

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No. 706/Del/2022  
Assessment Year: 2010-11

Shreejee Apparels P. Ltd., C/o. Viney Pandey & Co., CAs, 215-A Second Floor, D-288/10, Wadhwa Complex, Near Laxmi Nagar Metro Station Gate No.1, Laxmi Nagar, New Delhi	<b>Vs.</b>	ITO, Ward-8(3), Panipat.
<b>PAN :AABCS7435D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri Sachin Jain, CA
Respondent by	Shri D.K. Shrivastav, Sr. DR

Date of hearing	27.03.2023
Date of pronouncement	31 .03.2023

**ORDER**

This is an appeal by the assessee against order dated 12.06.2014 of learned Commissioner of Income-Tax (Appeals)-XI, New Delhi pertaining to assessment year 2010-11.

2. The dispute in the present appeal is confined to addition of Rs.27,50,300 made under Section 68 of the Income-Tax Act,1961.

3. Briefly, the facts are, the assessee is a resident corporate entity. For the assessment year under dispute, assessee filed its return of income on 15.10.2010 declaring income of Rs.7,25,659.

4. In course of assessment proceedings, the Assessing Officer, while examining the audit report, noticed that in the year under consideration, the assessee had received share capital amounting to Rs.27,50,300 from M/s. Fressia Infratech Ltd. and unsecured loan Rs.5,00,000 from a shareholder Shri Vinod Chhabra. Alleging that the assessee could not furnish the bank statement of the concerned person/entity, the Assessing Officer treated the amount of Rs.32,50,300 as unexplained cash credit under Section 68 of the Act and added to the income of the assessee. Assessee contested the aforesaid addition before learned Commissioner (Appeals).

5. After considering the submissions of the assessee in the context in the facts and material on record, learned Commissioner (Appeals) deleted the addition and Rs.5,00,000, being unsecured loan from Shri

Vinod Chhabra. Whereas, he upheld the addition of Rs.27,50,300 being share capital received from M/s. Fressia Infratech Ltd.

6. Before me, learned counsel appearing for the assessee submitted that in course of assessment proceedings itself, the assessee had requested the Assessing Officer to issue summons to M/s. Fressia Infratech Ltd. as the concerned entity was not cooperating with the assessee. He submitted, neither the Assessing Officer nor learned Commissioner (Appeals) conducted any independent inquiry with M/s. Fressia Infratech Ltd. and made the addition simply because the assessee could not furnish the bank statement of the concerned entity . He submitted, M/s. Fressia Infratech Ltd. is still active as per the status available in Ministry of Corporate Affairs record. He submitted, the assessee had allotted shares to the concerned entity. Thus, he submitted, a direction may be issued to the Assessing Officer to conduct necessary inquiry with the concerned entity.

7. Learned Departmental Representative submitted, issue can be restored back to the Assessing Officer for fresh adjudication.

8. I have considered rival submissions and perused the material available on record.

9. Undisputedly, the assessee had received the amount of Rs.27,50,300 towards investment in share capital from M/s. Fressia Infratech Ltd., it is observed from Form 23 filed by the assessee before the Registrar of Companies (ROC), the assessee had issued shares to M/s. Fressia Infratech Ltd. during the financial year 2010-11. Further, from the MCA data filed in the paper books, it is observed that the status of this company shown as active as on 31.03.2022, the balance sheet date. It was further observed, in course of assessment proceedings itself, the assessee had requested the Assessing Officer to issue summons under Section 131 of the Act to the company as it was not cooperating with the assessee. It appears, the Assessing Officer has neither acceded to the request of the assessee nor has himself conducted, even, preliminary inquiry by issuing notice under Section 133(6) of the Act. Merely because, the assessee was unable to produce the bank statement of M/s. Fressia Infratech Ltd., for that reasoning alone, the share capital cannot be added under Section 68 of the Act. Since, the departmental authorities, particularly, the Assessing Officer have failed to carry out the necessary inquiry, I deem it appropriate to restore the issue to the Assessing Officer for fresh examination after

conducting necessary inquiry with M/s. Fressia Infratech Ltd. with regard to the investment made in share capital.

10. Needless to mention, before deciding the issue the Assessing Officer must afford reasonable opportunity of being heard to the assessee.

11. Grounds are allowed for statistical purposes.

12. In the result, the appeal is allowed for statistical purposes.

***Order pronounced in the open court on 31<sup>st</sup> March, 2023.***

**Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER**

Dated: 31<sup>st</sup> March, 2023.

**Mohan Lal**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi