

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, KOLKATA

[Before Shri Rajesh Kumar, AM & Shri Pradip Kumar Choubey, JM]

I.T.A. No. 1283/Kol/2024

Assessment Year: 2012-13

ITO, Ward-6(1), Kolkata.	Vs.	Dadhich India Pvt. Ltd. 8, Netaji Subhas Road, Ground Floor, Kolkata-700001. (PAN: AABCD0074H)
Appellant		Respondent

Date of conclusion of Hearing	12.03.2025
Date of Pronouncement	06.05.2025
For the Appellant	Miraj D. Shah, AR
For the Respondent	Shri Raja Sengupta, Addl. CIT, Sr. DR

ORDER

Per Shri Rajesh Kumar, AM

The appeal filed by the revenue is against the order of Ld. CIT(A), NFAC, Delhi dated 11.12.2023 for AY 2012-13 arising out of assessment order passed u/s. 144 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) by Tax Recovery Officer-2, Kolkata dated 17.03.2015.

2. The only issue raised by the revenue is against the deletion of addition of Rs.2,68,55,000/- by Ld. CIT(A) as made by the Assessing Officer u/s. 68 of the Act by treating the share capital/share premium as unexplained cash credit.

3. The facts in brief are that the assessee filed its return of income on 25.09.2012 declaring total income of Rs. 39,750/-. The case of the assessee was selected for scrutiny under CASS and statutory notices were duly issued and served on the assessee. The assessee was totally non-compliant before the Assessing Officer and finally the assessment was framed u/s. 144 of the Act by making an addition of Rs.2,68,55,000/- which represented increase in share capital/share premium of the assessee during the year.

4. In the appellate proceeding, the assessee filed additional evidences which were admitted by the appellate authority and a remand report was also called for from the Assessing

Officer on these evidences. During remand proceeding, the assessee appeared before the Assessing Officer and furnished all the documents/evidences qua the said share capital/share premium. After taking into account the remand report and also the reply of the assessee, Ld. CIT(A) allowed the appeal of the assessee by observing and holding as under:

“I have perused the remand report and comments of the appellant thereon. I find from the remand report that Rs.2,68,55,000/- was received by the appellant as share application money from 15 applicants. Out of this, an amount of Rs.2,24,50,000/- was received during FY 2010-11 relevant to AY 2011-12 and an amount of Rs,26,05,000/- was received during FY 2011-12 relevant to AY 2012-13 i.e. the assessment year under consideration. During remand report proceedings the AO has examined the genuineness of the share application money transactions mentioned above and reported that these transactions are found to be genuine transactions. The appellant vide submission uploaded on 6/11/2023 submitted that the genuineness of share application money transactions have been proved before AO during remand report proceedings.

I have considered the facts of the case, submission filed by the appellant and remand report. Considering the facts of the case, the additional evidence produced by the appellant during appellate proceedings is admitted and considering the finding given by the AO during remand report proceedings after conducting necessary inquiry, I find that the AO was not justified in making the addition. Since the genuineness of the share application money transactions is proved during remand report proceedings, the addition made the AO of Rs.2,68,55,000/- is deleted. Thus, the grounds of appeal raised by the appellant are allowed.”

5. We have perused the orders of the lower authorities and have heard both the parties. We find that though the proceedings were ex parte before the Assessing Officer, however, in the appellate proceeding, the assessee filed additional evidences which were admitted by the Ld. CIT(A) and the remand report was called from the Assessing Officer, which was duly submitted by the Assessing Officer. We find that during the remand proceeding, the assessee has produced all evidences qua the share capital and share premium and the Assessing Officer ,after taking into account all the evidences, gave a very detailed and cogent finding that out of the total amount of share capital and share premium the substantial part of Rs. 2,24,50,000/- was received during the preceding financial year and, therefore, the provisions of section 68 of the Act were not applicable and as regards the remaining amount of Rs. 26,05,000/-, the Ld. CIT(A) noted that all the evidences were produced before the Assessing Officer during the remand proceeding and thus, the assessee has proved the identity, creditworthiness of the share subscribers and genuineness of the transactions and, therefore, no addition is called for u/s. 68 of the Act. Having considered all these facts , we are of the considered view that the order passed by the Ld. CIT(A) is a very reasoned and speaking order and does not call for

any interference at our end. Accordingly, we uphold the order of the Ld. CIT(A). The appeal of the revenue is dismissed.

6. In the result, appeal of the revenue stands dismissed.

Order is pronounced in the open court on 6th May, 2025

Sd/-

Sd/-

(Pradip Kumar Choubey)
Judicial Member

(Rajesh Kumar)
Accountant Member

Dated: 6th May, 2025

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant–ITO, Ward-6(1), Kolkata.
2. Respondent – Dadhich India Pvt. Ltd.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata,
True Copy

By Order

Assistant Registrar
ITAT, Kolkata Bench, Kolkata