT-DR for Revenue were in agreement that the aforesaid Valuation Reports dated 25.03.2014 and 12.04.2015 may be admitted as additional evidences and further, that the issues in dispute in the present appeal should be set aside to the file of the Ld. Pr. CIT with the direction to pass a fresh order after giving due consideration to the aforesaid Valuation Reports and after providing reasonable opportunity to the assessee.

(B.2.1) In view of the foregoing, and as representatives of both sides are in agreement with this, we admit the aforesaid additional evidences by way of Valuation Reports; and we set aside the issues in dispute in the present appeal to the file of the Ld. Pr. CIT,

with the direction to pass a fresh order in accordance with law after giving due consideration to the aforesaid Valuation Reports, and after providing reasonable opportunity to the assessee.

(C) In the result, for statistical purposes, the appeal is partly allowed.

Order pronounced in the open Court on 21/07/2022

Sd/-

**(CHANDRA MOHAN GARG)**  
**JUDICIAL MEMBER**

Dated: 21/07/2022

*Pk*

Copy forwarded to:

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

Sd/-

**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI