

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

**BEFORE,  
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.1099/Del/2019  
(ASSESSMENT YEAR 2009-10)**

M/s Surya Vanjiya Pvt. Ltd. 2 <sup>nd</sup> Floor, 19 Local Shopping Complex Near Pushpa Bhawan Madangir New Delhi-110 062  PAN-AABCL 5108L <b>(Appellant)</b>	Vs.	ACIT Central Circle-8 New Delhi      <b>(Respondent)</b>
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Appellant by	None
Respondent by	Mr. H.K. Choudhary, CIT-DR

Date of Hearing	31/07/2023
Date of Pronouncement	08/08/2023

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-24, New Delhi [Ld. CIT(A)”, for short], dated 31/12/2018 for Assessment Year 2009-10. Grounds taken in this appeal are as under:

“1. That on facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeals)-XXIV, New Delhi [‘the Ld.CIT(A)’], has erred in upholding the order of the Assistant Commissioner of Income Tax, Central Circle-08, New Delhi (‘the Ld.

*Assessing Officer') in upholding the addition of Rs.15,22,00,000/- made u/s 68 of the Act on account of receipt of share capital.*

*The appellant craves for leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal or add any of the aforesaid ground of appeal(s) at any time before or at the time of hearing of the appeal.”*

2. None appeared for the assessee. It is found from the records that right from filing of the present appeal, not even single occasion either the assessee or his representatives appeared before the Tribunal and the repeated notices issued by the Tribunal to the registered address of the assessee returned with an endorsement “no such person at the address.” Considering the said facts and circumstances, we are compel to decide the matter on hearing the Ld. Departmental Representative and on verifying the material available on record.

3. Brief facts of the case from the order of the CIT(A) are as under:-

The return of income was originally filed on 27.03.2010 declaring NIL income. A search and seizure operation was carried out in the case of Priya Gold Group & its promoters on 16.12.2014. During the proceedings of search and seizure action at the head office of the group, substantial documents were found and seized. The information contained in these documents related to the appellant company also. Although notice u/s 148 was issued to the appellant company on 22.03.2016 assessment proceedings were abated as per proviso to section 153C r.w.s. 153A of the I.T. Act, 1961. After recording satisfaction, notice u/s

153A r.w.s. 153C was issued to the appellant on 01.09.2016. Vide letter dated 25.10.2016 the appellant requested to treat the original return of income filed for A. Y. 2009-10 u/s 139 of the Income Tax Act, 1961 on 27.03.2010 as return of income filed in compliance to notice u/s 153C of the I.T. Act, 1961. The assessment order came to be passed by making an addition of Rs. 15,22,00,000/- u/s 68 of the Act on account of share capital received by the assessee company.

4. Aggrieved by the assessment order dated 30/12/2016 passed u/s 153C read with Section 143(3) of the Act, the assessee preferred the present appeal on the grounds mentioned above. As per the grounds of appeal of the assessee, the CIT(A) has erred in upholding the order of the A.O. in making addition of Rs. 15,22,00,000/- made u/s 68 of the Act on account of receipt of share capital.

5. The Ld. Departmental Representative contended that during the course of Assessment Proceedings and before the CIT(A) the assessee has failed to establish the identity and creditworthiness of the 'share applicants' and genuineness of the transaction. Further submitted that, the Lower Authorities have rightly invoked provision of Section 68 of the Act and made the addition of Rs. 15,22,00,000/- on account of shares application money. Therefore submitted that, the order of the CIT(A) requires no interference.

6. We have heard the Ld. Ld. Ld. DR and perused the material available on record. It is found from the record that during the assessment proceedings the Ld. A.O. considered all the replies, submissions and documents produced by the assessee, but the said explanations documents and reply by the assessee was not sufficient to prove the burden of the assessee caused in Section 68 of the Act, therefore, made the addition. The Ld. CIT(A) has also made proper analyzation of the documents produced by the assessee and found that the assessee has failed to establish the identity and creditworthiness of shares applications and genuineness of the transaction. In our opinion, the assessee has to prove the identity and creditworthiness of the creditor and genuineness of the transaction in compliance with Section 68 of the Act. The assessee company by self proclaiming itself as shell company cannot shirk and avoid its legal obligation to prove the identity and creditworthiness of the so called share applicants and genuineness of the transaction as mentioned by various Courts in respect of application of provisions of Section 68 of the Act. Thus, we find no error or infirmity in the order of the A.O. and also the order of the CIT(A) and find no merit in the grounds of appeal of the assessee. Accordingly, the Grounds of appeal of the assessee are dismissed.

7. In the result, the Appeal filed by the assessee is dismissed.

Order pronounced in open Court on 08<sup>th</sup> August, 2023.

Sd/-

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Dated: 08/08/2023

*Pk/R.N, Sr. ps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI