

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B': NEW DELHI  
BEFORE,  
SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.5682/Del/2018  
(ASSESSMENT YEAR 2015-16)**

ACIT Circle-7(2) Delhi	Vs.	M/s Dharitrimaa Urja Pvt. Ltd. 75, Khirki Village Malviya Nagar New Delhi- 110 017  PAN-AADCD 7261R
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Mr. Vivek Upadhyay, Sr. DR
Respondent by	Mr. N.K. Bansal, CA

Date of Hearing	16/08/2023
Date of Pronouncement	21/08/2023

**ORDER**

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

This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-3, New Delhi ["Ld. CIT(A)", for short], dated 29/06/2018 for Assessment Year 2015-16. Grounds taken in this appeal are as under:

"1. "Ld. Commissioner of Income Tax (Appeals) erred in law and on the facts of the case in deleting the addition of Rs.9,52,73,036/- made by the AO on account of share premium received u/s 56(2) (viib) of Income Tax Act, 1961".

2. "The appellant craves leave to modify, add or forego any grounds(s) of appeal at any time before or during the hearing of this appeal."  
Grounds of appeal."

*The assessee has preferred the following grounds of Appeal in form 35:-*

*“1. On the facts and circumstances of the case and in law, the order of AO is bad in law and is liable to be quashed.*

*2. On the facts and circumstances of the case and in law, the assessing officer erred in completing the assessment at income of Rs.102625146/- instead of income of Rs.7352110/ as returned by the appellant.*

*3. On the facts and circumstances of the case and in law, the assessing officer erred in making addition of Rs.95273036/- on account of addition of share premium u/s 56(2)(viib).*

*4. On the facts and circumstances of the case and in law, the assessment order passed by the assessing officer is arbitrary.*

*5. On the facts and circumstances of the case and in law, the various allegations made inferences drawn by the assessing officer are erroneous.*

*6. On the facts and circumstances of the case and in law, the assessing officer has erred in considering valuation date as financial year relevant to assessment year 2015-16.*

*7. On the facts and circumstances of the case and in law, the assessing officer has erred in adding share premium in previous year relevant to 2015-16 whereas share application money was received in previous year relevant to assessment year 2014-15 which is against the provisions of section 56(2)(viib) of the Income Tax Act.*

*8. On the facts and circumstances of the case and in law, the assessing officer has erred in ignoring the valuation reports of valuers as per section 56(2)(vüüb) read with rule 11UA of the Income Tax Rules..*

*9. On the facts and circumstances of the case and in law, the assessing officer has wrongly considered the Net Asset Value of the share.*

*10. On the facts and circumstances of the case and in law, the assessing officer has wrongly calculated the Net Asset Value of the share.*

*11. On the facts and circumstances of the case and in law, the assessing officer erred in charging interest u/s 2348 of Income Tax Act, 1961. 12. On the facts and circumstances of the case and in law, the assessing officer erred in initiating penalty proceedings u/s 271(1Xe) of Income Tax Act, 1961.*

*The aforesaid grounds of appeal are without prejudice to each other. The appellant craves leave to add, alter, modify or delete one or more ground of appeal before or at the time of hearing of appeal.”*

3. When the matter is taken up for hearing, the Ld. Assessee's Representative submitted that the National Company Law Tribunal ('NCLT' for short) admitted the application filed under IBC Code 2016 Insolvency and Bankruptcy Code and the same has been admitted in IB-408/ND/2022 vide order dated 09/06/2023, therefore, submitted that, the present appeal is liable to be dismissed.

4. Per contra, the Ld. Departmental Representative agreed with the proposition of the Assessee's Representative and submitted that an opportunity may be given to the Department to approach the Tribunal if so, necessary.

5. We have heard both the parties and perused the material available on record. Considering the fact that the NCLT in IB-408 (ND-2022) vide order dated 09/06/2023 has declared moratorium consequently, as per Section 14 of the IBC 2016, it is order to prescribe the registration of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment decree or order in any court of law Tribunal arbitration, penal or other authorities. In view of the same, the present appeal filed by the Department of Revenue is deserves to be dismissed, accordingly, the Appeal filed by the Revenue is dismissed with an opportunity of approach the Tribunal in case of any necessity on any cause of action touching the issues involved in the present appeal.

6. In the result, the Appeal filed by the Revenue is dismissed.

Order pronounced in open Court on 21<sup>st</sup> August, 2023

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**  
Dated: 21/08/2023  
*Pk/R/N, Sr ps*

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

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI