

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE: SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 2004/Ahd/2025
(निर्धारण वर्ष / Assessment Year : 2014-15)

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| Indutch Composites Technology Private Limited Plot No.187/P/1B-1 GIDC, Next to Munjal Auto Industries Ltd., Vadodara , Gujarat – 391760 | बनाम/ Vs. | Deputy Commissioner Circle 1(1)(1), Vadodara |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCI2331P | | |
| (Appellant) | .. | (Respondent) |

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| अपीलार्थी ओर से /Appellant by : | Shri Nishit Shah, AR |
| प्रत्यर्थी की ओर से/Respondent by : | Shri C Dharani Nath, Sr.DR |

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| Date of Hearing | 05/02/2026 |
| Date of Pronouncement | 18/02/2026 |

(आदेश)/ORDER

PER ANNAPURNA GUPTA, AM:

The present appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), ADDL/JCIT (A)-1, Nashik (hereinafter referred to as “CIT(A)”), dated 28.08.2025 passed under Section 250 of the Income Tax Act,

1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2014-15.

2. The grounds of appeal raised by the assessee are as under:

- “1. *On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in confirming the addition of ₹48,24,711/- on account of alleged suppression of sales, without appreciating that the said income was duly recorded in the books of account, substantiated through ledger entries, reconciliations, and tally extracts, and that non-claiming of TDS due to its belated deposit cannot be the basis for presuming non-disclosure of income.*
2. *The learned CIT(A) erred in dismissing the documentary evidence placed on record -including customer ledger, Form 26AS extract, and sales ledger reconciliation insufficient, without pointing out any specific defects therein or allowing any opportunity to furnish further documents, thereby violating principles of natural justice.*
3. *On the facts and in law, the learned CIT(A) further erred in confirming the addition of Rs.60,95,145/- under section 56(2) (viib) by arbitrarily rejecting the Discounted Cash Flow (DCF) method of share valuation adopted by the appellant as per Rule 11UA, and in accepting the Assessing Officer's own EPS-based valuation method which is not prescribed under the law.*
4. *The learned CIT(A) failed to appreciate that the Assessing Officer was not legally empowered to substitute a prescribed valuation method with an unrecognized one, and further failed to direct the appellant to obtain an alternate report from a qualified valuer if the original report was found technically deficient.*
5. *The learned CIT(A) erred in confirming the addition under section 56(2) (vib) in respect of shares issued to non residents, despite clear documentary evidence including board resolutions indicating that a substantial portion of the shares were allotted to non-resident investors, to whom the said section was not applicable during the relevant assessment year*

6. *Without prejudice, the learned CIT(A) erred in sustaining the entire differential between issue price and AO-determined FMV as taxable under section 56(2) (vib), instead of restricting it to the excess over the face value, thereby misconstruing the scope and computation mechanism under the provision*
7. *The order passed by the learned CIT(A) is bad in law as it fails to consider the evidence submitted, denies the appellant the opportunity to furnish any clarifications or additional documentation, and upholds additions based on presumptions rather than conclusive findings.”*

3. At the outset it was stated that both the AO and the Ld. CIT(A) had passed orders arbitrarily, making and confirming additions made to the income of the assessee without applying their minds to the explanations, submissions and evidences filed by the assessee.

4. Taking up Ground Nos. 1 & 2 first Ld. Counsel for the assessee contended that both the grounds related to the issue of addition made to the income of the assessee of Rs.48,24,711/-. The impugned addition, he contended, was made finding TDS to have been deducted on the said amount from Form No.26AS, but, the assessee noted to have not recorded the said income for the purposes of computing its income liable to tax.

5. Drawing our attention to para 4 of the assessment order, Ld. Counsel for the assessee pointed out that the AO noted from Form 26AS that the total receipts of the assessee were to the tune of Rs.2,23,37,685/- as against which, nil income was declared by the assessee. However, the AO noted the assessee to have claimed

entire TDS credit of Rs.4,61,467/-. The assessee, he pointed out, stated that all income was included for the purposes of computing its taxable income explaining that TDS was deducted on income booked for transaction entered into with one Wind World (India) Ltd. and furnished copy of ledger account of the said entity also. The AO, however, found that the amount and date of each transaction in the ledger did not match with that of Form No.26AS. Further, on verification of the 26AS, he found the assessee to have claimed short TDS to the tune of Rs.96,494/- and accordingly, held that the assessee had suppressed income in relation to the said TDS, amounting to Rs.48,24,711/-. The said amount, accordingly, was added to the income of the assessee, which addition was confirmed by the Ld. CIT(A) for the same reasoning as by the AO.

6. Ld. Counsel for the assessee contended that before the AO, the assessee had explained that the credit of Rs.96,494/- related to Wind World (India) Ltd. who had deducted the said amount belatedly in November 2024 i.e. almost eight months after the financial year. The assessee contended that the corresponding income relating to the said TDS had been included in the impugned year itself but TDS claimed in the subsequent year since till the time of filing of return of income Wind World (India) Ltd. had neither deposited the TDS nor submitted its revised Form 26AS for the impugned year. He drew our attention to the

submissions in this regard reproduced at page 11 of the CIT(A)'s order.

7. Ld. Counsel for the assessee contended that the assessee had filed ledger account of Wind World (India) Ltd. highlighting the receipts generated from the said entity relating to the TDS of Rs.96,494/-. Before us, Ld. Counsel for the assessee submitted a chart reflecting the amounts of sales made to Wind World (India) Ltd. in the impugned year to which the TDS of Rs.96,494/- related to. He, therefore, contended that both the authorities below had not appreciated the explanation of the assessee duly supported and substantiated with evidences.

8. Ld. DR though supported the orders of the authorities below was unable to controvert the factual contention of the assessee that the explanation of the assessee of sales or income pertaining to TDS of Rs.96,494/- had been duly returned to tax in the impugned year itself, was not considered by the authorities below.

9. In the light of the same, since, it has been sufficiently demonstrated before us that both the AO and the CIT(A) have made the impugned addition of Rs.48,24,711/- without considering the explanation of the assessee, we consider it fit to restore the matter back to the AO to adjudicate afresh after giving due opportunity of hearing to the assessee.

10. Ground of appeal nos. 1 & 2 are allowed for statistical purposes.

11. Ground of appeal Nos. 3 to 6, it was contended related to the issue of addition made to the income of the assessee of Rs.60,95,145/- u/s.56(2)(viib) of the Act. The issue, it was contended related to the determination of the Fair Market Value ('FMV') of shares issued by the assessee during the impugned year. Ld. Counsel for the assessee contended that the order passed by the authorities below was in the contravention with the provisions of law, since, the assessee's valuation of shares was rejected without assigning any proper reasons and valuation was done by the AO on an arbitrary basis in contravention of the method prescribed by law.

12. Drawing our attention to the facts of the case from para 5 of the assessment order, Ld. Counsel for the assessee pointed out that the assessee had issued 406343 equity shares of Rs.10 each at a premium of Rs.10. The assessee submitted a valuation report demonstrating the valuation of the shares to be at FMV. However, the AO rejected the same noting that the Chartered Accountant who had determined the FMV was also Auditor of the assessee company. He pointed out that thereafter the AO went on to determine FMV of the share on the basis of earning per share ('EPS') and noting that EPS to be negative in the preceding year, but considering the future growth, he arbitrarily determined the

FMV at Rs.5 per share. The balance Rs.15 per share, being the value of shares issued in excess of its Fair Market Value, was accordingly, treated as 'income from other sources' under Section 56(2)(viib) of the Act. Accordingly, an addition of Rs.60,95,145/- (406343 shares @ Rs.15 per share) was made to the income of the assessee.

13. Ld. CIT(A), he contended, confirmed the order of the AO.

14. Ld. Counsel for the assessee contended before us that the order passed by the authorities below was not inconsonance with law and the authorities below had ignored the facts relating to the issue while making and confirming the addition. He contended that the majority of the shares issued during the year were issued to non-residents to whom the provisions of Section 56(2)(viib) of the Act were not applicable at all. He further contended that the rejection of assessee's valuation of the shares for the reason that it was done by the Chartered Accountant who was Auditor of the assessee company, was grossly unjustified, since, the law nowhere debarred the Auditor from submitting a valuation of the shares for the purposes of Section 56(2)(viib) of the Act read with Rule 11U/11UA of the IT Rules, 1962. He contended that what the Rules only prescribed was obtaining valuation from an Accountant. He further contended that even the valuation by the AO on the basis of EPS was incorrect since the law read with Income Tax Rules, 1962 provided for a prescribed method of

valuation for the same as per Rule 11UA of the IT Rules. The Ld. CIT(A), it was pointed, had agreed that the valuation done by the AO on the EPS basis was not as per prescribed method. He drew our attention to para 7.3.2 of the CIT(A)'s order finding so. He also drew our attention to the order of the Ld.CIT(A) rejecting assessee's argument of a large portion of shares being allotted to non-resident to which the provision of Section 56(2)(viib) of the Act did not apply. The Ld.CIT(A) rejected the said contention stating that the assessee had not submitted evidence to verify the money transferred by the foreign investor and that mere Board Resolution would not suffice.

15. He contended therefore that the addition was both made and confirmed without considering the facts of the case and the provision of law.

16. Having heard both the sides, we agree with the Ld. Counsel for the assessee that the issue of addition made to the income of the assessee invoking Section 56(2)(viib) of the Act has not been considered and dealt with properly by the authorities below. The AO has rejected the assessee's valuation and applied his own method for valuing shares which even the Ld. CIT(A) has noted to be not in accordance with law. The Ld. CIT(A) has also noted the assessee to have pleaded that a portion of the shares were issued to non-resident to whom Section 56(2)(viib) of the Act did not apply, but, rejected the same for want of sufficient evidence. In the interest of justice, we are of the view that the issue needs to be

considered afresh by the AO who is directed to consider all the submissions made by the Ld. Counsel for the assessee and, thereafter, adjudicate the issue in accordance with law after affording due opportunity of hearing to the assessee. In view of the above, grounds are allowed for statistical purposes.

17. In the result, appeal filed by the assessee is allowed for statistical purposes.

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| This Order pronounced on | 18/02/2026 |
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Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 18/02/2026

S. K. SINHA

True Copy

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad