

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

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 3181/Del/2016 (AY 2011-12)

CYGNUS INFRABUILD PRIVATE LIMITED, QU-9A, LIG FLATS, PITAMPURA, DELHI – 110 034 (PAN: AAEC1802B)	Vs	ITO, WARD 3(4), NEW DELHI
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Tarandip Singh, Adv.
Respondent by	Ms. Harpreet Kaur Hansra, Sr. DR

Date of hearing:	12/1/2026
Date of Pronouncement:	21/1/2026

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is preferred against the order of the Commissioner of Income –Tax (Appeals)-2 New Delhi (in short “the Ld. CIT(A)) relevant to assessment year 2011-12.

2. The assessee has raised the following grounds in appeal:

1. Under the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the disallowances of INR.73,50,000/-

under section 68 of the Act, being aggregate amount of share capital & share premium received by the Appellant.

2. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the submission made by the appellant consisting of the confirmation along with the bank statements copies of return & other relevant documents of the companies for which the share application capital & share premium was rejected.
3. Under the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that the share applicants were genuine on the basis of un-confronted report of the inspector even though there was plethora of evidence to the contrary on record.
4. Under the facts and circumstances of the case and in law, the Ld. CIT(A) erred in enhancing the income of the appellant by INR 1,86,21,425/- on account of difference between alleged undisclosed receipts amounting to INR 1,96,01,500/- (as deducted from 26AS statement) & the additions made by the Ld. AO i.e.5% of such receipt amounting to INR 9,80,075/-.
5. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the submission made by the appellant highlighting the fact that the appellant has recorded the gross receipts in its books of accounts as per the bills/ invoices raised by it during the year. Further such contracts received & recorded have been wholly subcontracted to M/s Aravali Infrapower Limited (contract wise) & the appellant has not performed any such contracts on its own.
6. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the submission made by the appellant has requested the contractor i.e. PACL Ltd. to clarify the reason behind the mismatch between the amount of income as per its books of accounts & the amount paid as disclosed by such contractor in its TDS return. However the contractor has not provided any reply to the appellant.
7. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the submission made by the

appellant, to buy peace, requested the Ld. AO that a profit of 3% on such alleged undisclosed receipts may be added to its income. However, the Ld. AO made an addition of 5% of such undisclosed receipts.

8. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding the entire amount of the alleged undisclosed receipts as income of the appellant & making an enhancement of INR 1,86,21,425/-.

3. The brief facts of the case are that the assessee filed E-return of income dated 29-09-2011 declaring income of Rs. 5,43,358/-. The case of the assessee was selected for scrutiny through CASS. Statutory notice u/s 143(2) of the Income Tax Act 1961(in short "the Act") was issued to the assessee. In the response of the notice the authorized representative of the assessee Shri Mahender Kansal CA attended the proceedings and submitted the submission. The Assessing officer completed the assessment order and assessed the income at Rs.88,73,433/-, after making the addition of Rs. 9,80,075/- on the estimated income of 5% on its receipts and the unexplained share capital and share premium of Rs. 73,50,000/-.

4. Aggrieved the order of the AO the assessee preferred the appeal before the Ld. CIT(A), who vide his order dated 31-03-2016 dismissed the appeal. Being aggrieved the order of the Ld. CIT(A) the assessee is in appeal before the tribunal.

5. At the outset, it is submitted by the Ld. AR that Ld. CIT(A) has failed to appreciate the submissions made by the appellant consisting of the confirmations along with the bank statements, copies of returns and other relevant documents of the companies from which the share

application capital and share premium was received. He further submitted that Ld. CIT(A) also erred in holding that the share applicants were not genuine on the basis of un-confronted report of the Inspector even though there was plethora of evidence to the contrary on record, which is against the principle of natural justice. Hence, it was requested to remit back the issues to the file of the AO for fresh consideration with the directions to supply the copy of Inspector Report to controvert the same and thereafter the issues in dispute afresh, after giving adequate opportunity of being heard to the assessee, for which Ld. DR has no objection.

6. We have heard the rival contentions and perused the records. We find considerable cogency in the contention of the Ld. AR that Ld. CIT(A) erred in holding that the share applicants were not genuine on the basis of un-confronted report of the Inspector as the copy thereof was not supplied to the Assessee to enable him to controvert the same. This action of the lower authorities is against the principle of natural justice. In view of the aforesaid factual background and in the interest of justice, we deem it fit and proper to remit back the issues in dispute to the file of the Assessing Officer for its fresh adjudication, after giving adequate opportunity of being heard to the assessee. Assessee is also directed to fully cooperate with the AO during the proceedings.

7. In the result, the Assessee's appeal is allowed for statistical purposes

Order pronounced in the open court on 21-01-2026.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER
SR BHATNAGGAR

Sd/-

(SUDHIR KUMAR)
JUDICIAL MEMBER

Date:- 21.1.2026

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- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI