

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI**

**BEFORE  
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 1913/Del/2019  
Asstt. Year: 2015-16

ITO, Ward-19(4) Room No. 209, C.R. Building, New Delhi.	Vs.	M/s. Pioneer Factor Developers Pvt. Ltd. 5 <sup>th</sup> Floor, Padma Palace, 86, Nehru Place, New Delhi – 110 019 PAN AAEC3203B
(Appellant)		(Respondent)

Assessee by:	Shri Gautam Jain, Advocate Shri Path Singhal, Advocate
Department by:	Ms. Mayuri, Sr. DR
Date of Hearing:	25.04.2024
Date of pronouncement:	06.05.2024

**ORDER**

**PER VIMAL KUMAR, JM**

The appeal is against order dated 18.12.2018 of the Learned Commissioner of Income Tax (Appeals) through which assessment order dated 8.12.2017 of the Learned Assessing Officer addition of Rs. 4,13,50,000/- was added in the income of assessee company due to failure and discharging its onus under section 68 of the Income Tax Act, 1961.

2. Brief facts of case are that assessee M/s. Pioneer Factor IT Infradevelopers Pvt. Ltd. e-filed its return on 25.09.2015 for the assessment year 2015-16 declaring NIL income, The case was selected for scrutiny under CASS. Order under section 143(3)

was passed on 8.12.2017 assessing income as Rs. 4,13,50,000/- under section 68 on account of unapproved share capital i.e. unexplained cash credit. Assessee preferred appeal before Learned CIT(A) which was partly allowed deleting addition of Rs. 4,13,50,000/-.

3. Being aggrieved appellant Department preferred appeal.

4. Learned Departmental Representative submitted that Learned CIT(A) erred in law and fact in deleting addition of Rs. 4,13,50,000/- made by Learned Assessing Officer on account of unexplained share capital received from Smt. Kalawati Devi Jain, Smt. Sunaina Devi, Shri Ram Sewak Gupta and M/s. Pioneer Procon Pvt. Ltd. despite the fact that the assessee was not able to prove the genuineness of transactions and their creditworthiness of creditors as required under section 68 of the Income Tax Act.

5. Learned Representative for assessee submitted that in pursuance to notice under section 133(6) Smt. Kalawati Devi Jain, Smt. Sunaina Devi, Shri Ram Sewak Gupta submitted replies confirming subscription in preference share capital of assessee company, independently and had furnished their respective bank statements duly reflecting the source of their investments and ITR etc. The assessee company had duly furnished complete details and corroborating evidences in the shape of confirmations, PAN, income tax particulars, addresses, share certificates, ROC records. Learned Assessing Officer had made addition on the sole basis of low amount of returned

income of the 4 investor entities and doubted their creditworthiness. So appeal may be rejected.

6. From examination of record in light of aforesaid rival contentions it is crystal clear that Learned Assessing Officer noticed that Smt, Kalawati Devi Jain, Smt. Sunaina Gupta, Shri Ram Sewak Gupta, M/s. Pioneer Procon (P) Ltd. having very low income and as such having no creditworthiness to provide share capital to assessee company mad made addition of Rs. 4,13,50,000/-. Learned CIT(A) on basis of submissions tabulated in detail in relation to nature and source of funds made by Smt. Kalawati Devi Jain, Smt. Sunaina Gupta, Shri Ram Sewak Gupta and M/s. Pioneer Procon (P) Ltd. as under:-

Investor Entities & their Relationship with Assessee Company	Date of Receipts of Fund	Sources of Fund	Amount of Share Subscription	Nature of Transaction
Smt. Kalawati Devi Jain, Mother of Director of Assessee Company	27.03.2015	Pioneer Securities (P) Ltd.	50,00,000/-	Recovery of Own Fund
Smt. Sunaina Gupta, Close Friend of Director of Assessee Company	27.03.2015	Rajiv Kumar, Husband of Sunaina Gupta, promoter of Bakemans Biscuits & Factory	1,50,15,000/-  49,85,000/-	Recovery of Own Fund  Loan Taken
Sh. Ram Sewak Gupta, Close Friend of Director of Assessee Company	27.03.2015	Pioneer Securities (P) Ltd.	1,21,00,000/-	Recovery of Own Fund
M/s Pioneer Procon (P) Ltd., Sister Concern of Assessee Company	27.03.2015	Pioneer Securities (P) Ltd.	42,50,000/-	Recovery of Own Fund
		Total	4,13,50,000/-	

7. The above factual position was corroborated by bank statement investors. None of the four investor entities were having any blemished track record of entry operators. All four were regular income tax assesseees filing ITRs. The four investors had provided statutory records like audited financial statements, ITR, Confirmation, Bank Statements, Share Certificates, ROC Records and the independent confirmation so the onus had shifted back to the Learned Assessing Officer resultantly the addition of Rs. 4,13,50,000/- was found to be unsustainable. In view of above material facts and circumstances the findings of Learned CIT(A) are just, fair, reasonable and deserve to be upheld. The arguments of Departmental Representative being devoid on merit are unsustainable.

8. No other point was argued.

9. In the result appeal is dismissed.

**Order pronounced in the open court on 6<sup>th</sup> May, 2024.**

**sd/-**

**(S RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Dated: 06/05/2024

***Veena***

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
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Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
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Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
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