

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

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.4580/MUM/2025  
(Assessment Year:2017-2018)**

**Pranoo Financial Services Private Limited**

B-802, Ivy Tower, Vasant Valley,  
Near Dindoshi Bus, Malad East,  
Mumbai – 400097. Maharashtra  
[PAN:AAACP9330M]

..... **Appellant**

**Deputy Commissioner of Income Tax,  
Circle 13(1)(2), Mumbai**

Room No.218, 2<sup>nd</sup> Floor, Aayakar Bhawan,  
M.K.Road, Churchgate,  
Mumbai - 400 020. Maharashtra

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Vipul Joshi & Ms. Sruti Kalyanikar  
For the Respondent/Department : Shri Virabhadra S. Mahajan

**Date**

Conclusion of hearing : 04.09.2025  
Pronouncement of order : 24.09.2025

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal preferred by the Assessee is directed against the order, dated 28/05/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 12/12/2019, passed under Section 143(3) of the Income Tax Act, 1961 for the Assessment Year 2017-2018.
2. The Assessee has raised following grounds of appeal :

**"1. THE ORDER IS BAD IN LAW, ILLEGAL AND WITHOUT JURISDICTION**

- 1.1. *In the facts and the circumstances of the case, and in law, the appellate order u/s.250 of the Income-tax Act, 1961 [‘the Act’] framed and passed on 28.05.2025 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [Ld. CIT(A)] is bad in law, illegal and without jurisdiction, as the same is framed in breach of the statutory provisions of the Act and the scheme and as otherwise also is not in accordance with the law.*
- 1.2. *Without prejudice to the generality of the above, the appellate order so passed is bad in law, illegal and void as the same is arbitrary and perverse.*

## **2. VIOLATION OF PRINCIPLES OF NATURAL JUSTICE**

- 2.1. *In the facts and the circumstances of the case, and in law, the appellate order so framed is bad in law and illegal, as the same is framed in breach of the principles of Natural Justice.*
- 2.2. *Without prejudice to the generality of the above ground in the facts and circumstances of the case, the Ld. CIT(A) erred in-*
  - (i) *not granting proper, sufficient, reasonable and fair opportunity of being heard to the Appellant while passing the appellate order; and*
  - (ii) *not granting an opportunity of personal hearing.*

## **WITHOUT PREJUDICE TO THE ABOVE**

### **3. DISALLOWANCE OF RS.1,25,20,000/- U/S.56(2)(viib) OF THE ACT AS ALLEGED SHARE PREMIUM IN EXCESS OF FAIR MARKET VALUE**

- 3.1. *The Ld. CIT(A) erred in confirming the action of the A.O. in making addition of the amount of Rs.1,25,20,000/- u/s. 56(2)(viib) of the Act, being difference between the issue/allotment price (Rs.90/- per share) and the face value of the shares (Rs.10/- per share), by treating the share premium (Rs.80/- per share) as excess of the fair market value.*
- 3.2. *While doing so, the CIT(A) erred in:*
  - (i) *Basing his action on surmises, suspicion and conjecture;*
  - (ii) *Taking into account irrelevant and extraneous considerations;*

- (iii) *Ignoring relevant material and considerations as submitted by the Appellant;*
- (iv) *Disregarding the valuation report submitted by the Appellant, which was based on prescribed method (Discounted Cash Flow Method) under Rule 11UA of the Income Tax Rules, 1962; and*
- (v) *Arriving at incorrect and misleading conclusion that the Appellant was in continuous losses, ignoring the fact that the loss in the return of income was on account of claim of indexed cost of acquisition while computing the capital gains on sale of shares.*

3.3. *It is submitted that in the facts and the circumstances of the case, and in law, no such addition was called for.*

3.4. *Without prejudice to the above, assuming – but not admitting – that some addition was called for, the Ld. CIT(A) failed to appreciate that the computation of the addition made by the A.O. was arbitrary, excessive and not in accordance with the law.”*

3. The relevant facts in brief are that the Assessee-Company was engaged at the relevant time in the business of financial service, investment and loans. For the Assessment Year 2017-2018, the Assessee filed return of income on 31/01/2018. The case of the Assessee was selected for limited scrutiny in respect of the issuance of shares at premium. The Assessing Officer noted that the Assessee had issued 1,56,500 equity shares of face value of INR.10 each at a premium of INR.80/- per share. According to the Assessee the aforesaid premium was determined after taking into consideration the provisions of Section 56(2)(viib) of the Act read with Rule 11UA of the Income Tax Rules, 1962 [for short 'IT Rules']. As per Rule 11UA Fair Market Value of unquoted equity shares could be determined at the option of an assessee by taking the Fair Market Value of unquoted shares taking book value as the basis or fair market value as determined using Discounted Free Cash Flow (DCF) method. It was explained before the Assessing Officer that the Assessee-Company had opted for fair market valuation based upon DFC Method and in

support filed a valuation report, confirmation, ITR acknowledgment, source of funds and computation of total income of shareholders who have invested fund in the Assessee-Company during the relevant previous year. In addition, the Assessee also submitted the bank statement and financial statements of the Assessee-Company along with justification for issuance of shares at a premium of INR.80 per share [*vide Letter, dated 28.11.2019*]. However, the Assessing Officer was not convinced and vide Assessment Order, dated 12/12/2019, the Assessing Officer rejected the valuation report and added entire amount of share premium of INR.1,25,20,000/- [1,56,500 X INR.80 per share] in the hands of the Assessee as income under Section 56(2)(viib) of the Act.

4. Being aggrieved the Assessee preferred appeal which was dismissed by the Ld. CIT(A) by way of impugned order, dated 28/05/2025. The Ld. CIT(A) declined to interfere with the order passed by the Assessing Officer and confirmed the addition made by the Assessing Officer.
5. Being aggrieved by the dismissal of appeal by the Ld. CIT(A), the Assessee has preferred the present appeal before the Tribunal on the grounds reproduced at Paragraph 2 above
6. We have heard both the sides and have perused the material on record.
7. There is no dispute as to the factum of issuance of shares at a premium of INR.80 per share. The issue before the Tribunal pertains to the valuation of shares for the purpose of Section 56(2)(viib) of the Act. The contention of the Assessee is that the Assessee had issued shares at a premium by adopting the Fair Market Value determined using DCF Method as prescribed in the applicable Rule 11UA of the IT Rules and therefore, no addition was warranted under Section

56(2)(viib) of the Act. We note that the Assessing Officer had made the addition by rejecting the valuation report furnished by the Assessee holding as under:

*"From the perusal of the valuation report vis a vis actual financials of the company, this office is not satisfied with the valuation report submitted and here by rejecting it. Thus, as per the fair market value of shares, no share premium is payable on the shares.*

*In view of the above, the share capital and premium received thereon is not in line with the net worth of the company and hence the share premium thereon received amounting to Rs.1,25,20,000/- (1,56,500 \* 80) is treated as excess of the fair market value and is added back to the total income of the assessee as per the provisions of Sec 56(2)(viib) of the Income Tax Act, 1961." (Emphasis supplied)*

8. In appeal, the Ld.CIT(A) declined to interfere with Assessment Order passed by the Assessing Officer holding as under:

*"4.3. I have gone through the grounds of appeal, statement of facts, assessment order and the submissions of the appellant. It is seen from the assessment that the projections have not been met with the audited financials for the years ending 31.3.2016; 31.3.2017. The profit offered for the year under consideration is substantially low when compared to real income offered in the ITR for A.Y.2017-18.*

*4.3.1. During the course of appellate proceedings, regarding justification of premium of Rs.80 per share, it is submitted by the appellant that the valuation report was arrived based on projected cash flow of the company. The book value of the share as on 31.3.2016 was Rs.24/- per share. The valuation is based on discounted cash flow method (DCF) which was appropriately followed by the company.*

*4.3.2. The discounted cash flow (DCF) method is a valuation technique that estimates the current worth of an investment by discounting its future cash flows back to their present value. It's based on the principle that the value of an investment is equal to the sum of all its expected future cash flows, adjusted for the time value of money. The first step is to forecast the expected cash flows of the investment over a specific period, often several years. The accuracy of the DCF valuation depends heavily on the accuracy of the assumptions made about future cash flows and the discount*

*rate. The AO held in the assessment order that the valuation report itself is nothing but a self made projection analysis by the management of the company and not based on factual financials, since the assessee company is in continuous losses. The AO concluded in the assessment order that the valuation report is not satisfactory in comparison to actual financials of the company and hence rejected. Under the circumstances and in view of the above discussion, I have no reason to interfere with the decisions of the Id. Assessing Officer and hence the disallowance of Rs.1,25,20,000/- on account of share premium is upheld. All the grounds raised in this appeal are dismissed.*

5. *In nutshell, the appeal of the appellant is 'DISMISSED'. (Emphasis Supplied)*

9. On perusal of the orders passed by the Assessing Officer and the Ld. CIT(A) it is evident that the sole reason for rejection of the valuation report and consequently, the fair market value adopted by the Assessee was that the projections forming the basis of the valuation using the DCF Method did not confirm to the actual financial results of the Assessee-Company. In this regard, we note that the Learned Authorised for the Assessee had placed reliance upon the judgment of the Hon'ble Delhi High court in the case of **Principle Commissioner of Income Tax Vs. Cinestaan Entertainment Pvt. Ltd. [2021] 433 ITR 82 (Delhi)**, dated 01/01/2021 wherein the Hon'ble Delhi High Court had rejected the identical approach adopted by the Revenue holding as under:

"12. *In this factual background, the learned ITAT then proceeded to examine whether the AO after invoking the deeming provision under Section 56(2)(viib), could have determined the FMV of the premium on the shares issued at nil after rejecting the valuation report given by the Chartered Accountant based on one of the prescribed methods under the Rules adopted by the valuer. On this aspect, after examining the statutory provisions and the factual position, the ITAT inter-alia observed as under:*

"33. *Section 56(2)(viib) is a deeming provision and one cannot expand the meaning of scope of any word while interpreting such deeming provision. If the statute provides that the valuation has to be done as per the*

prescribed method and if one of the prescribed methods has been adopted by the assessee, then Assessing Officer has to accept the same and in case he is not satisfied, then we do not we find any express provision under the Act or rules, where Assessing Officer can adopt his own valuation in DCF method or get it valued by some different Valuer. There has to be some enabling provision under the Rule or the Act where Assessing Officer has been given a power to tinker with the valuation report obtained by an independent valuer as per the qualification given in the Rule 11A. Here, in this case, Assessing Officer has tinkered with DCF methodology and rejected by comparing the projections with actual figures. The Rules provide for two valuation methodologies, one is assets based NAV method which is based on actual numbers as per latest audited financials of the assessee company. Whereas in a DCF method, the value is based on estimated future projection. These projections are based on various factors and projections made by the management and the Valuer, like growth of the company, economic/market conditions, business conditions, expected demand and supply, cost of capital and host of other factors. These factors are considered based on some reasonable approach and they cannot be evaluated purely based on arithmetical precision as value is always worked out based on approximation and catena of underline facts and assumptions. Nevertheless, at the time when valuation is made, it is based on reflections of the potential value of business at that particular time and also keeping in mind underline factors that may change over the period of time and thus, the value which is relevant today may not be relevant after certain period of time. Precisely, these factors have been judicially appreciated in various judgments some of which have been relied upon by the Id. Counsel, for instance:

(i) Kakinada Fertilizere Ltd, In re, (SEBI) [2016] 195 Comp Cas 325, 328 (Bom); [2015] ABR 291 (Bom)

'48.6 Thirdly, it is a well settled position of law with regard to the valuation that valuation is not and exact science and can never be done with arithmetic precision. The attempt on the part of SEBI to challenge the valuation which is by its very nature based on projections by applying what is essentially a hindsight view that the performance did not match the projection is unknown to the law on valuations. Valuation being an exercise required to be conducted at a particular point of time has of necessity to be carried out on the basis of whatever information is available on the date of the valuation and a projection of future revenue that

valuer may fairly make on the basis of such information.'

(ii) Rameshwaram Strong Glass Pvt. Ltd. v. ITO [2018] TIOL-1358-ITAT-Jaipur

'4.5.2. Before examining the fairness or reasonableness of valuation report submitted by the assessee we have to bear in mind the DCF Method and is essentially based on the projections (estimates) only and hence these projections cannot be compared with the actuals to expect the same figures as were projected. The valuer has to make forecast on the basis of some material but to estimate the exact figure is beyond its control. At the time of making a valuation for the purpose of determination of the fair market value, the past history may or may not be available in a given case and therefore, the other relevant factors may be considered. The projections are affected by various factors hence in the case of company where there is no commencement of production or of the business, does not mean that its share cannot command any premium For such cases, the concept of start-up is a good example and as submitted the income-tax Act also recognized and encouraging the start-ups.'

(iii) DQ (International) Ltd. v. ACIT (ITA 151/Hyd/2015)

"10. In our considered view, for valuation or an intangible asset only the future projections along can be adopted and such valuation cannot be reviewed with actuals after 3 or 4 years down the line. Accordingly, the grounds raised by the asses see are allowed".

34. The aforesaid ratios clearly endorsed our view as above. In any case, if law provides the assessee to get the valuation done from a prescribed expert as per the prescribed method, then the same cannot be rejected because neither the Assessing Officer nor the assessee have been recognized as expert under the law.
35. There is another very important angle to view such cases, .....According to the Assessing Officer either these investors should not have made investments because the fair market value of the share is Nil or assessee should have further invested in securities earning interest or dividend. Thus, under these facts and circumstances of the case, we do not approve the approach and the finding of the Ld.. Assessing Officer or

Ld.. CIT(A) so to take the fair market value of the share at 'Nil' under the provision of Section 56(2)(viib) and thereby making the addition of Rs. 90.95 crores. The other points and various other arguments raised by the Id. counsel which kept open as same has been rendered.

36. Other grounds are either consequential or have become academic, hence same are treated as infructuous. In the result appeal of the appellant assessee is allowed.
13. From the aforesaid extract of the impugned order, it becomes clear that the learned ITAT has followed the dicta of the Hon'ble Supreme Court in matters relating to the commercial prudence of an assessee relating to valuation of an asset. The law requires determination of fair market values as per prescribed methodology. The Appellant-Revenue had the option to conduct its own valuation and determine FMV on the basis of either the DCF or NAV Method. The Respondent-Assessee being a start-up company adopted DCF method to value its shares. This was carried out on the basis of information and material available on the date of valuation and projection of future revenue. **There is no dispute that methodology adopted by the Respondent-Assessee has been done applying a recognized and accepted method. Since the performance did not match the projections, Revenue sought to challenge the valuation on that footing. This approach lacks material foundation and is irrational since the valuation is intrinsically based on projections which can be affected by various factors. We cannot lose sight of the fact that the valuer makes forecast or approximation based on potential value of business. However, the underline facts and assumptions can undergo change over a period of time. The Courts have repeatedly held that valuation is not an exact science, and therefore cannot be done with arithmetic precision. It is a technical and complex problem which can be appropriately left to the consideration and wisdom of experts in the field of accountancy, having regard to the imponderables which enter the process of valuation of shares. The Appellant-Revenue is unable to demonstrate that the methodology adopted by the Respondent-Assessee is not correct. The Assessing Officer has simply rejected the valuation of the Respondent-Assessee and failed to provide any alternate fair value of shares.** Furthermore, as noted in the impugned order and as also pointed out by Mr. Vohra, the shares in the present scenario have not been subscribed to by any sister concern or closely related person, but by outside investors. Indeed, if they have seen certain potential and accepted this valuation, then Appellant-Revenue cannot question their wisdom. The valuation is a

question of fact which would depend upon appreciation of material or evidence. The methodology adopted by the Respondent-Assessee, accepted by the learned ITAT, is a conclusion of fact drawn on the basis of material and facts available. The test laid down by the Courts for interfering with the findings of a valuer is not satisfied in the present case, as the Respondent-Assessee adopted a recognized method of valuation and Appellant-Revenue is unable to show that the assessee adopted a demonstrably wrong approach, or that the method of valuation was made on a wholly erroneous basis, or that it committed a mistake which goes to the root of the valuation process.

14. In view of the foregoing, we find that the question of law urged by the Appellant - Revenue is purely based on facts and does not call for our consideration as a question of law." (Emphasis Supplied)
10. In the present case also the valuation has been rejected by the authorities below merely on the ground that the projections for determining the valuation as per DCF Method did not match the actual financials. We note that the Assessing Officer has not pointed out any infirmity in the assumptions/factors on the basis of which the projections were made by the valuer. It has been contended by the Learned Departmental Representative that the Assessee was incurring consistent losses and that the Assessing Officer had correctly concluded that self-made projections provided by the management of the company were not based on actual financials and therefore, the valuation report was rightly rejected by the Assessing Officer. In this regard we note that vide letter, dated 02/12/2019, the Assessee had provided justification for charging premium of INR.80 per share and also provided explanation for the variance between the projected and actual cash flows. The relevant extract of the said letter dated 02/12/2019 filed before the Assessing Officer reads as under:
- "2. During FY 17 to FY 19, income from financial services has gone up as compared to projected number/s. The Company during FY 17 could not disburse funds and invested the same in Mutual Funds/Fixed Deposits and earned lower income. The effect continued even in FY 18 since in the projection we have taken existing income of interest (FY17) as basis and assumed further lending of Rs 15 lakhs and

*interest income of Rs 1.80 lakhs on this. Lending has become competitive and need more resources. Due to this administrative cost is also gone up. Interest income in respect of loans and advances were projected based on interest earning of 12% p.a. however returns from investment in mutual funds and fixed deposits were lower. Comparison of projection and actuals for FY 17 to FY19 with note on reasons is attached as Annexure 3.*

*Regarding justification of premium of Rs 80 per share, we have provided you valuation report of the Company and the same was arrived based on projected cash flow of the Company. The book value of share as of 31.03.2016 was Rs 24 per share We have opted for valuation based on discounted cash flow in accordance with sub clause (1) of explanation, the Company had an option to carry out a valuation and determine the FMV only on the discounted cash flow method (DCF), which was appropriately followed by the Company.*

*The premium of Rs 80 per share is justified based on DCF method. In addition, we have also explained reason of lower achievements as compared to projected numbers, detailed as below"*

11. We note that even in the appellate proceedings the submission made by the Assessee was rejected by the Ld. CIT(A), inter-alia, observing that the Assessee was making continuous losses. In this regard, we note that the Assessee had filed 'Facts of the Case' before the Ld. CIT(A) stating, inter alia, as under:

*"The Company has been in profit and allegation of continuous loss is incorrect:*

*Financial Performance of last two years:*

	FY 2017 (in INR)	FY 2016 (in INR)
Gross Income	16,63,114/-	6,71,548/-
Profit before Tax	5,00,996/-	40,847/-
Profit after Tax	3,96,878/-	28,225/-

*This indicates that AO has not reviewed financial performance of the company.*

*AO has ignored available data and was casual which could be observed from following: FY 2016-17 profit before tax was Rs. 5,00,996/- as per financials whereas taxable income/(loss) was loss Rs.43,52,186/-. This loss in ITR for FY 2016-17 was mainly due to indexation cost in respect of sale of some of the shares, detailed as below:*

	As Financial Statement	As per Income Tax
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	(in INR)	Act (in INR)
A) Sale of Shares	26,17,800/-	26,17,800/-
B) Cost of Acquisition	21,88,576/-	21,88,576/-
<b>C) Indexed Cost</b>	-	<b>68,97,330/-</b>
Gain	4,29,224/-	42,79,530/-

*Valuation report of Chartered Accountant is based on factual number of FY 2016 and the basis of projections were specified therein. Value of per share arrived based on DCF method, which is prescribed and option given to assessee to adopted the valuation and exercised by the Company. Value on the basis of which investors have invested their funds and relevant supporting of such investment was provided. Projection and Actual performance, although cannot be reason for rejection and provided for with complete justification thereof. Reason of rejection of share premium by AO is baseless and unjustified and illegal." (Emphasis supplied)*

*[at Page 84 of the Paper Book filed by the Assessee]*

12. By way of above, it was contented on behalf of the Assessee that the conclusion drawn by the Assessing Officer/CIT(A) that the Assessee was incurring continuous losses during the relevant financial years was factually incorrect. We find that while dismissing the appeal preferred by the Assessee the Ld. CIT(A) has not dealt with the explanation offered by the Assessee. Even during the appellate proceedings before us, the above submissions made by the Assessee were not disputed by Revenue. Therefore, we accept the contention of the Assessee that the observation made by the Assessing Officer regarding continuous loss being suffered by the Assessee-Company during the relevant financial year is contrary to the material on record.
13. Further countering the submission made by the Learned Departmental Representative that the projections on the basis of which fair market value was computed were self-serving, it was submitted by the Learned Authorized Representative for the Assessee that the projections are generally prepared by the company, however, wherever the valuer finds any anomalies or differs on underlying

assumptions, the same are addressed by the company and thereafter, the valuation exercise is independently carried out by the valuer. It is admitted position that the valuation is supported by the Valuation Report issued by independent valuer and the Revenue has failed to bring on record any material to show that the projections were baseless. We find merit in the aforesaid submission on behalf of the Assessee. There is nothing on record to suggest that the projected cash flows were fabricated by the management or were based upon patently incorrect assumptions/factors. We note that the Assessing Officer/CIT(A) had not pointed out any infirmity in the underlying assumptions/factors adopted by the valuer. We have already noted hereinabove that the Hon'ble Delhi High Court had, in the case of Pr.CIT Vs. Cinestaan Entertainment Pvt. Ltd. (supra), held that mere fact that the actual performance of the company being valued did not match with the projections cannot form the sole basis of the rejecting the valuation report. It was also observed by the Hon'ble Delhi High Court that the Assessing Officer had, in that case, simply rejected the valuation of the Assessee and had fail to provide any alternative valuation. We note that in the present case also the Assessing Officer had made the addition of the entire share premium amount without providing any alternative fair value of shares. The aforesaid approach adopted by the Assessing Officer cannot be countenanced.

14. In view of the above, finding merits in the contention advanced on behalf of the Assessee, we hold that the authorities below proceeded on incorrect understanding of the financial position of the company and made/confirmed addition of INR.1,25,20,000/- under Section 56(2)(vii b) of the Act by rejecting the valuation report solely on the ground that the projected cash flows did not confirm to the actual financials, an approach that was rejected by Hon'ble Delhi High Court in the case of Principle Commissioner of Income Tax Vs. Cinestaan Entertainment Pvt. Ltd. Accordingly, Ground No.3 raised by the

Assessee is allowed while Ground No.1 and 2 are dismissed as having being rendered infructuous.

15. In result, in terms of Paragraph 14 above, the present appeal preferred by the Assessee is allowed.

Order pronounced on 24.09.2025.

*Sd/-*  
**(Vikram Singh Yadav)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated :24.09.2025  
*Milan, LDC*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai