

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No. 2396/Del/2024
निर्धारणवर्ष/Assessment Year: 2018-19**

INCOME TAX OFFICER, Ward-1, Room No.203, Aayakar Bhawan, Sector-6, Panipat, Haryana.	बनाम Vs.	SHIVOM TREXIM PRIVATE LTD., Plot No.26, Sector-25, HUDA PART-II, Panipat, Haryana. PAN No.AAPCS8392H
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Sanjay Gupta, CA
Revenue by	Shri Manish Gupta, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	18.08.2025
उद्घोषणाकीतारीख/Pronouncement on	26.09.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Revenue against the order of the Ld. CIT(Appeals)-NFAC, Delhi dated 20.03.2024 for the AY 2018-19 in deleting the addition made u/s 68 of the Act in respect of share application money.

2. Heard rival contentions, perused the orders of the authorities below and the submissions of the Ld. DR.

3. We observed that the Ld. CIT(A) after considering the submissions of the assessee and the evidences placed before him deleted the addition observing as under:

“5. Decision:-

Ground No 1 to 4: Addition made to the tune of Rs.2,93,50,000/- u/s 68 of the Act.

I have gone through the submissions made by the appellant and the materials available on record.

The only issue involved in this case is addition of Rs.2,93,50,000/- u/s 68 on account of the credit of share capital including share premium in the books of the appellant. The AO in his assessment order has stated that the appellant company has allotted 1,60,519 equity shares with face value of Rs10/- each at a premium of Rs.172.84/- share. The shares were fully paid up and the investment in shares with premium was made by Shri Ajay Kumar by paying Rs.16,05,190/- and premium of Rs.2,77,44,810/- (paid premium @ 172.84/- per share).

Subsequently, the AO has issued notice u/s 142(1) of the Act, to verify the identity, credit worthiness and genuineness of the transaction carried out by Shri Ajay Kumar. To the said notice, the appellant has submitted all the required documents for the perusal of AO. The appellant furnished the valuation certificate for the shares by the qualified chartered accountant and that was not controverted.

Based on the details submitted by the appellant and Shri Ajay Kumar (in response to notice u/s 133(6)), it can be inferred that,

- 1. The Identity of the share purchaser/investor has been verified i.e. Shri Ajay Kumar;*
- 2. Credit worthiness of the purchase is also verified (Shri Ajay Kumar as obtained a loan of Rs.2,98,91,525/- from his proprietorship firm M/s Laxmi Textiles Co.) and*
- 3. Genuineness of the transaction has also been verified by the AO.*

From the above details, it is very evident that the responsibility of the Appellant to discharge the identity, credit worthiness and genuineness of the purchase of the equity shares is very well established by the assessee during the assessment proceedings with necessary documentary evidences which were not controverted by the AO.

Further, the AO has introspected the transaction of Shri Ajay Kumar to ensure his credit worthiness. M/s Laxmi Textiles Co (Proprietorship of Shri Ajay Kumar) has given the loan to Shri Ajay Kumar and in turn the source for M/s Lakshmi Textile Co is the repayment of loan by Rishi Pal Ruhil which was originally lent to him during the FY 2014-15 by M/s Laxmi Textiles Co. Notably all the transactions were done through banking channel as and no involvement of cash anywhere,

In a nutshell for the credits appearing in the books of the appellant, the appellant has discharged the initial onus by establishing the identity, credit worthiness and genuiness of the source for the share investor. The investor also appeared for the notice u/s 133(6) with the AO and provided the necessary details proving the same, which was not disproved by the AO. Further it is not the case of the AO to claim that source of the source stands unexplained for its credit worthiness for the increase in creditors in the concern which needs to be verified and to be proved by the AO that the creditors are bogus. However, in this case it has not been except an assumption. Hence the appellant could be taxed in his hands for want of source in the source for his investment without proving

that it is the unaccounted income of the appellant. Moreover, nowhere cash is involved and no where it is proved by the AO that it is the unaccounted money of the appellant which is ploughed back as share capital by using the name of the share purchaser. The AO did not bring any evidence on record to suggest that the share capital had been received by the assessee from its own undisclosed sources nor any material was brought on record to show that the applicants were bogus. Further, the case laws relied on by the AO are factually different from the case of the appellant.

However as submitted by the appellant, the facts are identical to the present case and hence the decision of Delhi High Court in the case of CIT Vs. Gangeshwari Metal (P) Ltd (ITA No. 597 of 2012) dated 21.01.2012 is squarely applicable. Considering the facts of the case and respectfully following the decision of the Hon'ble Apex Court in the case of CIT vs. Lovely Exports P. Ltd. [2008] 216 CTR 0195 and the Delhi High Court in the case of CIT Vs. Gangeshwari Metal (P) Ltd (ITA No. 597 of 2012), the addition made by the AO under section 68 of the Act is required to be deleted and the AO is directed to delete the addition u/s 68. Accordingly, the appellant succeeds in these grounds."

4. On careful perusal of the orders of the Ld. CIT(Appeals), we observed that the identity of the shareholder/investor, credit worthiness and the genuineness of the transaction has been proved. The decision of the Hon'ble Supreme Court in the case of PCIT vs. NRA Iron & Steel Pvt. Ltd. (supra) relied on by the Ld. DR is distinguishable on facts and has no application to the Assessee. Thus, we sustain the order of the Ld. CIT(A) and reject the grounds raised by the Revenue.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 26.09.2025

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 26.09.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI