

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, AGRA  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 1/Agr/2024  
(Assessment Year 2014-15)**

DCIT, Room No.104, First Floor, Aaykar Bhawan, Sanjay Place, Agra	Vs.	Gausia Cold Storage Pvt. Ltd. 304, Gurukrupa, 133, Kazi Sayed Street, Maharashtra-400003
/■■■■■■■■■■./PAN/GIR No: AAACG1215G		
Appellant	..	Respondent

Appellant by :	Sh. Sukesh Kumar Jain, CIT, DR
Respondent by :	Sh. Deependra Mohan, CA

Date of Hearing	12.02.2025
Date of Pronouncement	12.02.2025

**ORDER**

**PER SATBEER SINGH GODARA, JUDICIAL MEMBER:**

This Revenue’s appeal for assessment year 2014-15 arises against Commissioner of Income Tax (Appeals)-4, [in short, the “CIT(A)”] Kanpur’s order dated 16.10.2023, passed in case No. CIT(A)-IV/KNP/11182, in proceedings under Section 143(3) of the Income Tax Act, 1961, [hereinafter referred to as ‘the Act’].

2. Heard both parties at length. Case file perused.
3. It emerges during the course of hearing that the learned Assessing Officer has framed his assessment on 29.11.2016 making section 68 unexplained cash credit additions of Rs.4,98,58,200/- alleging the assessee to have failed to explain huge share premium followed by non-filing of the concerned valuation report under the prescribed method(s).

4. It is in this factual backdrop that we invited learned CIT-DR's attention to the fact that once there already exists a specific provision u/s 56(2)(vii)(c) of the Act for making such an addition of share premium, learned Assessing Officer's action to treat the same as unexplained u/s 68 is hardly sustainable in law.

5. Faced with the situation, learned CIT-DR vehemently argues that the Assessing Officer had in fact wrongly mentioned the relevant provision u/s 68 since it was clear cut instance of addition to be made u/s 56(2) in the foregoing terms.

6. We find no merit in the Revenue's foregoing vehement contentions in light of Mahindra & Mahindra Vs. DCIT (2000) 30 SOT 379 (Mum.) (SB that it is not open for the department to make out a new case in second appellate proceeding u/s 254(1) of the Act. This is indeed coupled with the fact that the assessee had duly filed his valuation report before the Assessing Officer on 15.11.2016 which has been seriously disputed at the Revenue's behest. Be that as it may, we are of the considered view that once the assessee had justified its alleged huge share premium, no addition could have been made u/s 68 of the Act is forming subject matter of adjudication before us. The Revenue's instant sole substantive ground is rejected therefore.

7. This Revenue's appeal is dismissed.

Order pronounced in the open court on 12.02.2025

Sd/-  
(Manoj Kumar Aggarwal)  
ACCOUNTANT MEMBER

Sd/-  
(Satbeer Singh Godara )  
JUDICIAL MEMBER

Dated 12.02.2025

PS: Rohit/Subodh, Sr. PS