

IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI
VIRTUAL HEARING AT KOLKATA

**Before Shri Sonjoy Sarma, Judicial Member
and Shri Ratnesh Nandan Sahay, Accountant Member**

I.T.A. No.163/Ran/2025

Assessment Year: 2012-13

Adhunik Akshat Udyog Pvt. Ltd.....Appellant
Industrial Area, Babupur,
Muffasil Thana Dumka,
Jharkhand – 814101.
[PAN: AABCA4896Q]

vs.

ACIT, Circle-3(1), Deoghar.....Respondent

Appearances by:

Shri Sushil Pransukha, AR, appeared on behalf of the appellant.

Shri Khubchand T. Pandya, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : August 28, 2025

Date of pronouncing the order : October 10, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal by the assessee is directed against the order of the NFAC, Delhi [“CIT(A)”] dated 11.03.2025 under section 250 of the Income-tax Act, 1961 (the “Act”) for the assessment year 2012–13.

2. Facts of the Case are that the assessee company filed its return of income for AY 2012–13 declaring total income of ₹2,57,551. The case was reopened under section 147 on the ground that the assessee had raised share capital and share premium from certain entities, whose financial capacity and genuineness of investment remained unexplained. During assessment, the AO noted that the assessee had introduced share capital of ₹37,50,000 from the following four private limited companies:

Suvarna Pushpa Finance Pvt. Ltd. – Share capital ₹2,20,000,
Premium ₹8,80,000 (2,200 shares)

Shree Sati Finvest Pvt. Ltd. – Share capital ₹1,30,000, Premium ₹5,20,000 (1,300 shares)

Ishan Tie -Up Pvt. Ltd. – Share capital ₹4,00,000, Premium ₹16,00,000 (4,000 shares)

Linton consultant Pvt. Ltd. – Share capital ₹2,00,000, Premium ₹8,00,000 (2,000 shares)

The AO issued notices under sections 142(1) and 133(6) to the subscribers. Two notices were returned unserved, while in other cases, the companies were alleged to be “shell entities.” Since the assessee failed to produce directors and furnish further documents, the AO treated the entire sum of ₹37,50,000 as unexplained cash credit under section 68, and completed the assessment at ₹40,07,551.

3. On appeal, the CIT(A) sustained the addition. He held that the assessee failed to discharge the burden of proving identity, creditworthiness and genuineness of the transactions, and non-compliance to summons under section 131 further supported the AO’s conclusion.

4. Aggrieved, the assessee is in appeal before this Tribunal. At the time of hearing the learned AR contended that the entire share application money was in fact received during FY 2010–11, corresponding to AY 2011–12, and was duly reflected in the audited balance sheet of the assessee company as on 31.03.2011 under the head “Share Application Money.” It was submitted that in September 2011 (FY 2011–12), the shares were allotted out of the money already received earlier. Thus, no fresh receipt took place during AY 2012–13. The AR placed reliance on the audited balance sheet as on 31.03.2011, Schedule A, and the balance sheet as on 31.03.2012, which clearly reconciled the figures. It was argued that section 68 of the Act applies only to sums found credited in the books of account of the assessee during the

relevant previous year. Since the impugned money was received in the earlier year, there was no credit during FY 2011-12, and therefore section 68 of the Act could not be invoked in AY 2012-13. In support, reliance was placed on the decision of the ITAT Kolkata in ACIT, Circle-21, Kolkata vs. Pujita Merchandise Pvt. Ltd. [ITA No. 1293/Kol/2024, order dated 06.11.2024, wherein it was held that where share application money was received in earlier years and only shares were allotted in the relevant year, no addition under section 68 of the Act could be made in the current year. The ld. AR thus prayed that the addition sustained by the CIT(A) be deleted.

5. On the other hand, the learned DR supported the orders of the authorities below. It was submitted that the assessee failed to produce the directors or furnish fresh confirmations from the subscribers. The fact that notices were returned unserved indicates that the subscribers were non-existent entities. He argued that issuance of shares at a premium without any justification of business performance raises strong suspicion of accommodation entries. He therefore urged that the appeal be dismissed.

6. We have considered the rival submissions and perused the record. The central issue is whether the sum of ₹37,50,000 can be treated as unexplained cash credit under section 68 of the Act in AY 2012-13. From the balance sheet of the assessee as on 31.03.2011, we find that the said sum was already reflected under the head "Share Application Money Pending Allotment." This fact has not been disputed by the Revenue. The shares were allotted in September 2011, out of the money already received earlier. Thus, there was no fresh inflow of funds in FY 2011-12. The language of section 68 of the Act is clear: it applies to "any sum found credited in the books of the assessee maintained for any previous year." Unless there is a credit in the relevant previous year, section 68 of the Act cannot be applied. In the present case, since the

amount was received in FY 2010–11, the relevant year for examination, if any, would have been AY 2011–12, not AY 2012–13. The AO erred in invoking section 68 of the Act in the present year. The ITAT Kolkata in Pujita Merchandise Pvt. Ltd. (supra) has held in identical circumstances that addition under section 68 is unsustainable when no fresh share application money is received in the current year. Further, the Hon'ble Delhi High Court in CIT vs. Usha Stud Agricultural Farms Ltd. (301 ITR 384) held that addition under section 68 of the Act cannot be made in a year in which no fresh credits appear. Respectfully following these precedents, we hold that the addition of ₹37,50,000 sustained by the CIT(A) is without jurisdiction and bad in law. In view of the above, we set aside the order of the CIT(A) and direct the AO to delete the addition of ₹37,50,000 made under section 68 of the Act. Accordingly the appeal of the assessee is allowed.

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

Kolkata, the 10th October, 2025.

Sd/-
[Ratnesh Nandan Sahay]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 10.10.2025.

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