

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA Nos.1174 & 1176/Kol/2025
Assessment Years: 2011-12 & 2014-15**

**DCIT, Central Circle-4(3), Kolkata.....Appellant
vs.**

**Raja Shelters Pvt. Ltd.....Respondent
25A, S. P. Mukherjee Road,
Kol- 700025.
[PAN: AADCR5073Q]**

Appearances by:

Shri Sanat Kr. Raha, CIT-DR, appeared on behalf of the appellant.
Shri Miraj D. Shah, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 11, 2025

Date of pronouncing the order : September 18, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

Both the captioned appeals have been preferred by the revenue for the assessment years 2011-12 & 2014-15 against separate orders dated 27.02.2025 and 28.02.2025 of the Commissioner of Income Tax (Appeals)-27, Kolkata [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') respectively. Since, the issues involved in both the appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order. ITA No.1174/Kol/2025 is taken as lead case for narration of facts.

2. ITA No.1174/Kol/2025 – Brief facts of the case are that the assessee had not filed its return of income u/s 139 of the Act. Later, a search and seizure operation u/s 132 of the Act and survey operation u/s 133A of the Act were conducted in respect of 'Goldern Goenka group of assessees' on 17.03.2015 and on subsequent dates. This group was engaged in the business of financing, trading and investment in

commodities and shares, mutual funds, real estates, and beverages. Being one of the entities of the said group, the assessee was also covered under this search & seizure operation conducted on 17.03.2015. During the course of search & seizure operation, documents (containing bank details of the assessee) were found and seized from the office premise of the assessee. These documents were inventoried under ID Marks GG/3. Consequent upon the search & seizure operation, 'Golden Goenka group of cases' were centralized to the Central Circle 4(3), Kolkata for post search assessment proceedings. Subsequently, jurisdiction of this case was transferred to the charge of Central Circle 4(3), Kolkata vide order u/s 127 of the Act dated 16.12.2015 of the Pr. CIT-1, Kolkata. Thereafter, assessment proceeding u/s 153A of the Act was initiated and notice u/s 153A of the Act was issued for furnishing of return of income. In response to the said notice, the assessee furnished its return on 26.03.2016 declaring income to Rs.1,170/-. Subsequently. notices u/s 143(2) & u/s 142(1) of the Act were issued on 06.06.2016 and 18.08.2017 respectively. In response to these notices, the AR of the assessee appeared and explained the return of income and also furnished the financial statements of the company for the relevant assessment year. The assessee also furnished the details of shares allotment to the subscriber entities and application money (including share premium) received from those share subscribers. These submissions/details, as made by the assessee, are perused by the AO and placed on in record. In consideration to the reply and explanation furnished by the assessee, order u/s 153A of the Act was passed by the AO on 29.12.2017 at assessed income of Rs. 60,01,170/-. From the assessment order, it is observed that the AO had made single addition of Rs.60,00,000/- for unexplained cash credit u/s 68 of the Act on account of amount received by the assessee in terms of share application money.

3. Aggrieved by the said order, the assessee preferred appeal before the Id. CIT(A), wherein, the appeal of the assessee has been allowed on merits.

4. Being aggrieved and dissatisfied, the revenue preferred appeal before us by taking following grounds:

“1. That on the facts and in the circumstances of the case and in law, Ld. CIT(A)-27, Kolkata has erred in deleting the addition made u/s.68 of the Income-tax Act., 1961 amounting to Rs.60,00,000/- received in the guise of bogus share application money, details of which were obtained from the seized material vide GG/3 seized from the office of the assessee.

2. That on the facts and in the circumstances of the case, the instant case falls under the exception clause (h) of para 3.1 of CBDT's circular No. 5/2024 dated 15.03.2024.

4. That on the facts and in the circumstances of the case and in law, Ld. CIT(A)-27, Kolkata has erred in deleting the initiation of penalty proceedings u/s. 271(1)(c) of the Income-tax Act, 1961.

5. That the Department craves leave to add, modify or alter any of the ground(s) of appeal and/or adduce additional evidence at any time during the appeal proceedings.”

5. The Id. AR supports the impugned order thereby submitting that during the assessment proceedings, the assessee submitted all the documents to substantiate the transaction and discharged its onus to prove the identity and creditworthiness of the subscribers as well as the genuineness of the transaction and it is important to mention here that the Assessing Officer would not detect any defect or discrepancy in the listed documents. The Id. AR further submits that the Assessing Officer has accepted the share subscription sum by invoking section 68 of the Act only on the basis of suspicion and surmises and conjectures. The Id. AR further submits that in the present case, notice u/s 131 of the Act was duly complied and the shareholders submitted their replies to the Assessing Officer. He also submits that the Id. CIT(A) has not only discussed the documentary evidence rather discussed the judicial

pronouncement and thereafter allowed the appeal of the assessee on merits.

6. Upon hearing the submissions of the counsels of the respective parties and on perusal of the order of the Id. CIT(A) and find that the Assessing Officer has made an addition of Rs.60,00,000/- treating the amount received against share subscription as unexplained cash credit. Going over the order passed by the Id. CIT(A), we find that in the course of appellate proceedings, the assessee submitted all the requisite information related with the share-subscriber companies before the Assessing Officer and the said information are listed as under:

“6.2.3. In the course of appellate proceeding, the assessee submitted that they had furnished all the requisite information, related with the said share subscriber company, before the AO. Those information are listed as under:-

1	<i>CIN of the Entity</i>	<i>U51909WB1995PTC067453</i>
2	<i>Date of Incorporation</i>	<i>16.01.1995</i>
3	<i>PAN of the Entity</i>	<i>AABCG1411B</i>
4	<i>Address of the Entity</i>	<i>74 BENTICK STREET KOLKATA WB 700001</i>
5	<i>Status of the entity in MCA site</i>	<i>ACTIVE compliant</i>
6	<i>Paid up Share Capital & Free Reserves</i>	<i>Rs. 25,94,43,039</i>
7	<i>Investment made in the assessee company</i>	<i>Rs. 60,00,000</i>
8	<i>Net worth on 31.03.2010</i>	<i>Rs. 2292 lakhs</i>
9	<i>Sales Turnover for FY 2010-11</i>	<i>Rs. 801.70 lakhs</i>
10	<i>IT return filed</i>	<i>Yes</i>
11	<i>ROC return filed</i>	<i>Yes</i>

6.1 The assessee has also submitted the following documents before the Assessing Officer:

- i) Share application form of the subscriber company.*
- ii) Share allotment letter to the subscriber company.*
- iii) ROC form, challan with annexure.*
- iv) Audited accounts of the share applicant company.*
- v) Bank statement of the share applicant company.*
- vi) Source of the source of the share applicant company.*

6.2 We have gone through the order passed by the Id. CIT(A) and it appears to us that to establish identity of subscriber companies, the following documents have also been submitted by the assessee:

- i) *Certificate of Incorporation issued by the Registrar of Companies.*
- ii) *Memorandum and Articles of Association*
- iii) *PAN allotted by the Income Tax Department*
- iv) *Bank statement of the creditor*
- v) *Copy of the audited accounts,*
- vi) *copy of ITR acknowledgement for A.Y 2009-10*
- vii) *Copy of PAN card details*
- viii) *source of funds*
- ix) *Copy of covering letter for delivery of shares.*
- x) *Copy of master data as per ministry of Company Affairs records.*
- xi) *Copy of Annual return etc.*

6.3 While perusing the order of the Id. CIT(A), we find that the Id. CIT(A) has not only discussed the documentary evidence rather discussed the recent judgments of the several High Courts and it is essential to reproduce one of the issues in which the Id. CIT(A) has passed its order that has been discussed in para no.6.2.12 which is reproduced hereinbelow:

"6.2.12. Recently the Hon'ble ITAT Kolkata in the case of Blue Lotus Designers Pvt. Ltd vs. ITO, ITA No. 941/Kol/2017 dated 08/01/2020 had held that no addition is sustainable u/s 68, when the identity, creditworthiness & genuineness wrt share subscription, was established by credible evidence:

"4. This tribunal's co-ordinate bench's decision in case of Bidit Financial Management Pvt. Vs. DCIT, Circle-7(1), Kolkata in ITA No.579/Kol/2017 decided on 15.03.2019 has discussed the entire legal and factual matrix of share capital whilst deciding the issue in assessee's favour as under:-

"29. In the instant case before us, we also note that the share subscribing companies are duly assessed to income tax. The Ld. AR had placed on record the copies of the assessment orders framed in the cases of several of the share subscribing companies, as noted above. It therefore cannot be

disputed that the share subscribing companies are not in existence. ...This fact has not been controverted by the Revenue before us.

30. We may gainfully refer to the judgment in the case of Pr. CIT Vs Paradise Inland Shipping (P) Ltd (84 taxmann.com 58) wherein the Bombay High Court had deleted similar addition on similar set of facts made on account of unexplained cash credits and the SLP filed by the Revenue against the judgment has been dismissed by the Hon'ble Supreme Court. The relevant extracts of the judgment is as follows:

"5. We have given our thoughtful considerations to the rival contentions of the learned Counsel and we have also gone through the records. The basic contention of the learned Counsel appearing for the Appellants revolves upon the stand taken by the Appellants whether the shareholders who have invested in the shares of the Respondents are fictitious or not. In this connection, the Respondents in support of their stand about the genuineness of the transaction entered into with such Companies has produced voluminous documents which, inter alia, have been noted at Para 3 of the Judgment of the CIT Appeals which reads thus :

"The assessment is completed without rebutting the 550 page documents which are unflinching records of the companies. The list of documents submitted on 09.03.2015 are as follows:

... ..

... ..

6. On going through the documents which have been produced which are basically from the public offices, which maintain the records of the Companies. The documents also include assessment Orders for last three preceding years of such Companies.

7. The Appellants have failed to explain as to how such Companies have been assessed though according to them such Companies are not existing and are fictitious companies. Besides the documents also included the registration of the Company which discloses the registered address of such Companies. There is no material on record produced by the Appellants which could rebut the documents produced by the Respondents herein. In such circumstances, the finding of fact arrived at by the authorities below which are based on documentary evidence on record cannot be said to be perverse. Learned Counsel appearing for the Appellants was unable to point out that any of such findings arrived at by the authorities below were on the basis of misleading of evidence or failure to examine any material documents whilst coming to such conclusions. Under the guise of the substantial question of law, this Court in an Appeal under section 260A of the Income Tax Act cannot reappreciate the evidence to come to any contrary evidence. Considering that the authorities have rendered the findings of facts based on documents which have not been disputed, we

find that there are no substantial question of law which arises in the present Appeal for consideration.'

6.4 The Id. CIT(A) had discussed in his order so many judgments and thereafter allowed the appeal of the assessee by observing as follows:

"6.2.14. Hence, in the light of the aforesaid judicial pronouncements as well as the discussions held above, it is noticed that the appellant assessee had discharged its onus by establishing the identity & creditworthiness of M/s Aalekha Supply Private Limited by providing the details of the said share applicant through various documents as mentioned in the above paras. It is found that explanations and evidences made in the course of appellate proceeding are suffice to satisfy all the three ingredients of the section 68 of the Act. Hence, the share capital of Rs.60,00,000/- cannot be treated as unexplained cash credit u/s 68 of the Act. Hence, the addition is deleted. Therefore, this ground of appeal raised by the assessee is allowed."

6.5 Keeping in view the above discussion as well as going over the impugned order passed by the Id. CIT(A), we do not find any infirmity in the impugned order. Accordingly, the appeal of the revenue in ITA No.1174/Kol/2025 is hereby dismissed.

7. ITA No.1176/Kol/2025 - Since the facts and issues involved in both the appeals are identical, therefore, our findings/directions given above in ITA No.1174/Kol/2025 will mutatis mutandis apply to ITA No. 1176/Kol/2025. Hence, ITA No. 1176/Kol/2025 is also dismissed.

8. In the result, both the captioned appeals of the revenue are dismissed.

Kolkata, the 18th September, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 18.09.2025.

RS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches