

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1967/Kol/2025
Assessment Year: 2012-13**

DCIT, Central Circle-4(3), Kolkata.....Appellant

vs.

Raja Shelters Pvt. Ltd.....Respondent

25A, S P Mukherjee Road,

Kol-700025.

[PAN: AADCR5073Q]

Appearances by:

Shri Sanat Kr. Raha, CIT-DR, appeared on behalf of the appellant.

Shri Miraj D Shah, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 30, 2025

Date of pronouncing the order : December 02, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the revenue is directed against the order dated 28.04.2025 of the National Faceless Appeal Centre [‘CIT(A)'] passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for the assessment year 2012–13.

2. The appeal has been filed by the revenue with a delay of 27 days. The revenue has filed a petition for condonation of the delay. After considering the reasons cited in the petition for condonation of delay, we find that the reasons are valid and consequently, the delay in filing the appeal is hereby condoned and we proceed to dispose of the appeal on merits.

3. Brief facts of the case are that the assessee filed ITR u/s 139 of the Act 11.08.2012 declaring income of Rs. 3,417/-. The case was taken up for scrutiny u/s 143(3) of the Act. Later, a search and seizure operation

u/s 132(1) of the Act and survey operation u/s 133A of the Act were conducted in respect of 'Golden Goenka group of assesseees' on 17.03.2015 and on subsequent dates. Assessment proceedings were completed on 26.03.2015 determining total income of the assessee at Rs. 2,90,53,420/-. This group was engaged in the business of financing, trading and investment in commodities and shares, mutual funds, real estates, and beverages. Being one of the entities of the said group, the assessee was also covered under this search & seizure operation conducted on 17.03.2015. During the course of search & seizure operation, documents (containing bank details of the assessee) were found and seized from the office premise of the assessee. These documents were inventoried under ID Marks GG/3. Consequent upon the search & seizure operation, 'Golden Goenka group of cases' were centralized to the Central Circle 4(3), Kolkata for post search assessment proceedings. Subsequently, jurisdiction of this case was transferred to the charge of Central Circle 4(3), Kolkata vide order u/s 127 of the Act dated 16.12.2015 of the Pr.CIT-1, Kolkata. Thereafter, assessment proceeding u/s 153A of the Act was initiated and notice u/s 153A of the Act was issued for furnishing of return of income. In response to the said notice, the assessee furnished its return on 26.03.2016 declaring income to Rs. 3,420/-. Subsequently, notices u/s 143(2) & u/s 142(1) of the Act were issued on 06.6.2016 and 18.08.2017 respectively. In response to these notices, the AR of the assessee appeared and explained the return of income and also furnished the financial statements of the company for the relevant assessment year. The assessee also furnished the details of shares allotment to the subscriber entities and application money (including share premium) received from those share subscribers. After considering the explanation furnished by the assessee, order u/s 153A of the Act was passed by the Assessing Officer on 29.12.2017 assessing income of Rs. 35,03,420/- by making an addition of Rs. 35,00,000/- for

unexplained cash credit u/s 68 of the Act on account of amount received by the assessee in terms of share application money.

4. Aggrieved by the said order, the assessee filed an appeal before the CIT(A) wherein the assessee has been allowed.

5. Being dissatisfied, the revenue is in appeal before us raising the following grounds of appeal:

1.	That on the facts and in the circumstances of the case and in law, the Ld.CIT(A) -27 Kolkata has erred in deleting the addition made u/s 68 of the I.T. Act, 1961 amounting to Rs.35,00,000/- received in terms of share application money. Since, assessee could not establish the genuineness of the transaction and creditworthiness of the share holders.
2.	That on the facts and in the circumstances of the case and in law, the Ld.CIT(A) -27 Kolkata has erred in deleting the addition made u/s 68 of the I.T. Act, 1961 since the assessee had submitted all such documents which not only proves identity of the share subscriber company but also proves the creditworthiness of the companies and the genuineness of the transaction. The assessee had also submitted the audited financial statements of the company, copy of Board Resolutions of the Shareholder Companies authorizing application of shares and copy of allotment letters during the course of assessment proceedings.
3.	That on the facts and in the circumstances of the case and in law, the Ld.CIT(A) -27 Kolkata has erred in deleting the addition made u/s 68 of the I.T. Act, 1961 since no answer has been given by the assessee to the question why the subscribers have paid money for the equities of a closely held company that had little income generation activity and that too at a premium of Rs. 990/- per share. The share subscribers have also failed to reply why they had invested in the equities of the assessee company at a high premium of Rs. 990/- per share. No prudent person would put his money at stake in the equities of a closely held company which had little business activity and from which he would get no return.
4.	That on the facts and in the circumstances of the case, the Ld. CIT(A) -27, Kolkata has erred in deleting the addition made by the AO without considering the contention of the AO and fact that all the shareholder companies had meager income which clearly proves that these companies were merely used as fronts to route unaccounted money of the assessee in the garb of equities through multiple layers.
5.	That on the facts and in the circumstances of the case, the Ld. CIT(A) -27, Kolkata has erred in deleting the initiation of penalty u/s 271(1)(C) of the Act which is consequential to the addition of Rs. 35,00,000/- made in the assessment order.
6.	That on the facts and in the circumstances of the case, the Instant case falls under the exceptional clause (h) of para 3.1 of CBDT Circular No. 05/2024 dated 15.03.2024 vide F No.279/Misc. 142/2007-ITJ(Pt.) as the assessee company involved in providing accommodation entry in the guise of bogus share application money.
7.	That the revenue reserves its rights to substantiate, modify, delete, supplement and /or alter the grounds at any time of appeal proceedings.

6. Contrary to that, the ld. AR supports the impugned order thereby submitting that the assessee during the year raised share capital with premium of Rs. 95,00,000/- only from two group companies, namely M/s Aalekha Supply (p) Ltd. and M/s Sri Salasar Suppliers (p) Ltd. by issuing 9,500 equity shares and the equity shares were issued of face value of Rs. 10/- at premium of Rs. 990/- and the share subscription money was paid through banking channels. The ld. AR submits that requisite details were submitted such as certificate of ROC, the name, address & PAN of the subscriber of equity shares, ITR Acknowledgement, Balance Sheets, Bank Statements, Source of fund of the subscriber of equity share and balance Sheet, memorandum and articles of association etc. In the course of appellate proceeding, the assessee submitted that they had furnished all the requisite details in respect of share capital & share premium of Rs. 35,00,000/- from the M/s Salasar Suppliers Private Limited which is a sister concern of the Golden Goenka Group and the details are as under:

“M/s Sri Salasar Suppliers Private Limited

<i>CIN of the Entity</i>	<i>U51909WB1993PTC058083</i>
<i>Date of Incorporation</i>	<i>15.03.1993</i>
<i>PAN of the Entity</i>	<i>AADCS8457R</i>
<i>Address of the Entity</i>	<i>3rd Floor 69A, Lenin Sarani Kolkata WB 700013</i>
<i>Status of the entity in MCA site</i>	<i>ACTIVE compliant</i>
<i>Paid up Share Capital & Free Reserves</i>	<i>Rs. 2,19,55,817</i>
<i>Investment made in the assessee company</i>	<i>Rs. 35,00,000</i>

Along with the above information, the assessee also claimed that they have submitted following documents before the AO:-

- i) Share application form of the subscriber company.*
- ii) Share allotment letter to the subscriber company.*
- iii) ROC form, challan with annexure.*
- iv) Audited accounts of the share applicant company.*
- v) Bank statement of the share applicant company.*

vi) Source of the source of the share applicant company.

6.1 The Id. AR further submits that the Assessing Officer only made the addition on the ground that the directors of the share subscribing company was not made personal appearance in response to the summon issued u/s 131 of the Act without showing any defect, shortcoming in the details furnished before him and such documents indicates that the onus cast upon the assessee under section 68 of the Act to prove identity, creditworthiness and genuineness was duly discharged. His submissions that the identity of the lender companies cannot be doubted as relevant documentary evidences were placed on record and the alleged transaction in question was done through banking channels. The Id. AR submits that there is no irregularity in the impugned order of the Id. CIT(A) and the Id. CIT(A) has discussed everything in details in his impugned order. To support his contention, the Id. AR has submitted the following judicial pronouncements:

- 1. PCIT vs. Goodview Marketing Pvt. Ltd. ITAT/114/2025] of Hon'ble Calcutta High Court*
- 2. PCIT vs. M/s Bright Commoddeal Pvt. Ltd. [ITAT/162/2025] of Hon'ble Calcutta High Court*
- 3. PCIT vs. M/s Devbhumi Vinimay Pvt. Ltd. [ITAT/16/2025] of Hon'ble Calcutta High Court*
- 4. PCIT vs. Balaka Vinimay Pvt. Ltd. [ITAT/131/2025] of Hon'ble Calcutta High Court*

7. Upon hearing submission of the counsels of the respective parties and perused the material available on record, we find that a search & seizure operation u/s 132 of the Act was conducted in the case of 'Golden Goenka Group of cases' on 17.03.2015 and the Assessing Officer noticed that the assessee during the period of relevant assessment year had raised share capital & share premium of Rs. 35,00,000/- from the

M/s Salasar Suppliers Private Limited which is a sister concern of the Golden Goenka Group and the details are as under:-

No. of shares	Face value@ Rs.	Share Premium	Total Amount
	10/-	@ 900/-	(Rs.)
3500	Rs. 35,000/-	Rs. 34,65,000/-	Rs. 35,00,000/-

7.1 We find that the assessee submitted all the requisite details in respect of share capital & share premium of Rs. 35,00,000/- from the M/s Salasar Suppliers Private Limited which is a sister concern of the Golden Goenka Group and the assessee submitted all the requisite details in respect of share capital & share premium of Rs. 35,00,000/- from the M/s Salasar Suppliers Private Limited such as MCA data, share application form, share allotment letter, ROC form, audited accounts of the share applicant company, Bank statement of the share applicant company, source of the source of the application money. It is important to note here that the Assessing Officer made the addition only on the basis of non-production of the Directors of the share subscribing company in response to summon u/s 131 of the Act. We note that the subscriber company was duly assessed to tax and had filed their income tax returns which duly prove their identity and all the share transactions were done through the banking channels. It is important to mention here that the aforesaid share subscribing entity M/s Salasar Suppliers Private Limited belongs to the same group concerns of the assessee and the share capital of Rs.35,00,000/- received by the assessee was from its own sister company belonging to same group concern not from any foreign entities. We further find that the ld. CIT(A) has elaborately discussed the issue considering the various judicial pronouncements and the relevant portion of the order of the ld. CIT(A) is as under:

“6.2.19. Hence, in the light of the aforesaid judicial pronouncements as well as the discussions held above, it is noticed that the appellant assessee had discharged its onus by establishing the identity & creditworthiness of M/s Sri Salasar Suppliers Private Limited, which is a sister concern of the assessee, by providing the details of the said share applicant through various documents as mentioned in the above paras. It is found that explanations and evidences made in the course of appellate proceeding are suffice to satisfy all the three legs of the section 68 of the Act. In these circumstances, drawing any adverse inference in this case shall be tantamount to adjudicating the issue against the principles of natural justice. Hence, treating share capital of Rs.35,00,000/- as unexplained credit u/s 68 of the Act without bringing any credible and cogent incriminating evidence on record, is not logical and seems based on mere assumptions and thus, is liable to be deleted. Hence, the addition of Rs. 35,00,000/- is deleted. Therefore, this ground of appeal raised by the assessee is allowed.”

7.2 We have gone through the cited decisions of Hon’ble Jurisdictional High Court including the decision in the case of PCIT vs. M/s Bright Commodeal Pvt. Ltd. (supra), wherein, the Hon’ble High Court held as under:

“We have perused the reasons assigned by the learned Tribunal for allowing the assessee’s appeal. It is seen that the Assessing Officer issued notice u/s 133(6) of the Act to the investing companies and both the parties have complied with the said notice and furnished the requisite details.

Summons under Section 131 of the Act was issued to the Director of the assessee company to be personally present and also to produce the Directors of the investing company for examination of genuineness of the transaction, identity and creditworthiness of the lenders. The Tribunal noted that the Directors appeared pursuant to the summons but the assessing officer wrongly recorded that the Directors of the assessee company failed to appear in response to the summons issued under 131 of the Act. Furthermore, the Tribunal examined the factual position and noted that the assessee has filed evidences as called for by the assessing officer in respect of the assessee as well as the investing companies. The evidences filed comprised of income tax returns, audited balance sheet, profit and loss account, audited report, bank statement and master data in respect of each of the subscribers. Furthermore, both the parties have submitted their reply pursuant to the notice issued under Section 133(6) of the Act. After noting these facts, the Learned Tribunal held that the assessing officer as well as the CIT(A) did not cause any verification or conduct any enquiry into the evidences which were filed by the assessee and merely harped on non-compliance of the summons issued under Section 131 of the Act, which is factually incorrect

Learned Tribunal placed reliance on the decision of the Hon'ble Supreme Court in CIT Vs Orissa Corporation Ltd. (1986) 159 ITR 78 (SC) as well as the decision of this Court in Crystal Networks Pvt. Ltd. Vs- CIT, (353) ITR 171 (Cal). The Tribunal also noted the decision of the Co-ordinate Bench in the case of ITO Vs M/S Cygnus Developers India Pvt. Ltd. (IIA/282/Kol/2012) wherein the factual position was also similar to that of the case of the assessee.

Thus, we find that the facts have been examined by the Tribunal and the conclusion has been arrived at and therefore, no question of law, much less substantial questions of law, arises for consideration in this appeal.

Accordingly, the appeal is dismissed.”

8. Going over the discussion made above and considering the judicial pronouncements, we find no infirmity in the order of the ld. CIT(A) and the same is upheld as the ld. CIT(A) has discussed everything in his order and thereafter passed the impugned order in favour of the assessee considering the judicial precedents. Accordingly, the appeal of the revenue is dismissed.

9. In the result, the appeal of the revenue is dismissed.

Kolkata, the 2nd December, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 02.12.2025.

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