

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

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

**ITA No.1124/KOL/2024  
(AY:2012-13)**

**Montrose Commodities Pvt.  
Ltd.**

C/o Subash Agarwal &  
Associates, Advocates Siddha  
Gibson, 1, Gibson Lane, Suite  
213, 2<sup>nd</sup> Floor, Kolkata-700069  
West Bengal

**(Appellant)**

**Vs.**

**ITO, Ward 4(2)  
Aayakar Bhavan, P-7  
Chowringhee Square,  
Kolkata-700069, West Bengal**

**(Respondent)**

**PAN No. AABCM7537N**

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**Assessee by** : Shri Siddharth Agarwal, AR  
**Revenue by** : Shri Sandeep Lakra, DR

**Date of hearing:** 30.07.2025  
**Date of pronouncement:** 26.08.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi [the learned CIT (A)](hereinafter referred to as the "Ld. CIT(A)") dated 30.04.2024 for the AY 2012-13.

02. The only issue raised by the assessee is against the confirmation of addition of ₹1,58,00,000/- as made by the Id. AO u/s 68 of the Act on account of unexplained credit.

03. The facts in brief are that the case of the assessee was selected for scrutiny for the reason of large share premium received by the assessee. Accordingly, the statutory notices u/s 143(2) of the Act along with notices u/s 142(1) of the Act and questionnaire were issued and duly served upon the assessee. During the assessment proceedings, the assessee furnished the documents required by the Id. AO, comprising names, addresses of the subscribers of share, audited accounts, bank accounts, confirmations etc. the Id. AO made the addition on the ground that there was no compliance to the summons issued u/s 131 of the Income-tax Act, 1961 (the Act) and therefore, deposition of the directors of the subscriber company could not be recorded. Finally, the Id. AO treated the share capital/ share premium of ₹1,58,00,000/- as unexplained cash credit in the hands of the assessee and added the same to the income of the assessee without conducting any further enquiry and without pointing out any defect in the evidences furnished by the assessee.
04. In the appellate proceedings, the Id. CIT (A) affirmed the order of the Id. AO by giving conflicting and contradictory findings as regards to furnishing of evidences by the assessee when the Id. AO has recorded the finding that the assessee has furnished all the evidences qua the share capital and share premium in respect share subscribers.
05. After hearing the rival contentions and perusing the materials available on record, we find that in this case, the assessee has furnished all the evidences before the Id. AO and the Id. AO has acknowledged the same in the assessment order. We note that the addition was only made for the reason that there was no compliance to the summons issued u/s 131 of the Act and therefore, deposition of the subscriber companies could not be recorded and consequently, the

genuineness and creditworthiness of the investors could not be verified. The Id. AO did not point out any defect or deficiency in the documents, whereas the Id. CIT (A) recorded a conflicting finding as to the documentary evidences furnished by the assessee. After examining the assessment order and appellate order and also the evidences filed before us, we observe that the assessee has discharged onus by filing the documents before the Id. AO and AO has not pointed out any discrepancies in the same. The addition was made merely on the ground that summons u/s 131 of the Act were not be complied with by the investors and therefore, the investments received by the assessee remain unverified. The documents qua the investors are available at page no. 29 to 187 of the Paper Book, which were also filed before the Id. AO as well as before the Id. CIT (A). In our opinion, this cannot be the ground for making an addition in respect of share capital/ share premium by treating the same as unexplained money in the books of the assessee. The case of the assessee find support from the decisions of (i) CIT Vs. Orissa Corporation Pvt. Ltd. (1986) 159 ITR 78 (SC), (ii) CIT Vs. Orchid Industries Ltd. 397 ITR 136 (Bom), (iii) Crystal Networks Pvt. Ltd. Vs. CIT 353 ITR 171 (Kol), (iv) ITO Vs. M/s. Cygnus Developers India Pvt. Ltd. (ITA No. 282/Kol/2012) and (v) Joy Consolidated Pvt. Ltd. Vs. ITO (ITA No. 547/Kol/2020).

06. In the instant case before us also, the assessee has furnished all the evidences proving identity and creditworthiness of the investors and genuineness of the transactions but AO has not commented on these evidences filed by the assessee. Under these facts and circumstances and considering underlying facts in the light of ratio laid down in the



decisions as noted above, we are inclined to set aside the order of Ld. CIT(A) by directing the AO to delete the addition.

07. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26.08.2025.

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

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 26.08.2025

*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