

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'SMC' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

**ITA No.4981/Del./2019  
(ASSESSMENT YEAR : 2010-11)**

Nirvana Agrotech Pvt. Ltd.,  
H-2, Next to Bharat Petrol Pump,  
Pushpanjali, Dwarka Highway,  
New Delhi – 110 061.

vs.

ITO, Ward 18 (3),  
New Delhi.

**(PAN : AACCN6208N)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : Shri K. Sampath, Advocate  
Shri V. Rajakumar, Advocate  
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 07.03.2023  
Date of Order : 13.03.2023

**ORDER**

This appeal by the assessee is directed against the order of Id. CIT (Appeals)-37, New Delhi dated 12.04.2019 pertaining to the Assessment Year 2010-11.

2. The grounds of appeal taken by the assessee read as under :-

“On the facts and in the circumstances of the case and in law the Ld. CIT (Appeals) erred in confirming the following actions of the Assessing Officer :

- i. Initiating proceedings under section 147/148 of the Income Tax Act, 1961 ('the Act') without there being any valid reasons forming belief of escapement of income;

- ii. Making following additions to the returned income :-
- a) Rs.25,00,000/- on account of share application money received treating the same as unexplained invoking section 68 of the Act;
  - b) Rs.50,000/- on account of alleged commission paid on conjectures and surmises.

All the above actions being erroneous, unlawful and untenable, it is prayed that the same must be quashed with directions for appropriate relief.”

3. The issue in this case is addition on account of share application pursuant to search and seizure activity in the business premises of Surendra Kumar Jain. In absence of necessary material, the additions were made by the AO and sustained by the Id. CIT (A).

4. Against this order, assessee is in appeal before us. We have heard both the parties and perused the records.

5. At the outset, in this case, Id. Counsel of the assessee made a prayer that due to lack of proper presentation before the authorities below, assessee now wishes to file additional documents and additional evidences and prayed that the matter may be remitted back to the file of AO to examine the issue afresh in the light of these submissions.

6. Per contra, Id. DR for the Revenue did not have any objection to this proposition.

7. Upon careful consideration, we find that assessee by way of additional evidences has made submissions in the paper book. Index of Additional evidences submitted is as under :-

S.No.	Particulars	Pages
1.	Copy of confirmation, Share Application Form, Bank Statement and Confirmation of accounts of M/s Victory Software Pvt. Ltd.	1 – 6
2.	Copy of Affidavit of Anil Kumar Bansal, Director of M/s Victory Software Pvt. Ltd.	7
3.	Copy of PAN of M/s Victory Software Pvt. Ltd.	8
4.	Copy of Certificate of Incorporation M/s Victory Software Pvt. Ltd.	9
5.	Copy of Memorandum of Association and Articles of Association M/s Victory Software Pvt. Ltd.	10- 30
6.	Copy of Audit Report, ITR and Assessment Order of M/s Victory Software Pvt. Ltd.	31 – 49
7.	Copy of confirmation, Share Application Form, Bank Statement and Confirmation of accounts of M/s Zenith Automotive Pvt. Ltd.	50 – 55
8.	Copy of Affidavit of Niranjana Kumar Sharma, Director of M/s Zenith Automotive Pvt. Ltd.	56
9.	Copy of PAN of M/s Zenith Automotive Pvt. Ltd.	57
10.	Copy of Certificate of Incorporation of M/s Zenith Automotive Pvt. Ltd.	58
11.	Copy of Memorandum of Association and Articles of Association M/s Victory Software Pvt. Ltd.	59 – 78
12.	Copy of Audit Report, ITR and Assessment Order of M/s Victory Software Pvt. Ltd.	79 – 94

Since both the parties have agreed we admit these additional evidences and remit the matter to the AO to decide the issue afresh. Needless to add, assessee should be provided an opportunity of being heard.

8. In the result, assessee's appeal is allowed for statistical purposes.

**Order pronounced in the open court on this 13<sup>th</sup> day of March, 2023.**

**Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 13<sup>th</sup> day of March, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-37, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.