

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRIPRADIP KUMAR CHOUBEY, JM**

**ITA No.2602/KOL/2025  
(Assessment Year: 2012-13)**

**Arun Distributors Pvt. Ltd.**  
12B, Cossipore Road, Cossipore,  
Kolkata-700002, West Bengal

**Vs.**

**ITO, Ward 7(1)**  
Aaykar Bhawan, P-7,  
Chowringhee Square,  
Kolkata-700069, West Bengal

**(Appellant)**

**(Respondent)**

**PAN No. AACCA1879Q**

**Assessee by** : Shri Anil Kochar, AR  
**Revenue by** : Shri Sanjib Kumar Paul, DR

**Date of hearing:** 20.01.2026  
**Date of pronouncement:** 26.02.2026

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 15.09.2025 for the AY 2012-13.

2. The issue raised in ground no.3 to 7 by the assessee is against the confirmation of addition by the Id. CIT (A) of ₹1,62,46,000/- as made by the Id. AO in respect share capital/ share premium.

2.1. The facts in brief are that the assessee filed the return of income on 11.09.2012, declaring total income of ₹24,05,093/-. The case of the assessee was selected for scrutiny under CASS and the notice u/s 143(2) and 142(2) of the Act along with questionnaire were issued and served upon the assessee. The assessee complied with the said

questionnaire by filing all the details comprising names, address, PAN, audited accounts, confirmation etc. of the subscribing entities. The assessee issued ₹1,62,460/- equity shares of ₹10 each at a premium of ₹90 thereby raising share capital of ₹1,62,46,000/- including share premium of ₹1,46,21,400/-. However, the Id. AO, without pointing out any defect or discrepancy in the documents filed by the assessee, treated the share capital/ share premium as unexplained cash credit and added to the income of the assessee in the assessment framed u/s 143(3) dated 10.02.2015. Besides making the addition u/s 14A read with section 8D of the IT Rules, 1962 of ₹18,64,282/-.

2.2. In the appellate proceedings, the Id. CIT (A) dismissed the appeal of the assessee after taking into consideration the reply/ submission of the assessee and after calling for the report from the Id. AO. The Id. CIT (A) noted that the assessee received share capital/ share premium of ₹1,62,46,000/- from sister concerns M/s Arun Distributors, a partnership firm in which the directors of the assessee companies were partners. Thereafter, the Id. CIT (A) noted that the assessee never argued that the Id. AO has not issued notice u/s 133(6) or 131 of the Act for independent verification of these transactions. The Id. CIT (A) referred the remand report dated 01.07.2025 and noted that the assessee had advanced substantial loans to the subscribers firm with an opening balance of ₹1,35,62,221/- and further, disbursement during the year ₹92,53,311/-. The Id. CIT (A) noted that thereafter the said firm subscribed the shares at huge premium of ₹90. The Id. CIT (A) also referred to the remand report wherein the Id. AO noted that the assessee deposited ₹20,24,000/- as cash in the bank account during the year and assessee has not filed any contemporaneous evidence

to prove the genuineness of the deposits and finally, the dismissed the appeal by holding that the assessee has failed to prove the three limbs of Section 68 of the Act.

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has filed before the Id. AO the names, addresses, copies of PAN ,bank account, audited accounts, confirmation from the subscriber which happened to be a partnership concern in which both the directors of the assessee company were partners. Therefore, the assessee raised this money by way of share capital/ share premium from the sister concern. We note that the Id. CIT(A) also called for remand report which was submitted by the Assessing Officer. The assessee has also filed reply to the said remand report. It was stated in the remand report that as noted by the Id. CIT(A) in para 8.3(i) that it is admitted that the assessee has advanced substantial money to this partnership firm in the earlier year amounting to ₹1,35,62,221/- and during the year as well of ₹92,52,311/-. The only basis for making the addition in the hands of the assessee is that the assessee has advanced money to this firm in the earlier year amounting to ₹1,35,62,221/- and during the year ₹92,52,311/-. We note that the Id. AO did not point out any defect or deficiency in the evidences furnished by the assessee nor did the Id. CIT (A). We also note that the Id. AO has not issued notice u/s 133(6) of the Act or summons u/s 131 of the Act in order to independently verify the transactions. Therefore, we cannot sustain the order of the Id. CIT (A) just upholding the order of Id. AO without any reasoning. If at all the addition was to be made , the AO could have proceeded against the subscriber whose details were filed by the assessee before the Assessing Officer. In view of these facts, we are in a position to sustain the order of the Id. CIT (A). The case of

the assessee is squarely covered by a series of decisions of the Kolkata High Court in case of PCIT Vs. Goodview Marketing P. Ltd. in ITAT/114/2025, GA/2/2025 vide order dated 3<sup>rd</sup> September, 2025, in case of PCIT vs. Kunjal Synergies Private Limited in ITAT/42/2025, IA No: GA/2/2025, in case of PCIT vs. M/s Jealous Commercial private Limited in ITAT/138/2025, IA No.GA/2/2025 vide order dated 28.10.2025, in case of ITAT/286/2024, IA No. GA/2/2025 vide order dated 17.07.2025, in case of PCIT Vs. True man Consultants Pvt. Ltd. in ITAT/203/2024, IA No.GA/I/2024, vide order dated 25<sup>th</sup> April, 2025, in case of PCIT vs. Atlantic Dealers Pvt. Ltd., ITAT/41/2024, IA No. GA/2/2024 vide order dated 03.05.2024. in case of PCIT Vs. Balaka Vinimay Private Limited, ITAT/131/2025, IA No.GA/1/2025, vide order dated 21<sup>st</sup> July, 2025, in case of PCIT Vs. M/s Devbhumi Vinimay Pvt. Ltd. in ITAT/16/2025, IA No.GA/2/2025, vide order dated 22<sup>nd</sup> July, 2025.

2.3.1. Consequently, we set aside the order of Id. CIT (A) on this issue and direct the Id. AO to delete the addition.

3. The second issue raised by the assessee in ground nos.8 & 9, is against the order of Id. CIT (A) upholding the addition of ₹18,64,282/- as made by the Id. AO u/s 14A read with Rule 8D of the IT Rules.

3.1. After hearing the rival contentions and perusing the materials available on record, we find that in this case the Id. AO made an addition u/s 14A of the Act by invoking Rule 8D of the IT Rules. We also note that during the year the assessee has not received any exempt income from the investments. The Id. AO referred to the Circular no.5/2014, dated 11.02.2014 by CBDT, wherein it was clarified that Rule 8D read with section 14A of the Act provides for

disallowance of expenditure even if assessee has not earned any exempt income. We note that the said order is affirmed by the Id. CIT (A). In our opinion, the issue is settled issue now that where there is no exempt income, no disallowance is called for. Consequently, we set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition.

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

Order pronounced in the open court on 26.02.2026.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 26.02.2026

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata