

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.1700/KOL/2024
(Assessment Year: 2009-10)**

Quiver Commercial (P) Ltd.
3, Amartalla Street, Burrabazar,
Kolkata-700001, West Bengal

Vs.

ITO, Ward 1(2), Kolkata
Aaykar Bhawan, P-7,
Chowringhee Square,
Kolkata-700069, West Bengal

(Appellant)

(Respondent)

PAN No. AAACQ1349R

Assessee by : Shri Giridhari Dhelia, AR
Revenue by : Shri Guru Bhashyam, DR

Date of hearing: 28.10.2025
Date of pronouncement: 19.11.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 06.06.2024 for the AY 2009-10.

2. The only issue raised by the assessee is against the confirmation of addition of ₹3,32,00,000/- by the Id. CIT (A) as made by the Id. AO u/s 68 of the Act in respect of share capital / share premium.

2.1. The facts in brief are that the assessee filed the return of income on 26.08.2009, disclosing the total income at ₹23,411/-. The case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 28.02.2011. Accordingly, the order was framed on 02.09.2011. Thereafter, the Id. PCIT revised the said order on

11.03.2014, directing the Id. AO to frame the assessment afresh. The notice u/s 142(1) of the Act was issued to the assessee which was complied with by the assessee by furnishing the details of directors and shareholders along with all the evidences proving the transactions of shares allotment. The Id. AO also called upon the the directors to personally present and also to produce the directors share holders companies . However ,no one appeared. Thereafter, the Id. AO noted in para no.2 of page no.1 of the assessment order that the assessee has raised share capital of ₹8,22,750/- and share premium of ₹3,23,70,250/-. Thereafter, the Id. AO concluded that these share capital / share premiums were bogus as they could not be verified for the want of personal attendance. The Id. AO also noted that the summons u/s 131 of the Act were complied with by the various subscribers by furnishing all the details as called for however, no personal appearance was made. The Id. AO thereafter concluded that the shareholders have low income, meagre revenue no fixed assets large reserves and surplus and investments. Finally, the show cause notice was issued on 09.03.2015, as to why the share capital, share premium should not be treated as unexplained cash credit u/s 68 of the Act. Again, there was no compliance finally and hence the amount of share capital/ share premium was added as unexplained cash credit u/s 68 of the Act to the income of the assessee in the assessment framed u/s 143(3)/ 263 of the Act.

2.2. In the appellate proceedings, the Id. CIT (A) affirmed the order of the Id. AO by dismissing the appeal of the assessee by passing a very cryptic order by observing and holding as under:-

"It is found from the records that the assessment, against which the present appeal is filed, was made after set aside the original order u/s 143(3) by the Hon'ble CIT-III, Kolkata u/s 263 of the Act. The main issues in this case were crediting of

Rs.8,29,750/- and Rs.3,23,70,250/- as fresh share capital and share premium respectively. During the course of assessment proceeding summons u/s131 of the Act were issued to the fresh shareholders and the then directors of the company in question for examination of their identity, genuineness and credit worthiness. But none of them were appeared before the AO and some of them submitted documents. A good no of the issued summons were returned, un-served. After thorough

verification the AO found that the above mention shareholder company has low total income, meager revenue from operations, almost low fixed assets, large reserve and surplus and investment. Their bank statements reflect several identical counter entries in huge round figures. It is also observed by the AO that the nature and sequence of transaction reflected in their bank statement mere circulation of funds without any existence of business. They declared legal turnover and disclosed low total income. But surprisingly the above companies were succeeded in attracting so high premium for its shares at such an early stage without any reputable track record in the market. Considering the fact the AO concluded that the appellant company was Is a dummy company which was brought into existence merely for building share capital. In view of the above I find no infirmity in the order of the AO in treating the amount of Rs.8,29,750/- and Rs.3,23,70,250/- as unexplained cash credits u/s 68 of the Act and added to the total income of the appellant.

Considering the above observation the appeal of the appellant is dismissed.”

2.3. After hearing the rival contentions and perusing the materials available on record, we find that during the year the assessee raised share capital/ share premium of ₹3,32,00,000/- qua which details / evidence were filed before the Id. AO as well as before the Id. CIT (A). The evidences filed in respect of these subscribers included the confirmations of the subscribers, copy of bank accounts, ITR acknowledgements, allotment letters, replies to summons u/s 131 of the Act. We find that the assessee issued shares to 12 subscribers qua which the details as noted above are available from page no. 1 to 226. The Id. AO made the addition on the ground that as per the replies received from these subscribers' u/s 131 of the Act, the income of the subscribers is very low, meager revenue from operation, almost no fixed assets and large reserves and surplus and investments. The order of the Id. AO has been upheld by Id CIT(A) by passing a very cryptic order. In our opinion the assessee has

discharged its onus by filing all the evidences before the Id. AO as well as before the Id. CIT (A). Moreover, the addition u/s 68 of the Act cannot be made merely on the ground of low income, meagre revenue or low fixed assets and reserves and surplus. The case of the assessee find support from the decision of Hon'ble Delhi High Court in case of CIT vs. Ms. Mayawati 338 ITR 563 dated 03.08.2011. Also, in case of PCIT vs. Sreeleathers [2022] 143 taxmann.com 435 (Calcutta)/[2022] 448 ITR 332 (Calcutta)[14-07-2022], wherein it has been held as under:-

“In the absence of any such finding, it is held that the order passed by the Assessing Officer was utterly perverse and rightly interfered by the Commissioner (Appeals). The Tribunal re-appreciated the factual position and agreed with the Commissioner (Appeals). The Tribunal apart from taking into consideration, the legal effect of the statement of AKA also took note of the fact that the notices which were issued by the Assessing Officer under section 133(6) to the lenders were duly acknowledged and all the lenders confirmed the loan transactions by filing the documents which were placed before the tribunal in the form of a paper book. These materials were available on the file of the Assessing Officer and there is no discussion on this aspect. Thus, the tribunal rightly dismissed the appeal filed by the revenue. [Para 5]’

2.4. Considering the facts and circumstances, we are inclined to set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition.

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

Order pronounced in the open court on 19.11.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 19.11.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

True Copy//

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata