

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'A': NEW DELHI.**

**BEFORE SHRISATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2418/Del/2025
(Assessment Year: 2017-18)**

Colour Creation Pvt. Ltd.,
A-49, Naraina Industrial Area,
Phase-1, New Delhi-110028.
(PAN No. AAEECC0920A)

Vs. Assistant Commissioner of Income Tax
Circle 4(2), Central Revenue Building,
I P Estate, New Delhi-110002.

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Ajay Arora, Sr. DR

Date of Hearing : 10.11.2025

Date of Order : 21.01.2026

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

The assessee has filed appeal against the order of the Ld. Addl/JCIT-7, Mumbai dated 13.02.2025 for assessment year 2017-18, wherein the assessee has raised following grounds:-

"1. On the facts and circumstances of the case, the order passed by the learned CIT (Appeals) NFAC is bad, both in the eye of law and on the facts.

2. On the facts and circumstances of the case, learned CIT (Appeals) NFAC has erred both on facts and in law in passing the order without giving assessee a proper and adequate opportunity of being heard in clear violation of principle of natural justice.

3.(i). On the facts and circumstances of the case, the learned CIT (Appeals) NFAC has erred, both on facts and in law, in confirming the assessment order, assessing the loss of the assessee Rs. 11,10,00,840/- as against the returned loss of Rs. 11,13,22,840/-.

(ii) On the facts and circumstances of the case, the learned NFAC has erred, both on facts and in law, in confirming the additions made by Ld. AO amounting to Rs. 3,22,000/- ignoring fact of the case as well as submission of the assessee.

(iii) That the above disallowance and addition has been confirmed merely relying on the assessment order.

(iv) That the addition has been confirmed without any justification or report or enquiry from the Ld. AO.

4. The appellant craves leave to add, amend or alter any of the grounds of appeal.”

2. Brief facts of the case are that the assessee filed its return of income for assessment year 2017-18 on 27.10.2017 declaring loss of Rs. 13,22,837/- under normal provision, which was subsequently revised on 25.02.2018 and again on 18.11.2018 declaring the same result. The case was selected for scrutiny through CASS in ‘complete manner’ on the issue of quantitative details of relating to trading and finished goods are not submitted, large share premium received during the year (verify applicability of section 56(2)(viib) or any other relevant section, reduction in profit because of application of income computation & disclosure standers , opening written down value of fixed assets as per ITR of current year is greater than closing written down value of fixed assets as per ITR of preceding year and custom duty paid as shown in the ITR is less than the duty paid as per export import data. Accordingly, notices u/s 143(2) and 142(1) of the Act were served upon the assessee. In response, Ld. AR of the assessee submitted relevant information as called for. Since, the assessee has raised single issue of addition relating to share premium, we are restrict ourself to deal with the relevant facts bearing assessment proceedings, the

Assessing Officer issued show cause notice to the assessee to submit the relevant details of issue of shares alongwith share premium and relevant to the valuation report. In response, the assessee has submitted a copy of valuation report and audited balance sheet of the company as on 31.10.2016. The AO observed that the valuation of the equity share was valued at Rs. 24.77 per share, it was rounded off to Rs. 25 per share. The assessee was asked why the difference of Rs. 0.23 be disallowed and added back to the return of income under the provisions u/s 56(2)(viib) of the Act. In response, the assessee has submitted that the issue of equity share to existing shareholders at Rs. 25 per share after rounding of value of each share. It was further submitted that considering on other factors like know how, finance acquired by the company and moving experience of the director and the same license of business besides intangible assets like goodwill.

3. After considering the submission of the assessee, the Assessing Officer rejected the same and in view of the provisions of section 56(2)(viib) of the Act, observed that the exemption available is only to venture capital undertaking from a venture capital company or a venture capital fund or by a company which may be invoked by the Central Government u/s 56(2)(viib) of the Act. In this behalf, accordingly, he proceeded to make addition of Rs. 3,22,000/-.

4. Aggrieved with the above order, the assessee preferred an appeal before the Ld. Addl./JCIT(A)-7, Mumbai. The assessee has made similar submission

before the appellate authority and relied on various case laws, which are reproduced at para 3 of the appellate order. After considering the details of submission, Ld. CIT(A) dismissed the appeal filed by the assessee and sustained the findings of the Assessing Officer.

5. At the time of hearing, both counsels brought to our notice, relevant facts on record and brought to our notice findings of lower authorities.

6. Considered the rival submissions and material placed on record, we observed that the valuation of the shares of the company are carried on by registered valuer who has valued shares at Rs. 24.77 per shares. Based on the financials of the company and relying upon the said valuation report, the assessee has issued and allotted shares to its existing shareholder at Rs. 25 per shares. During assessment proceedings, the Assessing Officer observed rounding of the above share to Rs. 25 per share and was of the view that provisions of section 56(2)(viib) of the Act are applicable in this case. We observed that the assessee has issued shares to its existing shareholders and also based on the valuation report by the independent valuer. Since the shares were issued to its existing shareholders and the share premium was rounded to Rs. 15/- per share. Considering the other intangible benefits, the assessee has continued the business. Mere rounding off of the value of shares to the nearest denomination will not give any advantage to the company moreover the shares were issued to its own existing shareholders. Considering the factual matrix on record, in our

the provisions of section 56(2)(viib) of the Act is not applicable. Accordingly, the appeal filed by the assessee is allowed.

In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 21th day of January, 2026.

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

**Sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 21.01.2026

Santosh- Sr. PS

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**