

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.238/DEL/2024
(Assessment Year: 2014-15)**

Holiday Triangle Travel Private Ltd., vs. Income Tax Officer,
Plot No.52, 3rd Floor, Jaipur.
Batra House, Sector 32,
Gurgaon – 122 001 (Haryana).

(PAN : AACCH7688E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Abhishek Dhawan, CA
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 26.03.2024
Date of Order : 26.03.2024

ORDER

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 05.12.2023 for the assessment year 2014-15.

2. The assessee has taken the following grounds of appeal :-

“1. On facts and circumstances of the case, the Ld. CIT(A) has erred in conferring the addition of INR 5,289,920 made by Ld. AO under section 56(2)(viib) of the Act.

2. On facts and circumstances of the case, the Ld. CIT(A) has erred in conferring the addition of INR 5,289,920 on the basis of conjectures and surmises and surmises and without appreciating/considering the detailed factual and legal submissions filed by the Appellant and the settled legal position.

3. That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) under section 250 of the Act is bad in law and liable to be quashed to the extent it dismisses the Appellant's appeal filed on 20 January 2017 against the impugned order.

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) has grossly erred in conferring the addition of INR 5,289,920 on account of addition of share premium received on issue of shares under section 56(2)(viib) of the Act without appreciating facts and law, inter alia as under:

4.1 That section 56(2)(viib) of the Act is not applicable on genuine, bonafide and commercial transactions.

4.2 That no powers have been vested to the office of Ld. AO under the Act to change the method of valuation of shares opted by the Appellant.

4.3 The Ld. CIT(A) has grossly erred in accepting the fair value of the shares computed by Ld. AO at INR (303.11) without appreciating that the price at which the shares were issued was based on the valuation report issued by the independent Chartered Accountant following the Discounted Cash Flow (DCF) method prescribed under section 56(2)(viib) of the Act read with Rule 11 UA of the Income Tax Rules, 1962 (the Rules).

4.4 The Ld. CIT(A) has grossly erred in facts and failed to appreciate that business projections for the purpose of valuation under DCF method are management's best estimates of future business at a given point of time and cannot be compared with subsequent actual performance of the Appellant's business for purpose of section 56(2)(viib) of the Act.

4.5 The Ld. CIT(A) has grossly erred on facts and has not appreciated that the Appellant has furnished all requisite details to substantiate the fair value of the shares vide submissions filed on record.

4.6 Without prejudice to the above and even for argument's sake, the valuation report filed by the Appellant is considered as not acceptable/ reliable, the Ld. CIT(A) should have directed

the Ld. AO to compute the fair value as per DCF method adopted by the Appellant or may have obtained the fresh valuation report from independent valuer after recording reasons instead of arbitrarily changing the method of valuation to Net Asset Value (NAV) method.”

3. At the outset, Id. Counsel for the assessee submitted that actual jurisdiction for this appeal lies with the Jaipur Bench of ITAT and the assessee has already filed appeal at Jaipur Bench. Hence, Id. Counsel for the assessee pleaded that the assessee may be allowed to withdraw this appeal.

4. Upon hearing both the parties and perusing the records, I permit to withdraw the appeal and the appeal is dismissed as infructuous.

Order pronounced in the open court on this 26th day of March, 2024 after the conclusion of the hearing.

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 26th day of March, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-30, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**