

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

**BEFORE SHRI (DR.) B.R.R. KUMAR, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 2447/DEL/2014 (A.Y 2008-09)**

DCIT, Circle : 15 (1), New Delhi.  <b>( APPELLANT )</b>	Vs.	M/s. Routes Car Rentals (I) Pvt. Ltd., 508, Jyoti Shikhar, District Centre, Janakpuri, New Delhi – 110 058.  <b>PAN No. AACCR6877K</b>  <b>( RESPONDENT )</b>
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<b>Assessee by :</b>	<b>Ms. Lalitha Krishnamurthy, Advocate;</b>
<b>Department by:</b>	<b>Shri Girish Kumar Kohli, Sr. D. R.;</b>

<b>Date of Hearing</b>	<b>26.07.2022</b>
<b>Date of Pronouncement</b>	<b>03.08.2022</b>

**ORDER**

**PER YOGESH KUMAR US, JM**

This appeal is filed by the Revenue for assessment year 2008-09 against the orders of the Ld. Commissioner of Income Tax (Appeals)–XVIII, New Delhi, dated 29.01.2014.

2. The assessee is engaged in the business of car rental services, filed return declaring total loss of Rs. 2,89,03,530/-. The case of the assessee was selected for scrutiny and assessment proceedings has been initiated against the assessee. The Ld. Assessing Officer vide order dated 24/12/2010 made total addition of Rs. 4,04,58,677/- by computing the income as under:-

<i>Returned Loss:</i>	<i>Rs. 2,89,03,530/-</i>
<i>Add: Disallowance of Share application money</i>	<i>Rs. 4,38,86,460/-</i>
<i>Add: Disallowance of unsecured Loan</i>	<i>Rs. 1,53,21,702/-</i>
<i>Add: Disallowance of personal nature expenses</i>	<i>Rs. 14,34,443/-</i>
<i>Discussed above in Para 4</i>	
<i>Add: Disallowance of AMC Charges u/s 40a(ia)</i>	<i>Rs. 36,000/-</i>
<i>Add: Disallowance of depreciation (as discussed</i>	
<i>Above in para 7)</i>	<i>Rs. 15,75,402/-</i>
<i>Add: Disallowance of capitalization of retention money</i>	<i>Rs. 71,08,200/-</i>
<b><i>Net taxable income</i></b>	<b><i>Rs. 4,04,58,677/-</i></b>

3. As against the assessment order, the assessee has filed an appeal before the CIT(A). The Ld. CIT(A) has partly allowed the appeal vide order dated 29/01/2104, by deleting the addition of Rs. 4,38,86,460/- which was made by the A.O.

4. Aggrieved by the order of the Ld. CIT (A) in deleting the addition of Rs. 4,38,86,460/- made by the A.O on account of disallowance of share application money, the Department has preferred the present Appeal on the following grounds:-

“1. On the facts and circumstances of the case, the Id. CIT (A) erred in deleting the addition of Rs.4,38,86,460/- made by the AO on account of disallowance of share application money ignoring the fact that the assessee has failed to produced enough supporting evidence to substantiate the genuineness of the creditors.

2. On the facts and circumstances of the case, the Ld CIT (A) has erred in admitting fresh evidence submitted by the assessee failing to appreciating the remand report of the AO wherein it was mentioned that repeated opportunities were provided to be assessee to submit evidence in support of the issues, subject matter of the additions.”

**Revised grounds:-**

“ 1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 4,38,86,460/- made by the AO on account of disallowance of share application money ignoring the fact that the assessee has failed to produce enough supporting evidence to substantiate the genuineness of the creditors.”

5. The Ld. AR vehemently submitted that, the Ld. CIT(A) has committed grave error in deleting the addition of Rs. 4,38,86,460/- made by the AO on account of disallowance of share application money ignoring the fact that, the assessee has failed to produce enough supporting evidence to substantiate the genuineness of the creditors. Further submitted that, the Ld. CIT(A) has committed an error in admitting the fresh evidence by the assessee, but failed to appreciate the remand report of the AO wherein it was mentioned that, even after providing repeated opportunities to submit the evidence, the assessee has failed to submit any evidence before the AO. Therefore submitted that the deletion made by the Ld. CIT(A) is deserves to be set aside.

6. Per contra, Ld. Counsel for the assessee vehemently submitted that, the assessee has provided a detailed notarised confirmation, income tax return and bank statements of the share holders which have been considered by the Ld. CIT(A) and came to just conclusion. Further in so far as, Sh. Syed Arshad is concerned, the Ld. Counsel for Assessee submitted that, the said transaction is between the shareholders inter-se and such transfer has not resulted in any increase in the share capital nor resulted in any fresh infusion of funds and therefore no addition is warranted. Therefore the Ld. CIT (A) has deleted the addition made by the A.O.

7. We have heard the parties, perused the material on record and gave our thoughtful consideration.

8. The Ld. AO while making addition under share application money and declaring the same as unsecured loan, observed that the assessee has not discharged the onus as per the provisions of Section 68 of the Act. When the issue reached to Ld. CIT(A) the assessee has produced the documents by way of additional evidence. The additional evidence produced by the assessee has been admitted by the Ld. CIT(A). The Ld. CIT(A) after giving thoughtful consideration, deemed it fit to admit the additional evidence to prove the case of the assessee. Further, the Ld. CIT(A) on verifying the material on record, has not given relief in so far as share application holder Sh. Anil Sharma amounting to Rs. 12,50,000/- and another person S. P. Dham, amounting to Rs. 6,70,000/- on which the assessee has not preferred the appeal. The assessee has produced details of notarized confirmation, ITRs and also the bank statement evidencing the payment to assessee company in respect of Mr. Hardeep Singh Nagra, Hrbinder Singh Athwal, Sh. Anil Shama, Sh. S. P. Dham, & Syed Arshad.

9. It is also seen that the above named share holders, were holding the shares in assessee company even before the year under consideration and such

shareholding forms part of opening balance of the Assessee as found by the CIT (A), which has not been disputed by the DR. Further, the identity of above assets, genuineness and creditworthiness had also been accepted in those years. Therefore in our opinion, the assessee has produced enough supporting evidence to substantiate the genuineness of the creditors and has successfully discharge its onus. Further, in so far as, Mr. Syed Arshad is concerned, the said transaction is between the shareholders inter-se, such transfer has not resulted any increase in the share capital nor resulted in any fresh infusion of funds and the transaction has got no relation to the assessee company and such transaction does not resulting in any amount being credited in the Assessment Year 2008-09 in the books of accounts of the Company. Therefore, the Ld. AO has committed an error in disallowing the share application money in the name of Mr. Syed Arshad, which has been rightly deleted by the CIT (A). Therefore, we do not find merit in the Grounds of Appeal of the Revenue. Ergo, the Appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 03<sup>rd</sup> August, 2022.

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

**Sd/-**  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Dated : 03/08/2022

*\*R.N\**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI