

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
NAGPUR "SMC" BENCH :: NAGPUR**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 84/NAG/2025  
(Assessment Year : 2011-12)**

<b>Annuva Infrastructure Pvt. Ltd.</b> , Plot No.1249, Near Sindhu Bhawan, Vaishali Nagar, Nagpur-440017.  <b>PAN: AAHCA 0371 L</b>	Vs.	<b>ITO, Ward-4(4), Nagpur.</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Manoj Moriyani, Ld. Advocate  
Revenue by : Shri Surjit Kumar Saha, Ld. Sr.D.R.

Date of Hearing : 25.06.2025

Date of Pronouncement : 23.09.2025

**O R D E R**

This appeal has been preferred by the Assessee against the order dated 28/03/2024 impugned herein passed by the ADDL/JCIT (Appeals)-2, Kolkata (in short, 'Ld. Commissioner') u/sec. 250 of the Income Tax Act, 1961 (in short, 'Act') for the A.Y. 2011-12.

**2.** At the outset, it is observed that there is a delay of 252 days in filing the instant appeal, on which, the Assessee by filing an application for condonation of delay along with duly sworn affidavit has claimed as under: -

*"1. The deponent/assessee has received ex-parte order U/s. 250 of the Income Tax Act, 1961 dated 28/03/2024 passed by the Commissioner of Income Tax Appeal, ADDL/JCIT(A)-2, Kolkata on 30/01/2025.*

*2. The Commissioner of Income Tax Appeal, ADDL/JCIT(A)-2, Kolkata has not issued the order on mail therefore the ID of the deponent/assessee deponent/assessee has not made any compliance to the notices.*

*3. The director of the deponent/assessee company is senior citizen not well equipped with mail service. The secretary of the company while searching case history of the case from portal found that the Commissioner of Income Tax Appeal, ADDL/JCIT(A)-2, Kolkata has passed ex-parte order on 28/03/2024 and considering the part reply confirmed the addition made by the assessing officer.*

*4. The deponent/assessee has communicated the ex-parte order to its counsel and as per advice of the counsel the deponent/assessee is filing this appeal on 07/02/2025 alongwith delay of 256 days. There is no fault on the part of the deponent/assessee and reason cause believe to file the appeal before this Hon'ble ITAT.*

*5. However, due to above reason the Assessee is being filed appeal on 07/02/2025 therefore delay of 256 days, delay be kindly condoned in the interest of justice."*

**3.** On the contrary, learned Departmental Representative (DR) refuted the claim of the Assessee.

**4.** Considering the reasons stated by the Assessee, which are duly supported with duly sworn affidavit, as genuine, *bonafide* and unintentional, the delay involved is condoned.

**5.** Coming to the merits of the case, it is observed that the Assessee by filing its return of income on dated 18/12/2017 declared loss of Rs. 191/-. Subsequently, on the basis of search conducted at the residence and various premises of Mr. Shirish C. Shah, who happened to be main persons engaged in providing bogus accommodation entries like, long term capital gain, share capital with huge share premium, turnover, loan etc. and controlling more than 200 companies and providing accommodation entries and have made payments of Rs. 15 Lac to the Assessee company as well. The reasons for reopening of the instant case, were recorded and the case was reopened u/sec. 147 of the Act by issuing notice dated 30/03/2017 u/sec. 148 of the Act. Thereafter, various statutory notices were issued, in response to which the Assessee has claimed that he had received Rs. 15 Lac on dated 29/03/2011 from M/s. Praneeta Industries Ltd. through proper banking channel as reflects from bank statement of the Assessee. The Assessee further claimed that M/s. Praneeta Industries Ltd. is assessed to tax vide PAN-AAHCA0371L. The Assessee also provided the copy of PAN card, postal address of the company M/s. Praneeta Industries Ltd. (presently known as Adhar Venture India Limited). The Assessee also enclosed copy of memorandum of article of association, Income Tax return, balance sheet, copy of confirmation pertains to/issued by M/s. Praneeta Industries Ltd., confirming the payment of Rs. 15 Lac. The AO in order to verify, further issued

notice to M/s. Praneeta Industries Ltd. which was returned unserved by the speed-post authorities. The Assessee vide written submissions dated nil furnished on 19/12/2017, asked the AO to issue notice u/sec. 131 of the Act to Shri Omprakash Kandelwar, Promoter of M/s. Praneeta Industries Ltd. and Shri Radheshyam Sharma, Manager of M/s. Praneeta Industries Ltd. for cross-examination and proper adjudication of the matter. However, the AO vide letter dated 20/12/2017 directed the Assessee to discharge the burden of proof and not to shift the burden of proof on the Department. The AO though considered the submissions/documents filed by the Assessee, however, ultimately treated the said transaction as unexplained cash credit in the books of accounts of the Assessee and consequently added to the total income of the Assessee u/sec. 68 of the Act.

**6.** The Assessee, being aggrieved, challenged the said addition by filing first appeal before the Ld. Commissioner, however, failed to get any relief, as the Ld. Commissioner dismissed the appeal affirming the aforesaid addition of Rs. 15 Lac by observing and holding as under: -

*"From the above, it is seen that appellant company miserably failed to prove the genuineness of the above transactions or failed to file any written explanation in this matter. The appellant company alleged that enough opportunity was not given to rebut the evidences. But on going through the submission of the appellant company and the observation of the AO it is crystal clear that appellant company was given enough opportunity during the assessment proceedings. Therefore, the claim that proper*

*opportunity of being heard was not given is not correct. The appellant has cited various case laws upon the issue regarding unexplained cash credit which have been perused and the same are distinguishable. The appellant has received share application money from a company whose affair must be known to the appellant. The creditor company has been found to be giving accommodation entries by the department and the appellant could not discharge its onus u/s 68 of the IT Act. Similarly, the appellant could not file any satisfactory explanation backed by any supportive evidence during the appellate proceedings. Therefore, upon perusal of the grounds raised by the appellant and the reasoning given the Assessing Officer it is held that the Assessing Officer has rightly made the addition of Rs 15,00,000-/ as unexplained cash credit U/s 68 of the Income Tax Act, 1961. Ground Nos 02 to 06 are dismissed."*

**7.** The Assessee, being aggrieved, has preferred the instant appeal challenging the decision of the Ld. Commissioner in affirming the addition made by the AO. Admittedly, Assessee, during the proceedings before the authorities below, has claimed that it has received a sum of Rs. 15 Lacs, through banking channel on dated 29/03/2011 from M/s. Praneeta Industries Ltd. (presently known as Adhar Venture India Limited) as it clearly reflected from bank statement. Further, the Assessee in support of its claim *qua* transaction of Rs. 15 Lac has also filed copy of acknowledgment and computation of income of M/s. Praneeta Industries Ltd.; copy of audited balance sheet; profit and loss account; copy of bank statement; copy of PAN card; and, copy of acknowledgment of return of M/s. Praneeta Industries Ltd. along with audit report, balance sheet, profit and loss account and copy of memorandum of article of association of M/s. Praneeta Industries Ltd., copy of confirmation, the details of payment made and, therefore, this

Court is of the considered opinion that more or less Assessee has been able to prove the identity, genuineness and creditworthiness in order to discharge the onus casted u/sec. 68 of the Act. The Hon'ble Apex Court in the case of *CIT vs. Lovely Exports (P.) Ltd.* [2008] 216 CTR 195 (SC) has also dealt with identical issue and held "*If the share application money is received by the Assessee company from alleged bogus shareholders, whose names are given to the AO, then the Department is free to proceed to reopen their individual assessments in accordance with law, but it cannot be regarded as undisclosed income of the appellant company*".

**8.** Thus, considering the peculiar facts and circumstances of the case, this Court is of the considered view that the addition in hand is unsustainable, and therefore the same is deleted.

**9.** In the result, Assessee's appeal is allowed.

**Order is pronounced 23.09.2025 as per rule 34(5) of the Income Tax {Appellate Tribunal} Rule 1963.**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

vr/-

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Nagpur  
The DR Concerned Bench

//True Copy//

By Order

Senior Private Secretary  
ITAT, Nagpur.