

**IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member  
and Shri Ratnesh Nandan Sahay, Accountant Member**

**I.T.A. No.49/Ran/2024**  
Assessment Year: 2014-15

**Kameshwar Alloys And Steels Pvt. Ltd.....Appellant**  
128/3, Hazra Road,  
Bhawanipur, Kol-700026..  
[PAN: AADCK6558K]

vs.

**ACIT, CC-1, Ranchi.....Respondent**

**Appearances by:**

Shri Devesh Poddar, Adv., appeared on behalf of the appellant.  
Shri Md. Shadab Ahmed, DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 16, 2025

Date of pronouncing the order : January 14, 2026

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee is directed against the order of the CIT(A)-3, Patna (hereinafter referred to as "CIT(A)") dated 05.02.2024 passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. Brief facts of the case are that the assessee company, filed its return of income for the assessment year under consideration. The case was originally selected for scrutiny on the issue of share capital and share premium received during the year. The Assessing Officer completed the assessment ex parte under section 144 of the Income-tax Act, 1961, on the ground of alleged non-compliance, and made an addition of ₹2,00,00,000 being share capital and share premium received from various companies, treating the same as unexplained under section 68 of the Act. Subsequently, a search and seizure operation under

section 132(1) along with a survey under section 133A was conducted in the Devakibaivelji Group cases. Consequent thereto, notice under section 153A of the Act was issued to the assessee, in response to which the assessee filed its return declaring total income of ₹19,59,980. During the assessment proceedings under section 153A read with section 143(3), the Assessing Officer again examined the issue of share capital and share premium. According to the Assessing Officer, the directors of the investor companies failed to appear in compliance to summons u/s 131 of the Act and the Assessing Officer thereafter discussed the modus-operandi of these companies and after relying on the decision of Hon'ble Supreme Court in the case of Sumati Dayal vs. CIT [1995] 214 ITR 801 (SC) held that revenue authorities are also supposed to consider the surrounding circumstances and apply the test of human probability. The Assessing Officer held that there was no reason in issuing shares at a high premium and finally the Assessing Officer despite furnishing extensive documentary evidence by the assessee made an addition of ₹2,00,00,000 under section 68 of the Act as unexplained cash credit and also disallowed ₹14,182 towards penal expenses.

3. Aggrieved the order of the Assessing Officer, the assessee preferred an appeal before the CIT(A), where the Ld. Commissioner of Income-tax (Appeals) sustained the addition of ₹2,00,00,000.

4. Dissatisfied with the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

5. At the time of the hearing the Ld. AR stated that impugned order passed by the Ld. CIT(A) is bad in law. He stated that it is undisputed that during the year, the assessee issued shares of face value ₹10 at a

premium of ₹90 and received a total sum of ₹2 crore from the following investor companies:

Name of Investor Company	Amount (₹)	Net Worth	(%of Investment)
M/s Ankhe Commercial Pvt. Ltd.	20,00,000	5,81,50,611	3.43%
Baisakhi Commercial Pvt. Ltd.	20,00,000	5,22,45,404	3.82%
Bani Dealers Pvt. Ltd	20,00,000	1,59,20,123	12.56%
K&K Computrade Pvt. Ltd	20,00,000	5,45,23,107	3.66%
Life Wood Agencies Pvt. Ltd.	20,00,000	4,29,20,504	4.65%
M/s Man Pasand Agency Pvt. Ltd.	40,00,000	12,79,00,485	3.12%
M/s Mukta Commosale Pvt. Ltd	20,00,000	5,77,66,407	3.46%
M/s One Point Commercial Pvt. Ltd	20,00,000	5,82,47,680	3.43%
M/s One Stop Commosale Pvt. Ltd.	20,00,000	5,74,07,731	3.48%

5.1 The Ld. AR further submitted that during the assessment proceedings assessee had furnished audited financial statements of investor companies, Income-tax returns, Bank statements evidencing payments through banking channels, Share application forms and confirmations, Source letters and MCA master data showing that

all investor companies were active companies. Even, the Assessing Officer issued notices under section 133(6) of the Act to the investor companies, which were duly complied with in all cases except Manpasand Agency Pvt. Ltd., where non-compliance occurred only due to change of address. However, even the share applicant companies were active on the MCA portal as on the date of investment. It was further submitted that the net worth of all investor companies was substantial, and the investment in the assessee company ranged only between 3% to 4% of their net worth, except in one case. Therefore, the creditworthiness of the investors was fully established. He also states that the assessee also justified the share premium of ₹90 by demonstrating significant growth in turnover, reduction in borrowings, and improvement in business performance, as reflected in its audited accounts. The assessee made the following submissions:

- 1) *“That during the course of assessment proceedings, the details of the share applicants such as PAN, audited accounts, ITR, Bank Statement, Application & source letter etc as available was produced on behalf of the assessee. (The copies as readily available is attached herewith at Page 08 – 48)*
- 2) *That further the AO during the course of assessment proceedings had issued notice U/s 133(6) to the investor companies which was duly complied with except in the case of M/s Manpasand Agency Pvt Ltd wherein remark was made that the company has shifted from the address. However the fact remains that even as on date all these share applicant companies are active and there master data as per the MCA is attached herewith at Page 55 – 63.*
- 3) *That to discharge the onus casted upon the assessee in proving the 3 limbs, we had stated as below:-*

**Identity** – *The PAN of the investors are on record to justify their existence as per the IT Department. Further these companies are still active as per the MCA Portal making regular compliance and that even reply was made to the notice issued U/s 133(6). As such, the identity of the investors cannot be doubted.*

**Creditworthiness** – *The creditworthiness of the applicant companies can be seen from their audited balance sheet which is on record and attached herewith. Further from the table above, it can be seen that all the applicant companies had substantial net worth and that only about 3-4% of their total net worth was invested in the assessee company.*

*Lastly it is not the case that their investment stood only in the assessee company. Since the audited balance sheet of the applicant company reflects substantial net worth, the creditworthiness cannot be doubted alleging meagre income for the year under consideration.*

**Genuineness** – *The payment for the share application has been made through banking channel and duly reflected in the books of the assessee as well as of the share applicants. Moreover even reply was made to the notice issued U/s 133(6). Lastly to explain the genuineness of the transaction and the reason behind charging premium of Rs. 90/- we would like to place reliance upon the audited accounts of the assessee which is at Page 49 – 54 from which it can be seen that there is a substantial increase in the turnover of the assessee as compared to the previous year apart from reduction in long term borrowings, trade payables and other current liabilities. The book results of the assessee justify the need for raising the share capital which has a constructive impact in the business results. As such, the genuineness of the transaction and the rate of premium at Rs. 90 stands explained.*

- 4) *That from the reading of the assessment order it can be seen that the assessee had made compliances wherein the details of the share applicants and the bank account statement was on record to establish that the transactions have been done through banking channel. Moreover notice was issued U/s 133(6) which was also complied with. No adverse finding has been mentioned by the AO either on the documents submitted nu the assessee or the replies filed by the share applicants. There was no independent enquiry made by the AO with respect to the share applicants. Moreover no further enquiry was done by the Ld AO. As such, we would like to place reliance upon the decision of **Jurisdictional High Court in the case of PCIT Vs M/s Sidhi Vinayak Metcon Pvt Ltd in TA 39 of 2009 dated 05<sup>th</sup> April 2018** (Copy of the order is attached herewith at Page 64 – 66)*
- 5) *That further we would like to state that it is not a case of the revenue involving any investigation unit report or allegation pertaining to any bogus entity or statement of any entry operator or self rotation of cash. As a matter of fact, the share application money has been received from 9 companies, all of which is active even as on date on MCA and are making regular compliances.*
- 6) *That the case laws such as NRA Steel of Hon'ble Apex Court or other decisions of Hon'ble High Courts would not be applicable in case of the assessee to the extent that it is not the case that upon enquiry the whereabouts of the share applicants are not traced or the companies are inactive or that no compliance was made to notice issued U/s 133(6) and secondly that the 3 limbs of section 68 stands duly justified by the assessee with help of the documents attached herein and that no adverse comment has been made by the lower authorities on the same nor there is any link to show that the assessee has routed back its own unaccounted funds.*
- 7) *That to conclude, stating the above facts and the documents attached herewith, we would like to place reliance upon the following case laws:-*

- **Principal Commissioner of Income Tax v.Himachal Fibers Ltd - [2018] 98 taxmann.com 173 (SC) – SLP Dismissed –**

*Cash credit (Share capital) – In course of assessment, Assessing Officer noted that assessee was a sick company during relevant year but had nevertheless collected substantial amounts to extent of Rs. 12 crores invested by two share applicants - Assessing Officer took a view that identity of shareholders and genuineness of transaction had not been established and, accordingly, brought to tax said amount -Tribunal as well High Court found that even though assessee was a sick company earlier, yet it pulled out of woods in year 2010 - It was also noticed that identity of share applicants was clearly revealed but Assessing Officer did not conduct any enquiry except resting his conclusions on surmises - Accordingly, addition made by Assessing Officer was deleted - Whether on facts, SLP filed against order passed by High Court was to be dismissed - Held, yes [Para 2] [In favour of assessee]*

- **PCIT Panji Vs Paradise Inland Shipping Pvt Ltd – (2018) 93 Taxman 84 (SC) SLP Dismissed -**

***S. 68 Bogus share capital: Companies which invest share capital cannot be treated as bogus if they are registered and have been assessed. Once the assessee has produced documentary evidence to establish the existence of such companies, the burden shifts to the Revenue to establish their case. Reliance on statements of third parties who have not been subjected to cross examination is not permissible. Voluminous documents produced by the assessee cannot be discarded merely on the basis of statements of individuals contrary to such public documents.***

- **Income-tax Officer vs. Cornerstone Property Investments (P.) Ltd. [2024] 164 taxmann.com 464 (SC)[15-07-2024] –**

*SLP dismissed against order of High Court that where assessee allotted shares at premium to a company and assessee produced various documents including copies of investor's bank statements, copies of share certificates which showed that it had huge funds, and further, transfer of funds was made through bank, assessee had proved identity and creditworthiness of investor and genuineness of transactions and, thus, no addition under section 68 could be made on account of share premium received by assessee*

- **Principal Commissioner of Income Tax vs. Rohtak Chain Co. (P.) Ltd. [2019] 110 taxmann.com 59 (SC)[05-08-2019] –**

*High Court by impugned order held that issuing share at a premium is a commercial decision and it is prerogative of Board of Directors of a company to decide premium amount and it is wisdom of shareholder whether they want to subscribe shares at such a premium or not and, ultimately, this is a mutual*

*decision between both companies and their shareholders; thus, once genuineness, creditworthiness and identity of investors are established, revenue should not justifiably put itself in armchair of a businessman or in position of Board of Directors and assume role of ascertaining how much is a reasonable premium having regard to circumstances of case - Thus, it held that once genuineness, creditworthiness and identity of investors were established, no addition could be made as cash credit on ground that shares were issued at excess premium - Whether Special leave petition filed against impugned order was to be dismissed - Held, yes [Paras 51 and 53]*

- **Principal Commissioner of Income-tax vs. Central Plastics (P.) Ltd. [2025] 176 taxmann.com 472 (Delhi)[07-07-2025] –**

*8. The Assessee preferred an appeal against the aforementioned assessment order before the Commissioner of Income Tax (Appeals) [CIT(A)] which was allowed vide order dated 16.09.2016. The CIT(A) held that the Assessee had discharged the initial onus under Section 68 of the Act by providing sufficient documents including bank details of the share applicants, copies of the bank statements, copies of the income tax return of the investor companies and the data from the MCA website. The said data reflected that the investor companies were live companies. The investor companies were also assessed to income tax and their final accounts indicated that sufficient funds were available with them. Thus, they had the ability to make the investments.*

*That in view of the above mentioned facts, documents submitted and case laws relied upon, we submit that the addition made by the Ld AO and confirmed by the Ld CIT(A) by making an enhancement towards the share capital U/s 68 is unjustified and uncalled for since on behalf of the assessee, the 3 limbs of section 68 stands justified and there was absolutely no enquiry or verification done by the Ld AO towards the same.”*

6. On the other hand Ld. DR. supported the order of the authority below.

7. We after hearing the rival submission of the parties and perusing the material available on record, find that the assessment in the present case was completed under section 153A read with section 143(3) of the Act. It is an admitted position that the assessee furnished all primary evidences in support of share capital and share premium received. The identity of the investor companies stands established through PAN, MCA records, and statutory filings and the creditworthiness of the investor companies are supported by their audited balance sheets showing

substantial net worth and all the transactions were done through banking channels and confirmations were received. We note that no cogent material has been brought on record by the Assessing Officer to establish that the share capital represented the assessee's own unaccounted money and the investor companies were paper or shell entities and also no adverse inference has been drawn based on any investigation or statement. We find that while framing the assessment order, the Assessing Officer issued notice u/s 131 to the assessee to produce the directors of the share applicant companies but the directors did not appear which was only the basis of the said addition u/s 68 of the Act made by the Assessing Officer. We also find that in spite of non-appearance personally by the directors of the share applicant companies, the share applicant companies sufficiently complied to the notices by submitting the details such as PAN, audited accounts, ITR, Bank Statement. We further find that the Assessing Officer during the course of assessment proceedings had issued notice u/s 133(6) to the investor companies which was duly complied with except in the case of M/s Manpasand Agency Pvt Ltd wherein remark was made that the company has shifted from the address but it is not in dispute the fact that even as on date all these share applicant companies were active and there master data as per the MCA is evident from Pages 55 to 63 of the paper-book. We further note that the investor companies have good earnings and net worth and even the source of source was proved by the investing companies and the authorities below have not done any verification or conducted any enquiry into the evidences/documents filed by the assessee and merely harped on the non-compliance of summons issued u/s 131 of the Act. Even in case we accept the observation of the AO as to non-compliance of the summons u/s 131 of the Act by the assessee and also non productions of the directors of the investing companies

even then the AO cannot make addition on the sole basis of non-compliance. The case of the assessee find support from the decisions of various judicial forums including the decision of Hon'ble Supreme Court in the case of CIT Vs Orissa Corporation Ltd. in [1986] 159 ITR 78 (SC) wherein the Hon'ble Apex Court has held as under:

*“That in this case the respondent had given the names and addresses of the alleged creditors. It was in the knowledge of the Revenue that the said creditors were income-tax assesseees. Their index numbers were in the file of the Revenue. The Revenue, apart from issuing notices under Section 131 at the instance of the respondent, did not pursue the matter further. The Revenue did not examine the source of income of the said alleged creditors to find out whether they were creditworthy. There was no effort made to pursue the so-called alleged creditors. In those circumstances, the respondent could not do anything further. In the premises, if the Tribunal came to the conclusion that the respondent had discharged the burden that lay on it, then it could not be said that such a conclusion was unreasonable or perverse or based on no evidence. If the conclusion was based on some evidence on which a conclusion could be arrived at, no question of law as such arose. The High Court was right in refusing to state a case.”*

7.1 The case of the assessee is also squarely covered by the decisions of Hon'ble Calcutta High Court in the case of Crystal Networks Pvt. Ltd. vs. CIT (353 ITR 171 (Cal) wherein it has held that where all the evidences were filed by the assessee proving the identity and creditworthiness of the loan transactions , the fact that summon issued were returned unserved or no body complied with them is of little significance to prove the genuineness of the transactions and identity and creditworthiness of the creditors. The relevant portion of the decision is extracted below:

*“We find considerable force of the submissions of the learned Counsel for the appellant that the Tribunal has merely noticed that since the summons issued before assessment returned unserved and no one came forward to prove. Therefore it shall be assumed that the assessee failed to prove the existence of the creditors or for that matter creditworthiness. As rightly pointed out by the learned counsel that the Ld. CIT(A) has taken the trouble of examining of all other materials and documents viz., confirmatory statements, invoices, challans and*

*vouchers showing supply of bidi as against the advance. Therefore, the attendance of the witnesses pursuant to the summons issued in our view is not important. The important is to prove as to whether the said cash credit was received as against the future sale of the product of the assessee or note. When it was found by the Ld. CIT(A) on fact having examined the documents that the advance given by the creditors have been established the Tribunal should not have ignored this fact findings. Indeed the Tribunal did not really touch the aforesaid fact finding of the Ld. CIT(A) as rightly pointed out by the learned counsel. The Supreme Court has already stated as to what should be the duty of the learned Tribunal to decide in this situation. In the said judgment noted by us at page 463, the Supreme Court has observed as follows:*

*“The Income-Tax Appellate Tribunals performs a judicial function under the Indian Income-tax Act. It is invested with authority to determine finally all questions of fact. The Tribunal must, in deciding an appeal, consider with due care all the material facts and records its findings on all the contentions raised by the assessee and the Commissioner, in the light of the evidence and the relevant law.”*

*The Tribunal must, in deciding an appeal, consider with due care all the material facts and record its findings on all contentions raised by the assessee and the Commissioner, in the light of the evidence and the relevant law. It is also ruled in the said judgment at page 465 that if the Tribunal does not discharge the duty in the manner as above then it shall be assumed the judgment of the Tribunal suffers from manifest infirmity.*

*Taking inspiration from the Supreme Court observation we are constrained to hold in this matter that the Tribunal has not adjudicated upon the case of the assessee in the light of the evidence as found by the Ld. CIT(A). We also found no single word has been spared to up set the fact finding of the Ld. CIT(A) that there are materials to show the cash credit was received from various persons and supply as against cash credit also made. Hence, the judgment and order of the Tribunal is not sustainable. Accordingly, the same is set aside. We restore the judgment and order of the Ld. CIT(A). The appeal is allowed.”*

7.2. The case of is also covered by the decision of the coordinate bench in ITO Vs M/s Cygnus Developers India Pvt. Ltd. ((ITA No. 282/Kol/2012)) the operative part whereof is extracted below:

*“8. We have heard the submissions of the learned D.R, who relied on the order of AO. The learned counsel for the assessee relied on the order of Ld. CIT(A) and further drew our attention to the decision of Hon’ble Allahabad High Court in the case of CIT vs. Raj Kumar Agarwal vide ITA No.179/2008 dated 17.11.2009 wherein the Hon’ble Allahabad High Court took a view that non-production of the*

*director of a Public Limited Company which is regularly assessed to Income tax having PAN, on the ground that the identity of the investor is not proved cannot be sustained. Attention was also to the similar ruling of the ITAT Kolkata bench in the case of ITO vs. Devinder Singh Shant in ITA No. 208/Kol/2009 vide order dated 17.04.2009.*

*9. We have considered the rival submissions. We are of the view that order of Ld. CIT(A) does not call for any interference. It may be seen from the grounds of appeal raised by the revenue that the revenue disputed only the proof of identity of share holder. In this regard it is seen that for AY 2004-05 Shree Shyam Trexim Pvt. Ltd. was assessed by ITO, Ward-9(4), Kolkata and the order of assessment u/s 143(3) dated 25.01.2006 is placed in the paper book. Similarly Navalco Commodities Pvt. Ltd. was assessed to tax u/s 143(3) for ASSESSMENT YEAR 2005-06 by ITO, Ward-9(4), Kolkata by order dated 20.03.2007. Similarly Jewellock Trexim Pvt. Ltd. was assessed to tax for AY 2005-06 by the very same ITO, Ward-9(3), Kolkata assessing the assessee. In the light of the above factual position which is not disputed by the revenue, it cannot be said that the identity of the share applicants remained not proved by the assessee. The decision of the Hon'ble Allahabad High Court as well as ITAT, Kolkata Bench on which reliance was placed by the learned counsel for the assessee also supports the view that for non-production of directors of the investor company for examination by the AO it cannot be held that the identity of a limited company has not been established. For the reasons given above we uphold the order of Ld. CIT(A) and dismiss the appeal of the revenue.”*

7.3. Similar ratio has been laid down by the Hon'ble Mumbai High Court in the case of CIT Vs Orchid Industries (P) Ltd (397 ITR 136 (Bom) by holding that provisions of section 68 of the Act cannot be invoked for the reasons that the person has not appeared before the Assessing Officer where the assessee had produced on records documents to establish genuineness of the party such as PAN ,financial and bank statements showing share application money .

7.4 We have also considered the cited decision of Jurisdictional High Court in the case of PCIT Vs M/s Sidhi Vinayak Metcon Pvt Ltd (supra) wherein it has been held as follows:-

*“Having heard counsels appearing for both sides and looking to the facts and circumstances of the case, we see no reason to entertain this Tax Appeal mainly for the reason that the addition made by the Assessing Officer should not have*

*been made by him because amount received towards the share applications was by way of cheque. All the details regarding applicants were furnished by the assessee and Department could have issued notices to such applicants. Hence, there was no need for the Assessing Officer to make addition of Rs. 95,15,000/-.*

*It appears that before the Commissioner of Income Tax (Appeals) also such prayer could have been made by the Department for issuance of Notices upon share applicants. No such application was preferred before C.I.T. (Appeals) by this appellants. Hence, we see no reason at this stage to remand the matter to the Assessing Officer for further verification of share applications.*

*It appears that similar type of cases are coming to this court often and most of the time same type of error is committed by the Assessing Officers, either deliberately or due to "induced ignorance". This is not the first time such type of matter has been taken up by this Court It is now high time for the Commissioner, Income Tax to have orientation courses or induction courses conducted for the Assessing Officers to make them understand that whenever assessee receives any amount by cheque, there is a need for the Assessing Officer to give notice to the drawers of those cheques."*

7.5. In view of the above facts and following the ratio laid down by the various judicial forums, we hold that the assessee has successfully discharged the onus cast upon it under section 68 of the Act. Accordingly, the addition of ₹2,00,00,000 made under section 68 and sustained by the CIT(A) is deleted.

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

***Kolkata, the 14<sup>th</sup> January, 2026.***

Sd/-  
**[Ratnesh Nandan Sahay]**  
**Accountant Member**

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 14.01.2026.

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