

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “F” BENCH: NEW DELHI**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &  
MS.ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.4550/Del/2019**

**[Assessment Year : 2007-08]**

Vedic Foundation Pvt.Ltd., 43-B, FF, Dilshad Garden, New Delhi-110093. <b>PAN-AAACI8590C</b>	vs	ITO, Ward-26(2), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Gaurav Kabra, CA	
<b>Respondent by</b>	Shri Vivek Vardhan, Sr.DR	
<b>Date of Hearing</b>	21.02.2024	
<b>Date of Pronouncement</b>	28.02.2024	

**ORDER**

**PER N.K.BILLAIYA, AM :**

This appeal by the assessee is preferred against the order of Ld.CIT(A)-31, New Delhi dated 08.03.2019 for the Assessment Year 2007-08. The grievances of the assessee read as under:-

1. *“That the Ld.CIT(A) has erred both on facts and in law by confirming an addition of Rs.2,00,00,000/- u/s 68 of the Income Tax Act, 1961 made by assessing officer in his order passed u/s 147/143(3) of the I.T. Act, 1961.*
2. *That the ld.CIT(A) has erred both on facts and in law by confirming an addition of Rs.6,00,000/- u/s 69C of the Income Tax Act, 1961 made by assessing officer in his order passed u/s 147/143(3) of the I.T. Act, 1961.”*

2. Briefly stated facts of the case are that during the course of scrutiny assessment proceedings, the Assessing Officer (“AO”) noticed that the assessee had received share application money from following parties:-

<i>Date</i>	<i>Name of the company</i>	<i>Cheque No.</i>	<i>Amount</i>
09.02.2007	Alka Diamond Industries Limited	327112	2500000
12.07.2007	Hema Trading Co. Pvt.Ltd.	353311	500000
05.03.2007	Hema Trading Co. Pvt.Ltd.	353104	2000000
09.02.2007	Javda India Impex Limited	327627	2000000
13.01.2007	Kush Hindustan Entertainment Ltd.	325081	2000000
20.12.2006	Lexuls Infotech Ltd.	002022	1000000
26.12.2006	Lexuls Infotech Ltd.	002024	1500000
09.01.2007	Realgold Trading Company Pvt.Ltd.	319816	1500000
22.03.2007	Realgold Trading Company Pvt.Ltd.	319864	1000000
12.03.2007	Yash-V-Jewels Ltd.	327304	2000000
12.03.2007	Yash-V-Jewels Ltd.	017091	500000
17.01.2007	Kush Hindustan Entertainment ltd.	017123	500000
15.03.2007	Venuguard Jewels Ltd.	009107	1000000
05.03.2007	Alka Diamond Industries Limited	3271490	2000000
	<b>Total</b>		<b>20000000</b>

3. The assessee was asked to furnish details and documents in the light of section 68 of the Income Tax Act, 1961 (“the Act”). On receiving no plausible reply, the AO made addition of Rs.2 crores u/s 68 of the Act and made further addition of Rs.6,00,000/- as alleged commission paid for getting accommodation entries.

4. The assessee challenged the addition before Ld.CIT(A) but without any success.

5. Before us, Ld. Counsel for the assessee stated that the assessee had given copies of balance sheet, bank statements alongwith confirmation, copies of ITR and share application form alongwith board resolution before the lower authorities and without making any examination, the addition has been made. Ld. Counsel for the assessee drew our attention to the decision of the Co-

ordinate Bench of the Tribunal in assessee's own case in ITA No.9170/Del/2019 for Assessment Year 2008-09 and pointed out that on identical set of facts, this Tribunal has deleted the addition.

6. Per contra, Ld. Sr. DR for the Revenue strongly supported the findings of the AO.

7. We have given a thoughtful consideration to the orders of the authorities below and have carefully considered the decision of the Co-ordinate Bench of the Tribunal in ITA No.9170/Del/2019 for the Assessment Year 2008-09.

8. We find force in the contention of the Ld. Counsel for the assessee. On identical set of facts, the Co-ordinate Bench of Tribunal in Assessment Year 2008-09 in ITA No.9170/Del/2019 has decided the similar issue as follows:-

8. *"We have heard both the parties and perused the records. We find that only three companies were noted as bogus entry providers by the Investigation Wing information. However, for other five companies, there is no allegation of bogus entry providing by the Investigation Wing. AO has noted that assessee has submitted all the documents as called for. In this regard, we note that with respect to these companies, assessee has provided the following chart and also attached details with the paper book filed before us :-*

Sr.No.	Nature of Documents
1.	Acknowledgement of Return of Income and computation of total income for the A.Y. 2008-09 along with Financial Statement of the assessee for the A.Y. 2008-09
2.	Ledger Copy along with Bank Statement of assessee reflecting the payment received for share application money
3.	M/s. Hema Trading Private Ltd.
	3.1 Ledger confirmation
	3.2 Bank Statement Highlighting the transactions
	3.3 Acknowledgement of return of income for the A.Y. 2008-09

	3.4	<i>Financial Statements as at 31.03.2008</i>
	3.5	<i>Share application form and board resolution</i>
4.		<i>M.s, Real Gold Trading Co. Pvt. Ltd.</i>
	4.1	<i>Ledger confirmation</i>
	4.2	<i>Bank Statement Highlighting the transactions</i>
	4.3	<i>Acknowledgement of return of income for the A.Y. 2008-09</i>
	4.4	<i>Financial Statements as at 31.03.2008</i>
	4.5	<i>Share application form and board resolution</i>
5.		<i>M/s. Kapindra Multitrade Pvt. Ltd.</i>
	5.1	<i>Ledger confirmation</i>
	5.2	<i>Bank Statement Highlighting the transactions</i>
	5.3	<i>Acknowledgement of return of income for the A.Y. 2008-09</i>
	5.4	<i>Financial Statements as at 31.03.2008</i>
	5.5	<i>Share application form and board resolution</i>
6.		<i>M/s. Eternity Multitrade Pvt. Ltd.</i>
	6.1	<i>Ledger confirmation</i>
	6.2	<i>Bank Statement Highlighting the transactions</i>
	6.3	<i>Acknowledgement of return of income for the A.Y. 2008-09</i>
	6.4	<i>Financial Statements as at 31.03.2008</i>
	6.5	<i>Share application form and board resolution</i>
7.		<i>Dynamic Import &amp; Exports Pvt. Ltd.</i>
	7.1	<i>Ledger confirmation</i>
	7.2	<i>Bank Statement Highlighting the transactions</i>
	7.3	<i>Share application form and board resolution</i>
8.		<i>Vibhuti Multitrade Pvt. Ltd.</i>
	8.1	<i>Ledger confirmation</i>
	8.2	<i>Bank Statement Highlighting the transactions</i>
	8.3	<i>Acknowledgement of return of income for the A.Y. 2008-09</i>
	8.4	<i>Financial Statements as at 31.03.2008</i>
	8.5	<i>Share application form and board resolution</i>
9.		<i>Submissions made before the Learned Assessing Officer during the course of assessment proceedings</i>
10.		<i>Submissions made before the Learned CIT (AO during the course of appellate proceedings.</i>
11.		<i>Form 2 for shares allotted.</i>

9. *We find that all the documentary evidences were duly provided to the AO. AO did not offer any examination of these documents and did not mention even a single adverse point in the financials of these companies. His whole exercise was based upon his claim that section 133 (6) notice was returned unserved. However, it was not at all the case that these companies were not having PAN or they were not filing income-tax returns. Ld. CIT (A) has mentioned that AO has issued summons u/s 131 of the Act to the Directors of the company but no such mention was there in the order of the AO. From the examination of the financials, balance sheet and bank statement, it is noted that transactions were through banking*

*channel and these companies have sufficient financial reserves to provide the credits/ loans to the assessee company.*

10. *In these circumstances, when all the details were provided and no adverse feature was noted therein, assessee has discharged the onus cast upon it. The authorities below have based these adverse orders only by making general observation and repeating that assessee did not produce the directors of these companies. Our adjudication finds support from following case laws relied upon by the assessee :-*

- (i) Pr. CIT vs. Laxman Industrial Resources Ltd. 397 ITR 106 (Delhi) – It was held that in respect of addition under section 68 of the Act, when all documents provided and no scrutiny by AO of the documents, addition solely on the basis of Investigation Wing report is to be deleted.*
- (ii) Similarly, in the case of CIT vs. Orchid Industries Pvt. Ltd. 397 ITR 136 (Bombay), in connection with section 68 of the Act, it was held that when all the details have been given, non-appearance of the parties is irrelevant.*
- (iii) Similarly, in the case of CIT vs. Kamdhenu Steel and Alloys Ltd. 361 ITR 220 (Delhi), Shiv Dhoot Pearls 237 taxman 104 (Delhi) and Dwarkadhis Investment P. Ltd. 330 ITR 298 (Delhi), it was held that source of source of investment company is not required to be explained.*
- (iv) In the case of CIT vs. Lovely Exports (P.) Ltd. 216 CTR 195 (SC), it was held by Hon'ble Apex Court that if share application money is received by assessee company from alleged bogus shareholders, whose names are given to Assessing Officer, then Department is free to proceed to reopen their individual assessments in accordance with law but this amount of share money cannot be regarded as undisclosed income u/s 68 of the Act.*

11. Thus, in the background of the aforesaid decisions and precedent, we are of the opinion that assessee has discharged its onus, hence orders of authorities below are set aside. Since addition under section 68 of the Act has been directed to be deleted, the addition for commission does not survive and the same is also directed to be deleted.

12. In the result, this appeal of the assessee stands allowed.”

9. On finding parity of facts and following the decision of Co-ordinate Bench of the Tribunal in assessee’s own case, we direct the AO to delete the impugned addition of Rs.2 crores. Since we have deleted the addition made u/s 68 of the Act, the consequential addition of Rs.6,00,000/- u/s 69C of the Act is also deleted. Grounds raised by the assessee are accordingly, allowed.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 28<sup>th</sup> February, 2024.

**Sd/-**

**(ASTHA CHANDRA)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

**Sd/-**

**(N.K.BILLAIYA)  
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI