

# आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, VP &  
SHRI ARUN KHODPIA, AM

I.T.A. No.4178/Mum/2024  
(Assessment Year: 2016-17)

<b>Stargaze Consulting Services Pvt. Ltd.,</b> B-401, Dipti Classic, Suren Road, Andheri (East), Mumbai - 400093 <b>PAN: AABCJ7605G</b>	Vs.	<b>ITO, Ward-6(3)(1),</b> Aayakar Bhavan, M.K. Road, Churchgate, Mumbai-400020.
<b>Assessee -अपीलार्थी / Appellant</b>	:	<b>Revenue - प्रत्यर्थी / Respondent</b>

**Assessee by** : Shri Kiran Mehta, CA

**Revenue by** : Shri Swapnil Choudhary, Sr. DR

**Date of Hearing** : 27.01.2026

**Date of Pronouncement** : 28.01.2026

## ORDER

### Per Arun Khodpia, AM:

This appeal is preferred by the assessee to challenge the order of Commissioner of Income Tax(Appeals) / National Faceless Appeal Centre (NFAC), Delhi dated 26.06.2024 for the Assessment Year (AY) 2016-17, which in turn arises from the assessment order passed u/s 143(3) of Income Tax Act, 1961 (for short “The Act”), dated 28/12/2018, by ITO, Ward-6(3)(1),

Mumbai (for short “the Ld. AO”). The grounds of appeal raised by the assessee are as under:

*“1. In the facts and circumstances of the case and in law, the learned CIT (A) erred in confirming addition of Rs. 4,51,84,025 made u/s 68 in being the amount received from IEP Management 1 Ltd, Mauritius who was one of the shareholders of the Appellant and had subscribed to 29,68,727 Equity shares of Rs. 10/- each of the Appellant issued at a premium of Rs. 5.22 per share in a rights issue.*

*2. In the facts and circumstances of the case and in law the learned CIT (A) erred in holding that the Appellant had not discharged the primary burden u/s 68,*

*3. In the facts and circumstances of the case and in law it is submitted that the Appellant had fully discharged the onus placed on it u/s 68 and hence the learned CIT(A) confirming the erred in impugned addition.”*

2. The brief facts of the case on record are that, the assessee is engaged in the business of providing Management Consultancy Services relating to investment in India or overseas. During the year under consideration, the assessee issued and allotted 29,68,727 equity shares by way of right issue to its existing shareholders and holding company namely “IEP Management Ltd., Mauritius” (IEPML), at a face value of Rs. 10/- and premium of Rs. 5.22 per equity shares, the total share subscription money including the premium worked out at Rs. 4,51,84,025/-. The ‘IEPML’ is a company incorporated in Mauritius holding 99.40% of the equity shares of “IEP Advisors Pvt. Ltd. (merged with the assessee-company as on 01.04.2016)”. The entire allotment of equity shares, detailed as above was subscribed by the ‘IEPML’ during the year. Based on aforesaid increase in share capital, the assessment of assessee was selected for scrutiny. The assessee filed its ITR on 30.09.2016 declaring

total income at Nil. During the assessment proceedings, the assessee was required to furnish details of increase in equity share capital under a prescribed format. The assessee vide reply dated 19.09.2018, has made submissions before the Id. AO. On perusal of the submission of assessee, it is observed by the Id. AO that the details furnished does not contain the Bank A/c of the Allottee / Investor company, also the details of Director of 'IEPML' and their address are not furnished. It is observed by the Id. AO that the reply of assessee was without any substance, as the documentary evidences to establish the creditworthiness of investors and genuineness of the transactions are not enclosed therewith. The assessee was accordingly show-caused to furnish documents in terms of provisions of section 68 of the Act to establish the creditworthiness of the Investors and genuineness of the transaction. However, the assessee remains non-compliant before the Id. AO. In such circumstances, the Id. AO concluded that the assessee failed in substantiating the creditworthiness of the investor and genuineness of the transaction, in absence of details and supporting documents to prove the same. Consequently, an addition of Rs. 4,51,84,025/- was made treating the amount received from the Investor/Holding Company i.e. 'IEPML', under section 68 of the Act.

3. Aggrieved with the aforesaid findings by the Id. AO, assessee preferred an appeal before the Id. CIT(A), however the contention and submissions

furnished were not found sufficient, therefore the Id. CIT(A) had dismissed the appeal of assessee with the following observations:

*“6. The AO made an addition of Rs. 4,51,84,025 under section 68, citing the failure of the appellant to prove the genuineness and creditworthiness of the transaction. The AO stated that no details were provided regarding the bank account of the allottee, the directors of IEP Management I Limited, and the share valuation report. The appellant provided substantial documentary evidence, including FIRCS, KYC documents, the Certificate of Good Standing, and compliance records with RBI and ROC, which establish the identity and creditworthiness of the investor. The appellant also submitted a Board Resolution for the allotment of shares and confirmed that all funds were received through regular banking channels, as certified by Kotak Mahindra Bank Ltd. The appellant's compliance with RBI and FDI regulations further supports the genuineness of the transaction.*

*The legal precedents cited by the appellant, particularly the decisions in CIT v. Lovely Exports (P.) Ltd. and Vodafone India Services Private Limited, support the view that once the identity of the shareholder and the genuineness of the transaction are established, no addition under section 68 can be made.*

*Section 68 of the Act applies when any sum is found credited in the books of an assessee and the explanation offered by the assessee about the nature and source of such credit is not satisfactory. In this case, the appellant has provided a satisfactory explanation, supported by independent documentary evidence, establishing the identity, creditworthiness, and genuineness of the transaction.*

*After considering the facts of the case, the submissions made by the appellant, the documentary evidence provided, and the relevant legal precedents, the following observations and conclusions are drawn:*

*While the appellant has submitted various documents to support the genuineness of the transaction, including FIRCs and KYC documents, the AO's observation that the appellant failed to furnish the bank account details of the allottee and the directors' details of IEP Management I Limited remains valid.*

*The absence of these crucial details casts doubt on the appellant's claim of genuineness.*

*The appellant did not provide any share valuation report or substantial justification for the high premium charged on the shares. The failure to justify the premium further supports the AO's decision to question the transaction's genuineness and creditworthiness.*

*While the appellant has cited several legal precedents, it is crucial to note that these precedents are applicable only when the primary burden of proving the identity, creditworthiness, and genuineness is satisfactorily discharged by the appellant. In this case, the appellant's failure to provide key details and justification undermines the applicability of these precedents. The AO's assessment and addition under section 68 are justified as the appellant did not satisfactorily explain the nature and source of the credit. The provided documents and explanations do not conclusively establish the creditworthiness and genuineness of the transaction.*

*In view of the above observations and conclusions, the addition of Rs. 4,51,84,025 made by the AO under section 68 of the Income-tax Act, 1961, is upheld and the appeal filed by appellant is hereby dismissed.*

*7. In the result, appeal of the assessee is dismissed.”*

4. Being dissatisfied with the aforesaid findings of Id. CIT(A) assessee preferred the present appeal before the ITAT.

5. At the outset, the Id. Counsel of the assessee submitted that the appeal of assessee has been dismissed by the Ld. CIT(A), on account of non-availability of certain evidences / documents, which the assessee has procured now and are furnished before the Tribunal as the additional evidence. It was the submission that the case of assessee was not considered favorably by the revenue

authorities, only on account of certain documents, which for the reasons beyond the control of assessee, could not be obtained at the time of proceedings before the authorities below, however the assessee is ready to furnish all such documents which are considered to be crucial documents for justification of creditworthiness of the Investor and genuineness of the transaction, a list of such documents along with the copy of the same are furnished before us in the Paper Book:

<b>SR NO</b>	<b>PARTICULARS</b>	<b>PAGE</b>
1	Copy of bank Statement of the Assessee reflecting receipt of Rights Proceedings	1
2	Copies of Bank Statements of IEP Management I Limited (investor company)	2-7
3	Copy of audited Financial Statements of IEP Management I Ltd (Investor Company) for FY ended 31/12/2015	8-32
4	Certificate of Foreign Inward Remittance from Kotak Bank	33-34
5	Letter dated 20/12/2015 from Assessee to Kotak bank	35-39
6	Submissions to CIT (A)	40-43
7	Balance Sheet and Profit and loss account of amalgamating company for FY Ended 31/3/2015	44-45
8	Balance Sheet and Profit and loss account of amalgamating company for FY: 2015-16	46-47
9	Balance Sheet and Profit and loss account of Assessee for FY 2015-16	48-49
10	Balance Sheet and Profit and loss account of assessee for FY 2016-17	50-51
11	List of shareholders and Directors	52-53

<b>12</b>	<b>FCGPR filed with the bank</b>	<b>54-65</b>
<b>13</b>	<b>Resolution for Allotment of Rights Shares</b>	<b>66-67</b>
<b>14</b>	<b>Certificate of good standing issued by Financial Services Commission, Mauratius</b>	<b>68-69</b>
<b>15</b>	<b>Letter dated 28/12/2018 addresses to the learned AO</b>	<b>70</b>

6. Referring to the aforesaid documents, it is submitted by Id. AR that papers at pages 2 to 7 (Sr. No. 2) & 8 to 32(Sr. No. 3) of the aforesaid Index are being filed for the first time before the Tribunal, with the request to admit such additional evidence for substantial justice. It was the prayer that all the necessary documents sought by the authorities are now available and furnished before the Tribunal, therefore the matter may be decided on merits.

7. Per contra, the Id. DR representing the revenue submitted that the assessee remained non-compliant before the revenue authorities, also the Id. AR of the assessee is unable to demonstrate any cogent reason for non-furnishing of such additional evidences first time before the tribunal, under such circumstances, the appeal of assessee is liable to be dismissed without admission of such additional evidences.

8. We have considered the rival submissions, perused the material available on record. Admittedly on perusal of the orders of revenue authorities, which are assailed before us, the addition was made by the Id. AO on account of non-furnishing of particular documents to satisfy the pre-condition of section 68 of the Act. Again, before the Id. CIT(A) the assessee had furnished certain

documents pertaining to the assessee's books of accounts, Bank A/c and foreign remittance received through banking channel, however was unable to furnish the documents of the holding company (IEPML), such as their bank statement and financials etc. It was the submission by Id. AR that due to some unavoidable circumstances such additional documents could not be obtained during the assessment and Appellate proceedings before the CIT(A), however such documents are now procured and furnished before the ITAT for consideration. Referring to the documents furnished before us, we find that these documents are categorically sought from the assessee by the Id. AO as well as by the Id. CIT(A) and if the same would be there before them, a logical conclusion can be drawn at in a justified manner. We thus in the interest of substantial justice, so as to decide the issue after examining the crucial documents first time furnished before us, which were never submitted by the assessee before the authorities below, are of the considered opinion that the matter should be set-aside to the file of Id. CIT(A) for fresh adjudication after considering the additional evidence, absence / non furnishing of which had mainly caused the dismissal of the appeal of assessee in the impugned order.

9. In backdrop of the aforesaid facts and circumstances, the matter is restored back to the file of Id. CIT(A) for fresh adjudication, after affording a reasonable opportunity of being heard to the assessee. Any further non-compliance or evasive approach by the assessee would entitle the Id. CIT(A) to decide the matter, in accordance with the mandate of law.

10. In result, the appeal of assessee is **allowed for statistical purposes**, in terms of our aforesaid observations.

*Order pronounced in the open court on 28-01-2026.*

**Sd/-**  
**(SAKTIJIT DEY)**  
**Vice-President**  
Mumbai, Dated : 28-01-2026.  
*\*SK, Sr. PS*

**Sd/-**  
**(ARUN KHODPIA)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**