

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2638/Del/2025
Assessment Year: 2017-18

M/s. Photon Ultrawave Pvt. Ltd., 8 th Floor Statemen House, Barakhamba Road, New Delhi	Vs.	DCIT, Circle-19(2), Delhi
PAN: AABCU7327A		
(Appellant)		(Respondent)

Assessee by	Sh. Shantanu Jain, Adv. Sh. Sanjay Aggarwal, CA
Department by	Ms. Pooja Swaroop, CIT(DR)

Date of hearing	13.10.2025
Date of pronouncement	13.10.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2017-18, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1073626545(1), dated 24.02.2025 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Coming to the first and foremost issue of correctness of both the learned lower authorities' action invoking section 14A read with Rule 8D disallowance amounting to Rs.1,24,57,350/-; in assessment order dated 26.11.2019 and upheld in the lower appellate discussion, we note at the outset that no exempt income had been declared at the tax payer's/appellant's behest in the relevant previous year.

3. That being the case, the Revenue vehemently contends that such an actual exempt income is nowhere a mandatory condition in light of the legislative amendment inserted in Explanation 2 section 14A vide Finance Act, 2022 as applicable from 01.04.2022. We observe in this factual backdrop in light of Principal Commissioner of Income Tax vs. Era Infrastructure (India) Ltd. (2022) 448 ITR 674 (Del) that their lordships have already settled the issue in the assessee's favour and against the department that the above statutory amendment does not carry any retrospective effect. Faced with this situation, we hereby quote Cheminvest Ltd. v. Commissioner of Income-tax (CIT) (2015) 378 ITR 33 (Delhi) to delete the impugned disallowance in very terms.

4. The assessee's latter substantive ground raised in the instant appeal seeks to reverse section 68 unexplained cash credits addition of Rs.28,00,00,000/- received from its holding group M/s. P.R. Infrastructure Pvt. Ltd. as share capital. The Revenue vehemently contends that given the fact that the assessee has failed to prove genuineness and creditworthiness thereof in both lower proceedings, we ought to uphold the same going by Sumati Dayal Vs. CIT (1995) 214 ITR 801 (SC), CIT Vs. Durga Prasad More (1971) 82 ITR 540 (SC) and PCIT Vs. NRA Iron & Steel Co. (2019) 412 ITR 161 (SC). We find no reason to accept the Revenue's foregoing vehement contentions. This is for the precise reason that the assessee has invited our attention to its detailed paper-book running into 209 pages contained all of its supportive evidence to discharge the onus of proving genuineness as well as creditworthiness of the impugned share capital coming from M/s. P.R. infrastructure (supra), who happens to be its group/holding company only.

5. Learned counsel, more particularly, invites our attention to the assessee's confirmation of accounts as on 01.04.2017 involving the above group entity alongwith the Assessing Officer i.e. the ITO,

Ward-19(2), Delhi' section 142(1) notice dated 8th March, 2019 raising a specific question of the above investment amounting to Rs. 28 crores; the latter reply dated 10.12.2019 and 17.12.2019 along with bank statement followed the clinching fact that the same stood duly accepted in assessment order dated 23rd December, 2019, wherein no such addition had been made in the investor entity's hands. All these clinching factual developments and evidence(s) have gone unrebutted from the Revenue side.

6. Faced with this situation, we hereby conclude that once above group entity who has explained source of the impugned investments of Rs.28 crores in it's scrutiny assessment, the same could not be treated as unexplained cash credits in the appellant's case as is the Revenue's stand before us. We accordingly conclude that the impugned section 68 additions of Rs.28 crores is not sustainable which stands deleted in very terms therefore.

No other ground or argument has been pressed before us.

7. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 13th October, 2025

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 28th October, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi