

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &  
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No.3127/Del/2019  
[Assessment Year : 2014-15]**

ITO Ward-14(3) New Delhi-110002	vs	KBC India Pvt.Ltd. 4 <sup>th</sup> Floor, Punjabi Bhawan 10, Rouse Avenue New Delhi-110002 <b>PAN-AAACK0088M</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Ms. Baljeet Kaur, CIT DR	
<b>Respondent by</b>	Shri M.P.Rastogi, Adv.	
<b>Date of Hearing</b>	24.02.2025	
<b>Date of Pronouncement</b>	27.02.2025	

**ORDER**

**PER PRADIP KUMAR KEDIA, AM :**

The instant appeal has been filed at the instance of the Revenue seeking to assail the First Appellate order dated 28.01.2019 passed by Commissioner of Income Tax (A)-5, New Delhi [“CIT(A)”] under s. 250 of the Income Tax Act, 1961 [“the Act”] arising from the assessment order dated 29.12.2016 passed under s. 143(3) of the Act pertaining to assessment year 2014-15.

2. The Revenue has raised following grounds of appeal:-

1. *“Whether Ld. CIT(A) was legally justified in deleting the addition of Rs. 16,46,40,000/- made by the AO u/s 56(2)(viib) of the IT Act.*
2. *Whether the Ld.CIT (A) was right in holding the calculation taken by the assessee company and ignoring the finding of facts recorded by the AO that assessee wanted to increase its value of share premium in spite of knowing the value of property as per wealth tax return.*
3. *That the grounds of appeal are without prejudice to each other.”*

3. When the matter was called for hearing, Ld. Counsel pointed out that the assessee company is a wholly owned subsidiary of M/s. Puran Associates Pvt. Ltd. During the Financial year 2013-14 relevant to Assessment Year 2014-15, the assessee company allotted 1,02,900 equity shares having face value of INR 100/- each to the holding company M/s. Puran Associates Pvt. Ltd. for a premium of INR 1,799/- based on value of shares as determined by independent valuer. The AO however, observed that the market value of shares stand at INR 299/- per share and consequently invoked the provision of s.56(2)(viib) of the Act to tax the excess share premium charged by the assessee company. The Ld. Counsel referred to the following judgements of Hon'ble Courts and Co-ordinate Bench of the Tribunal:-

- [i] FIS Payment Solutions & Services India Pvt.Ltd. v UOI [W.P.(C)] 10289/2024 judgement dated 29.07.2024 [Del.HC];
- [ii] DCIT v Kissandhan Agri Financial Services (P.) Ltd. [2023] 150 taxmann.com 390 (ITAT, Delhi);
- [iii] M/s. KBC India Pvt.Ltd. vs ITO [ITA No.9710/Del/2019] (ITAT, Delhi);
- [iv] ACIT vs Dhruv Milkose Pvt.Ltd. [ITA No.843/Del/2019] (ITAT, Delhi);
- [v] ITO v K.V.Global Pvt.Ltd. [2024] 160 taxmann.com 234 (ITAT, Delhi);
- [vi] Rugby Regency (P.) Ltd. v ACIT [2024] 160 taxmann.com 1056 (ITAT, Delhi); and
- [vii] ITO vs Solitaire BTN Solar (P.) Ltd [2024] 164 taxmann.com 170 (ITAT, Delhi).

4. With reference to such judgements, it was submitted that the deeming fiction of provision of s.56(2)(viib) of the Act would not apply where the shares have been issued at premium by the subsidiary company to its 100% holding company.

5. We have heard rival submissions and perused the material available on record. The Hon'ble High Court in *FIS Payment Solutions & Services India Pvt.Ltd.* (supra) endorsed the construction of s.56(2)(viib) rendered by the Co-ordinate Bench in the case of *BLP Vayu (P.) Ltd.* (supra) & *Kissandhan Agri Financial Services (P.) Ltd.* (supra). As per judgements quoted, it was observed

that deeming fiction of s.56(2)(viib) could not apply in the case of such transactions between holding company and wholly owned subsidiary in the absence of any purported benefit occurring to any outsider. Significantly, the Hon'ble High Court noted that the Revenue has acquiesced with the judgement of Co-ordinate Benches before the Hon'ble High Court.

6. In the light of above judgements rendered by the Co-ordinate Benches and endorsed by the Hon'ble High Court, we do not see any error in the order of CIT(A) which is resulted in reversal of the addition under s.56(2)(viib) of the Act. We thus decline to interfere.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 27<sup>th</sup> February, 2025.

**Sd/-**

**(SUDHIR PAREEK)**  
**JUDICIAL MEMBER**

*\*Amit Kumar, Sr.P.S\**

**Sd/-**

**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI