

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.5714/Del/2016
[Assessment Years : 2012-13]**

DCIT, Circle-3(1), Room No.380B, C.R.Building, I.P.Estate, New Delhi.	vs	M/s. Arise India Ltd., B-38, Jain Chowk, Mangla Puri, Palam, New Delhi-110045. PAN-AADCA3432E
APPELLANT		RESPONDENT

**ITA No.3962/Del/2018
[Assessment Year: 2014-15]**

ACIT, Circle-3(1), Room No.380B, C.R.Building, I.P.Estate, New Delhi-110002.	vs	M/s. Arise India Ltd., B-38, Jain Chowk, Mangla Puri, Palam, New Delhi-110045. PAN-AADCA3432E
APPELLANT		RESPONDENT
Appellant by	Shri Zafarul Haque Tanweer, CIT DR	
Respondent by	None	
Date of Hearing	25.10.2023	
Date of Pronouncement	25.10.2023	

ORDER

PER KUL BHARAT, JM :

Both appeals filed by the Revenue against the order of Ld.CIT(A)-1, New Delhi dated 23.08.2016 for the Assessment Year 2012-13 and against the order of Ld.CIT(A)-32, New Delhi dated 27.12.2017 for the Assessment year 2014-15. The appeals are taken up together for hearing and are being disposed off by way of consolidated order for the sake of brevity and convenience.

2. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that no one has been attending the proceedings despite giving various opportunities to the assessee. Therefore,

looking to the conduct of the assessee, it can be gathered that the assessee is not interested effectively in pursuing both these appeals. Therefore, the appeals are taken up for hearing and being decided on the basis of material available on records.

ITA No.5714/Del/2016 [Assessment Year : 2012-13]

3. First, we take Revenue's appeal in ITA No.5714/Del/2016 [Assessment Year 2012-13] wherein Revenue has raised following grounds of appeal:-

1. *"Ld. CIT(A) erred in deleting the addition of Rs.23,65,40,000/- made by the AO u/s 68 of the I.T. Act, 1961 particularly when the assessee has failed to furnish evidence to prove the source of fund of the person from whom such huge share capital/premium received.*
2. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."*

4. The only effective ground raised by the Revenue in this appeal is against the addition of INR 23,65,40,000/- made by the Assessing Officer ("AO") u/s 68 of the Income Tax Act, 1961 ("the Act").

5. Facts in brief are that the assessee is a company, engaged in the manufacturing and trading of Electronics and Electrical Appliances and water pump etc. It filed its return of income, declaring income of INR 20,42,75,110/- on 28.09.2012. The case was selected for scrutiny assessment and the assessment u/s 143(3) of the Act was framed vide order dated 31.03.2015. The AO while framing the assessment, noticed that the assessee had raised share capital of INR 118.27 Lacs and share premium of INR 2247.13 Lacs against the issue of 11,82,700 shares during the AY 2012-13. The AO was not satisfied with the explanation offered to him by the assessee and proceeded to

treated this amount as unexplained and made addition u/s 68 of the Act amounting to INR 23,65,40,000/-.

6. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, deleted the addition.

7. Aggrieved against the order of Ld.CIT(A), the Revenue preferred appeal before this Tribunal.

8. At the outset, apropos to grounds of appeal, Ld.CIT DR submitted that Ld.CIT(A) has considered the submissions and material placed before him without giving opportunity to the AO to rebut the same. He submitted that no remand report was sought from the AO. He contended at least an opportunity to Assessing Authority should have been given in the interest of justice and fair play.

9. We have heard Ld. CIT DR for the Revenue and perused the material available on record. We find that Ld.CIT(A) has considered the submissions of the assessee and also the material placed before him. However, we do not find anything on record suggesting that the submissions and other material placed before Ld.CIT(A) was supplied to the AO for rebuttal in the form of remand report. Therefore, to sub-serve the principle of natural justice, we hereby set aside the impugned order and restore the issue to the file of Ld.CIT(A) to decide it afresh after giving opportunity to both the parties. Thus, grounds raised by the Revenue are allowed for statistical purposes.

10. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

ITA No.3962/Del/2018 [Assessment Year : 2014-15]

11. Now, we take Revenue's appeal in ITA No.3962/Del/2018 [Assessment Year 2014-15] wherein Revenue has raised following grounds of appeal:-

1. *"The Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.60,04,41,251/- made by the AO on account of bogus purchases from M/s Chetna Energy Pvt Ltd without appreciating the facts brought on record by the Assessing Officer that M/s Chetna Energy Pvt Ltd is found to be a bogus entity on enquiries made by the Department.*
2. *The Ld.CIT(A) has erred in deleting the addition of Rs.25,08,00,000/- made by the AO on account of unexplained cash credit u/s 68 of the Income-tax Act, 1961 in the form of share application money particularly when not only the assessee but also the share applicant have failed to offer satisfactory explanation regarding source of such share application money.*
3. *The Ld.CIT(A) has erred in deleting the disallowance of Rs.33,76,760/- made by the AO on account of employee's contribution to EPF/ESI deposited beyond the due date u/s 2(24) (x) r.w. section 36(1)(va) of the Income-tax Act, 1961.*
4. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."*

12. We have heard Ld. CIT DR for the Revenue and perused the material available on record. We find that the facts and issues are similar and identical to the **ITA No.5714/Del/2016 [AY 2012-13]**. Therefore, to sub-serve the principle of natural justice, we hereby set aside the impugned order and restore the issue to the file of Ld.CIT(A) to decide it afresh after giving opportunity to both the parties. Our decision in **ITA No.5714/Del/2016 [AY 2012-13]** would

apply *Mutatis Mutandi* in this appeal filed by the Revenue as well. Thus, grounds raised in this appeal filed by the Revenue are allowed for statistical purposes.

13. In the result, the appeal of the Revenue is allowed for statistical purposes.

14. In the final result, both appeals of the Revenue are allowed for statistical purposes.

Order pronounced in the open Court on 25th October, 2023.

Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI