

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: C : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2242/Del/2018
Assessment Year: 2011-12

DCIT,
Central Circle-28,
New Delhi.

Vs Geemed Promoters P. Ltd.,
F-6, Second Floor,
Vijay Chowk,
Laxmi Nagar,
New Delhi – 110 092.

PAN: AAECG1614P

CO No.114/Del/2018
(ITA No.2242/Del/2018)
Assessment Year: 2011-12

Geemed Promoters P. Ltd.,
F-6, Second Floor,
Vijay Chowk,
Laxmi Nagar,
New Delhi – 110 092.
PAN: AAECG1614P

Vs. DCIT,
Central Circle-28,
New Delhi.

(Appellant)

(Respondent)

Assessee by	: Shri Sachin Jain, Advocate
Revenue by	: Shri Om Parkash, Sr. DR
Date of Hearing	: 07.05.2025
Date of Pronouncement	: 28.05.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Revenue against the order dated
15.01.2018 of the Commissioner of Income-tax (Appeals)-29, New Delhi

(hereinafter referred to as the Ld. First Appellate Authority or ‘the Ld. FAA’, for short) in Appeal No.298/16-17/CIT(A)-29 arising out of the appeal before it against the order dated 19.03.2014 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as ‘the Act’) by the ACIT, Central Circle-28, New Delhi (hereinafter referred to as the Ld. AO). The assessee has filed Cross Objection.

2. The Revenue has taken the following grounds of appeal:-

“1. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 10 crore on account of (paid - up share capital, share premium and security premium) credited in its books of accounts ignoring the fact that the assessee had not discharged its primary onus to establish the identity and creditworthiness of the creditors and genuineness of the transaction during assessment proceedings.”

2. The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”

3. The grounds of Cross Objections read as under:-

“1. The learned CIT(A), erred in confirming the ad hoc addition of Bank deposit of Rs 1,70,000/- (Rupees One Lac Seventy Thousand Only) added to the total Income of the Assesses Company.

PRAYER:

a) To quash the demand of Rs 87,200/- (Rupees Eighty Seven Thousand Two Hundred Only) raised against the assessee.

b) Pass such further order and direction under which this Hon’ble Appellate Authority being suit upon the facts and circumstances of the case.”

4. On hearing both the sides we find that the impugned order of Id. CIT(A) covers all relevant facts and observations which are vital for deciding the grounds raised by revenue. The Ld. CIT(A) hold as follows;

“10. I have considered the facts and circumstances of the case, submissions/rejoinder of the appellant and assessment order/remand report of the AO. I find that the order under consideration was passed on 19.03.2014. A search and seizure action was carried out under section 132 of the IT Act in the Ocus group of cases on 12.02.2013. Sh. Ashok Tyagi group (director of the appellant) was also covered under section 132 of the IT Act. During the course of search action and assessment proceedings, enquiries were conducted with reference to the share capital introduced. It was found that a company M/s MGC Estate P. Ltd. (a concern of Ocus group) had shown to have raised its share capital and it was noticed that the appellant company has invested Rs.10 crore as share capital/share premium in MGC Estate P. Ltd. On verification/investigation of the facts, it was found by the AO that Sh. Ashok Kumar Tyagi was engaged in giving accommodation entries through the companies owned, controlled and managed by him. M/s Geemed Promoters P. Ltd. was also one of his company through which accommodation entry was provided in the garb of share capital/share premium to M/s MGC Estate P. Ltd. Orders under section 153A were passed, by the same AO on 27.03.2015 and 31.03.2015 in the case of Sh. Ashok Kumar Tyagi and M/s MGC Estate P. Ltd respectively. In the result, Sh. Ashok Kumar Tyagi and the companies owned/controlled/managed by him were treated as entry providers and M/s MGC Estate P. Ltd. was treated as the beneficiary of those accommodation entries received from Sh. Ashok Kumar Tyagi or his concerns. In the hands of Sh. Ashok Kumar Tyagi commission @1.4% on giving accommodation entries was calculated and added to his total income and in the hands of M/s MGC Estates P. Ltd., an addition of Rs.10 crores was made on the ground that this amount was nothing but an unaccounted income of the M/s MGC Estates P. Ltd. which was entered into its books of accounts in the garb of share capital/premium shown to have been received from M/s Geemed Promoters P. Ltd. The appellant company was found to be only paper company which was engaged only in giving accommodation entries to the beneficiaries. Thereby, the unaccounted income of M/s MGC Estate P. Ltd. have been routed through the appellant company by layering the funds and the appellant company was used as an entry operator, therefore, addition in the case of M/s MGC Estate P. Ltd. was made under section 68 of the IT Act of Rs.10 crore being the ultimate beneficiary of the modus operandi adopted by the relevant concerns with the help of the appellant (the company owned by Sh Ashok Kumar Tyagi). Since, the appellant company was held to be only entry operator during the course of

investigation/assessment proceedings, therefore, addition made in its hand deserve to be deleted.

11. Ground no.8 relates to addition of Rs.1,70,000/- made by the AO. The fact of the case is that the AO found that there was bank deposits of Rs.1,70,000/- in addition to the impugned amount of Rs.10 crore and since, the nature and source of the same could not be explained by the appellant, therefore, the AO made addition of the same under section 68 of the IT Act. I find that even during the appellate proceedings, there was no explanation filed by the appellant with regard to nature and source of the said amount, under these circumstances, I do not find any infirmity in the AO's order in this regard.”

5. Ld. DR could not dispute the fact that in the hands of Ashok Kumar Tyagi the additions stand final by way of commission income only. Thus no question to examine the genuineness of transaction in the hands of assessee is needed. The assessee company was made a pass through entity and had was only a medium of transaction. The money did not belong to it nor it has gained from the transaction as the commission landed by Ashok Kumar Tyagi, in whose hand commission income stands added. Thus the finding of ld. CIT(A) need no interference and grounds of appeal of revenue have no substance.

6. Similarly in regard to CO of assessee, we find no merit as assessee admits to be mere pass through entity. It has no income of its own. The money credited in bank account, beyond Rs. Ten Crore, which were further invested, remains to be unexplained income and the is no error in sustaining this addition by ld. CIT(A). Ground has no substance.

7. The appeal as well as the CO, both are dismissed, being meritless.

Order pronounced in the open court on 28.05.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 28th May, 2025.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi