

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.1822/KOL/2024  
(Assessment Year:2012-13)**

**Lime Fresh Properties Pvt. Ltd.**  
16A, Shakespeare Sarani, New  
B.K. Market, 5th Floor, Kolkata,  
West Bengal, 700071

**(Appellant)**

**Vs.**

**I.T.O., Ward - 3(1)**  
Aayakar Bhawan, P-7,  
Chowringhee Square, Kolkata,  
West Bengal, 700069

**(Respondent)**

**PAN No. AAKCS4909F**

**Assessee by** : Shri AkkalDudhewala, AR  
**Revenue by** : Shri Ranu Biswas, DR

**Date of hearing:** 18.03.2025  
**Date of pronouncement :** 25.03.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 13.03.2024 for the AY 2012-13.

02. At the outset, we observe from the facts on file that there is a delay of 107 days in filing the appeal by the assessee for which the assessee has moved condonation application along with affidavit dated 26.08.2024. The assessee submitted that Shri Kailash Chandra Soni, director of M/s Lime Fresh Properties Private Limited submitted has stated in the affidavit that Mr. Tapas Roy was entrusted with the accounts, taxation matters of the company including filing the appeal on behalf of the company. However, he was suffering from severe viral infection during the month of April, 2024 and therefore due to his



critical health issues he was not attending office from 09.04.2024 to 21.05.2024 and accordingly, the delay of 107 days has happened in filing the appeal. The Id. Counsel for the assessee submitted that the since the delay in filing the appeal was for genuine and bonafide reasons, the same may be condoned.

03. The Id. DR on the other hand opposed the arguments of the Id. AR on condonation.
04. After hearing the rival contentions and perusing the materials available on record, we find that the delay in filing the appeal is for bonafide and sufficient reasons and therefore, same is condoned by admitting the appeal for adjudication.
05. The only issue raised by the assessee is against the confirmation of addition of ₹69 lacs by the Id. CIT (A) as made by the Id. AO on account of unexplained cash credit u/s 68 of the Act.
06. The facts in brief are that the assessee filed the return of income on 29.09.2012, declaring total income of ₹2,62,465/-. The case of the assessee was selected for scrutiny and the statutory notices and other notices along with questionnaire were issued. During the course of assessment proceedings, the assessee filed all the evidences/ details as called for by the Id. Assessing Officer. The Id. AO also issued notice u/s 131 of the Act which was duly replied. Thereafter, the Id. AO issued notices u/s 133(6) of the Act to the share subscribers, which were also duly replied by the share subscribers. The notice u/s 142(1) of the Act dated 08.12.2014, was replied vide written submissions dated 16.12.2014 and 30.12.2014 by furnishing various details/ evidences, which are available from page no.16 to 22 of paper book. Similarly, the summon issued u/s 131 of the Act on 23.02.2015, to the assessee was complied with vide written submission dated



- 11.03.2015, which are available at page no. 85 to 86, furnishing the details in respect of the share subscribers of sisters concerns and related persons, available from page no.25 to 267 of the paper book. However, the Id. AO disregarded and overlooked all the facts / evidences/ replies filed by the assessee. The replies / submissions/ evidences were duly acknowledged by the Department. The AO framed the assessment u/s 144 of the Act on 21.03.2015 by making an addition of ₹69 lacs on account of unexplained cash credit in respect of share capital and share premium.
07. In the appellate proceedings, the Id. CIT (A) passed a very cryptic order upholding the order of Id. AO without considering the reply of the assessee and evidences filed on line during the course of appellate proceedings for which the assessee place evidences before the tribunal.
08. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has raised share capital/ share premium from 7 entities/ persons. The Id. AO during the course of assessment proceedings issued notice u/s 142(1) of the Act along with questionnaire calling for various information/ details from the assessee qua the said share capital/ share premium which were duly furnished by the assessee and copies of the documents are available from page no. 16 to 23 of the PB. Thereafter, in the second reply the assessee filed the justification for raising such money from the group entities/ family members as the same was required for purchase of property and also as per the requirement of bank to disburse the loans some margin money was required on the part of the assessee. The documents are available at page no. 24 to 82 of the PB. We also note that the Id. AO issued summon u/s 131 of the Act to the issue requisitioning the details of share capital vide notice dated



23.02.2015, which was replied on 11.03.2015 submitting the details which were available from page no. 85 to 86 of the PB. We note that in case of five subscribers notice u/s 133(6) of the Act dated 02.01.2015, were issued which were duly replied by the share subscribers and copies are available in paper book page no. 224,225, 233, 234, 242, 243, 250,251, 260 and 261. We note that the subscribers have also filed their PANs, audited accounts, bank statements, ITRs, etc. to prove the investments in the assessee company. However, the Id. AO by ignoring all the evidences with regard to the share subscribers and without making any examination or verification of these evidences simply passed the order u/s 144 of the Act by observing that the assessee was not complied with the notices. Pertinent to state that all these evidences are available in the paper book and duly acknowledged by the Department. We note that the Id. CIT (A) also passed the order in the same way upholding the order by Id. AO by giving a very cryptic finding without taking into account the reply of the assessee. We observe on the examination of these evidences that all these were sisters concerns or related parties from whom the money was raised and the purpose of raising money was for purchase of property and other expenses for which the assessee furnished the evidences before the Id. AO such as the bank sanctioning loan of ₹1,21,00,000 documents dated 06.08.2011, purchase deed 01.09.2011 and leased agreement dated 07.09.2011, which are available at page no. 24 to 82 of the PB. We note that the assessee furnished all the evidences before the Id. AO as well as before the Id. CIT (A). Before AO, in response to notice issued u/s 142(1) of the Act dated 08.12.2014, the assessee replied on 16.12.2014, furnishing all these documents which are available in the paper book from page no. 16 to 23 such as names, addresses, PANs, Bank statements, copy of form 2, etc. and also submitting that all



these are related entities of the assessee. The details thereto are also that available at page no. 11 of the PB. We further note notice u/s 131 was issued on 23.02.2015 to the assessee which were complied with vide reply dated 11.03.2015 submitting all the details as required by the Id. AO. We even note that the Id. AO has issued notices u/s 133(6) to five subscribers namely M/s Knitworth Exports Ltd., M/s Maxwins Exim Pvt. Ltd., M/s Mooncity Real Estates Pvt. Ltd, M/s Purposive Traders Pvt. Ltd., Kailash Chandra Soni, which were replied by all these subscribers on 03.02.2015 and the replies are available in the paper book. We note that these subscribers submitted before the Id. AO all the details as are called for. Similarly, before the Id. CIT (A) also all these details were also available, however, this were not considered by the First Appellate authority. We have examined these details extensively and find that the assessee has raised money from the sister concerns/related parties, who were having sufficient resources and the money was also raised by the assessee for genuine reasons in order to meet the conditions of the bank to release the loan funds as margin money. Considering these facts and documents , we are fully satisfied that the assessee has proved the identity and creditworthiness of the investors and genuineness of the transactions, and therefore, we are inclined to set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition.

09. In the result, the appeal of the assesseeis allowed.

Order pronounced in the open court on 25.03.2025.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 25.03.2025

*Sudip Sarkar, Sr.PS*



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata