

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**  
**AND**  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

आयकर अपील सं./I.T.A.No.124/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year: 2018-19)

The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad.	Vs.	M/s. Archeesh Health Care Private Limited, Hyderabad.  PAN : AANCA8536H
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K. Sai Prasad, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. U. Mini Chandran – CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	14.10.2025
घोषणा की तारीख/ Date of Pronouncement	:	14.11.2025

**ORDER**

**PER MANJUNATHA G., A.M :**

This appeal filed by the Revenue is directed against the order  
of the learned Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre [in short "NFAC"], Delhi, dated 13.11.2024 relating to the assessment year 2018-19.

2. The grounds raised by the Revenue read as under :

*"1. The order passed u/s. 250 of the IT Act, by the Ld.CIT(A) is erroneous both on facts and in law and is prejudicial to the interests of the revenue.*

*2. The Ld.CIT(A) erred in allowing the claim of the assessee to treat the amount of Rs.1,74,17,720/- as pre-operative expenditure in spite of the fact that the assessee had not submitted any evidences to prove that the said expenditure is of revenue expenditure.*

*3. The Ld.CIT(A) erred in allowing the claim of the assessee by quoting the decisions of Hon'ble Delhi High Court in the case of four WC &C India (P) Ltd. v DCIT & Pr.CIT v. Miele India(P) Ltd. though the facts are distinguishable to the facts of the present case.*

*4. The Ld.CIT(A) erred in allowing the claim of the assessee to treat the expenditure of Rs.1,74,17,720/- as revenue expenditure, ignoring the contention of the AO that the assessee being in the process of research and development was in its preoperative stage of business operation and that the expenditure is held to be capitalized as pre-operative/preliminary expenditure.*

*5. The Ld.CIT(A) erred in allowing the expenditure as revenue expenditure going by the nature of expenses such as salaries and wages, interest on loans, legal & professional charges, rent etc. in the absence of submission of information by the assessee such as supporting ledger accounts with corresponding invoices etc. or any explanation in this regard by the assessee to prove that such expenditure was actually incurred.*

*6. The Ld.CIT(A) erred in allowing the expenditure of Rs.1,74,17,720/- as revenue expenditure u/s. 37 of the IT Act and thereby allowing double benefit to the assessee to claim it as current year loss as against the contention of the AO to treat the same as preliminary expenditure applying the provisions of section 35D of the Act.*

*7. The Ld.CIT(A) erred in giving relief to the total amount of share capital of Rs.4,80,00,000/- as against the specific finding of the AO in his remand report that the confirmation in respect of contribution of Rs.20,83,834/- by Shri Arun Natarajan, is not found to be satisfactory.*

*8. The Ld.CIT(A) erred in ignoring the findings of the AO in remand report with regard to the investment of Rs.20,83,834/- and allowing the same simply stating that the AO has not qualified the comments further as to the cryptic nature of the bank transaction and further holding that since the said amount was debited as cheque payment from Shri Arun Natarajan's bank account and presuming that the amount invested is from his savings from his business and salary income, though from the ITR it is evident that the assessee's total income is of Rs.12,32,450/-only during the relevant A.Y. 2018-19.*

*9. The Ld.CIT(A) erred in appreciating the remand report submitted by the AO by erroneously holding that Rs.4,59,16,166/- stands explained, however, in view of Assessing Officer's report, the A.O has not submitted any categorical acceptance appreciating the evidences.*

*10. Any other ground that may be urged at the time of hearing.”*

3. The brief facts of the case are that the assessee company filed its return of income for the A.Y. 2018-19 declaring total income of Rs. Nil. The case of the assessee was selected for scrutiny under the E-assessment Scheme to verify investments/advances/loans and business loss claimed by the assessee. During the course of assessment proceedings, the A.O. called upon the assessee to file relevant evidences in support of return filed for the year under consideration. In response, the assessee has furnished relevant financial statements, including balance-sheet. The A.O. on the basis of details submitted by the assessee observed that, the assessee is engaged in the business of other health care services, however for the year under consideration, it has not reported any revenue and has claimed only expenses to the tune of Rs.

1,74,17,172/-. Therefore, the A.O. requested the assessee to explain as to how the above expenses are deductible without any receipts from business. In response, the assessee submitted that, it has been set up its business for manufacturing of goods and the business has commenced from F.Y. 2018-19 relevant to the assessment year 2019-20. Once the business is set up, the expenditure incurred between the setting up of business and commencement of business should be allowed as deduction. The A.O. after considering the relevant submissions of the assessee and also taking note of nature of expenses incurred by the assessee, observed that, the expenditure claimed by the assessee before commencement of business are in the nature of pre-operative expenses and the same cannot be allowed as deduction unless the assessee commenced its business activity and generate revenue. Therefore, rejected the explanation of the assessee and disallowed loss claimed by the assessee. The A.O. further observed that, the assessee has shown share application of money/share capital of Rs.4.80 crores. The A.O. called upon the assessee to file relevant evidences, including the identity of the shareholders, creditworthiness of creditors and genuineness of transactions. In

response, the assessee has furnished various details. The A.O. after considering the relevant observations of the assessee, observed that, the assessee could not explain the share capital to the satisfaction of the A.O. with relevant evidences, therefore, made addition of Rs.4.80 crores u/s 68 of the Act. Similarly, the A.O. noticed that, as per note 5 to the balance-sheet, the assessee has reported loans and advances from related parties amounting to Rs.3,62,47,695/-. The assessee was requested to explain these loans and advances by adducing relevant documentary evidences. Since the assessee has not furnished any details and evidences so as to prove the credits, the A.O. made addition of Rs.3,62,47,695/- u/s 68 of the Act.

4. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A).

5. Before the Ld. CIT(A), the assessee challenged the additions made by the A.O. towards the disallowance of loss claimed from business, additions towards share capital and unsecured loans and advances from related parties u/s 68 of the Act, and furnished certain additional evidences. During the course of the appellate proceedings, the additional evidence furnished by the

assessee has been forwarded to the A.O. for his remand report and comments. The A.O. in the remand report, examined additional evidence filed by the assessee and accepted that, the assessee has furnished relevant evidences in support of the share application money/share capital received from various parties. The A.O. also accepted the genuineness of loans and advances received from the related parties, however, reiterated his observations with regard to disallowance of loss.

6. The Ld. CIT(A) after considering the relevant submissions of the assessee and also taking note of the remand report of the A.O., deleted the additions made by the A.O. towards disallowance of loss of Rs. 1,74,17,172/- by holding that, on due consideration of relevant facts, there is no dispute that, the business operations of the assessee have not commenced, however, as seen from the nature of expenses claimed, such as salary, wages, interest on loans, legal and professional charges, rent etc, it is evident that, the business has already been set up and in the pre-commission stage and therefore, by following certain judicial precedents, held that, once business is set up and is ready for commencement of business, then relevant expenditure incurred during the

intervening period of set up of business and commencement of business should be allowed as deduction. Therefore, directed the A.O. to allow the loss claimed by the assessee. The Ld. CIT(A) had also, deleted the additions made by the A.O. towards share application money/share capital of Rs.4.80 crores u/s 68 of the Act, on the ground that, in the remand report, the A.O. accepted the genuineness of the share capital/share application money received by the assessee from various persons, including their identity, genuineness of transactions and creditworthiness of the parties. Further, although in case of Shri Arun Natarajan, the A.O. has doubted the transactions, but going by the evidence filed by the assessee, the assessee has proved the genuineness of transactions between the company and Shri Arun Natarajan and also proved the creditworthiness of the creditor. Therefore, directed the A.O. to delete the additions made towards share capital u/s 68 of the Act. The Ld. CIT(A) has also deleted the additions made towards loans and advances from related parties on the ground that, during the remand proceedings, the A.O. has accepted the genuineness of loans and advances taken from related parties.

7. Aggrieved by the order of Ld. CIT(A), Revenue is now in appeal before the Tribunal.

8. The Ld. CIT-DR Ms. U. Mini Chandran, submitted that, the Ld. CIT(A) erred in allowing the claim of the assessee towards business loss of Rs. 1,74,17,172/- even though, the Ld. CIT(A) has accepted the fact that, the business of the assessee has not commenced for the financial year relevant to assessment year 2018-19. The Ld. CIT-DR further referring to the reasons given by the assessee, submitted that, the Ld. CIT(A) deleted the additions made by the A.O. by following the decision of Hon'ble Delhi High Court in the case of Carefour WC & C India (P.) Ltd Vs. DCIT (2015) 53 taxmann.com 289 (Delhi) even though the facts of the above case are distinguishable from the facts of the present case. Further, the Ld. CIT(A) allowed the claim of the assessee to treat the expenditure of Rs.1,74,17,720/- as revenue expenditure ignoring the observations of the A.O. that the assessee was in the process of research and development was in its pre-operating stage of business operations and that, the expenditure was held to be capital as pre-operative/preliminary expenses. Therefore, she submitted that, the expenditure incurred by the assessee before

commencement of business should be treated as pre-operative expenses and to be amortized as per Section 35D of the Act.

9. The Ld. CIT-DR further referring to the additions made towards share capital of Rs. 4.80 crores u/s 68 of the Act, submitted that, although the A.O. has accepted the share capital received by the assessee from various persons as genuine in the remand report, but going by the evidence submitted by the assessee, the assessee has failed to prove the transactions with relevant evidences, which is evident from the findings of the A.O. in the remand report in respect of Shri Arun Natarajan where the A.O. has expressed reservations about the transactions between the assessee and the creditor. Therefore, she submitted that, the additions made by the A.O. towards share capital u/s 68 of the Act should be upheld.

10. The learned counsel for the assessee Shri K. A. Sai Prasad, C.A. supporting the order of Ld. CIT(A) submitted that, there is no dispute with regard to the fact that, the business of the assessee has been set up and is ready for commencement of business. Further, the assessee has commenced its business operations and also started production of goods which is evident from the GST

returns filed for the month of April, 2019, where the assessee has reported sales turnover. Since the business of the assessee has been set up and it was ready for commencement and in fact it was commenced in the month of April, 2019, the expenditure incurred by the assessee between the setting up of business and commencement of business needs to be treated as revenue expenditure. The Ld. CIT(A) after considering the relevant facts, has rightly allowed the claim of the assessee and thus, the order of the Ld. CIT(A) should be upheld.

11. The learned counsel for the assessee further referring to the additions made by the A.O. towards share capital u/s 68 of the Act, submitted that, the assessee has furnished all evidence in respect of share capital received from various persons before the Ld. CIT(A) and the same evidences have been forwarded to the A.O. for his remand report. During the remand proceedings, the A.O. has accepted the genuineness of the share capital received by the assessee from various persons except in the case of Arun Natarajan even though, the assessee has furnished relevant details of the shareholder/creditors. The Ld. CIT(A) after considering the relevant facts has rightly deleted the additions

made towards share capital u/s 68 of the Act. Therefore, he submitted that, the additions made by the A.O. should be deleted.

12. We have heard both the parties, perused the material available on record and had gone through the orders of the authorities below. The assessee has incurred various expenditures in the nature of general administrative expenses like salaries and wages, contribution to P.F., Staff expenses, interest on borrowed capital, legal and professional charges, etc. and claimed deduction while computing income from business and profession. The A.O. disallowed the expenditure claimed by the assessee in total on the ground that, the business of the assessee has not been commenced for the financial year under consideration and once business has not been commenced, any expenditure incurred between the setting up of business and commencement of business ought to be treated as pre-operating expenses. It was the argument of the learned counsel for the assessee that the business of the assessee has been set up and it was ready for commencement and in fact, the business was commenced in the month of April 2019, which is evident from relevant GST returns filed before the authorities and any expenditure incurred between

the setting up and commencement of business should be allowed as revenue expenditure.

13. We find that, there is a difference between set up of business and commencement of business. Any business can be said to have been set up once relevant facilities for manufacturing have been installed and ready for production. In the present case, there is no dispute with regard to the fact that, the business of the assessee has been set up and it was ready for commencement. Once the business is set up and ready for commencement, then it can be said that, the business that has been set up. Therefore, in our considered view, any expenditure incurred by the assessee which is revenue in nature between set up of business and commencement of business should be allowed as deduction, as held by the Hon'ble Bombay High Court in the case of *M/s. Western India Vegetable Products Ltd. Vs. CIT (1954) 26 ITR 151*. A similar view has been taken by the Hon'ble Delhi High Court in the case of *Carefour WC & C India (P) Ltd., Vs. DCIT (supra)*. Since the business of the assessee has been set up and is ready for commencement, the revenue expenditure incurred by the assessee in the ordinary course of its business during the period

between the setting up of business and commencement of business should be allowed as deduction.

14. Insofar as the arguments of the Ld. CIT-DR in light of provisions of Section 35D of the Act, in our considered view, the expenditure incurred by the assessee for the year under consideration does not fall under the provisions of Section 35D(2) of the Act which is evident from the nature of expenses incurred by the assessee and the expenditure referred to in sub-section (2) of Section 35D of the Act. Therefore, we are of the considered view that, there is no error in the reasons given by the Ld. CIT(A) for deleting the additions made by the A.O. towards disallowance of expenses/business loss of Rs. 1,74,17,172/-. Thus, we are inclined to uphold the findings of the Ld. CIT(A) and reject the grounds taken by the Revenue.

15. Coming back to the deletion of addition made towards share capital of Rs. 4.80 crores u/s 68 of the Act, as unexplained cash credit. The A.O. made additions towards share capital of Rs. 4.80 crores on the ground that, the assessee has failed to establish the identity of the creditors, genuineness of transactions and creditworthiness of the parties. The Ld. CIT(A) deleted the

additions made by the A.O. by considering relevant evidences filed by the assessee and also remand report submitted by the A.O. where the A.O. has accepted the genuineness of the transactions of the assessee and shareholders in light of various evidences except in the case of Shri Arun Natarajan where the A.O. has doubted the genuineness of transactions between Shri Arun Natarajan and the assessee company. In other words, except in the case of Arun Natarajan where the assessee has received share capital of Rs. 20,83,340/-, in respect of remaining 10 shareholders, the A.O. has accepted the share capital received by the assessee after verification of relevant evidences. Insofar as Shri Arun Natarajan although the A.O. has not accepted the genuineness of the transactions, but the Ld. CIT(A) had given categorical finding in light of relevant evidences that, the assessee has discharged the onus by filing details of bank account of Arun Natarajan and also ITR filed for the relevant assessment year and from the evidences furnished by the assessee Shri Arun Natarajan had capacity to explain share capital paid to the assessee. Since the Ld. CIT(A) has accepted the genuineness of transactions between assessee and share-holders on the basis of the remand

report of A.O. and further evidence submitted by the assessee, in our considered view, there is no error in the reasons given by the Ld. CIT(A) to delete the additions made towards share capital u/s 68 of the Act. Thus, we are inclined to uphold the findings of Ld. CIT(A) and direct the A.O. to delete the additions towards share capital u/s 68 of the Act.

16. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 14<sup>th</sup> November, 2025.

<b>Sd/-</b> (श्री रवीश सूद) <b>(RAVISH SOOD)</b> न्यायिक सदस्य/JUDICIAL MEMBER	<b>Sd/-</b> (मंजूनाथ जी) <b>(MANJUNATHA G.)</b> लेखा सदस्य/ACCOUNTANT MEMBER
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Hyderabad, dated 14.11.2025.  
**TYNN/sps**

**आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	M/s. Archeesh Health Care Private Limited, P.No.12 to 29, Gundla Pochampally, V. Medchal, K.V. Ranga Reddy – 501401, Telangana.
2.	राजस्व/ The Revenue	:	The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad