

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

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

**ITA No.193/KOL/2025  
(Assessment Year: 2012-13)**

**Chitrakoot Tradeline Private  
Limited**

C/o Agarwal Vishwanath &  
Associates,  
133/1/1A, S.N. Banerjee Road,  
Pushkal Bhawan, 3<sup>rd</sup> floor,  
Kolkata-700103, West Bengal

**(Appellant)**

**National Faceless Assessment  
Centre,**

2<sup>nd</sup> Floor, E-Ramp, Jawaharlal  
Nehru Road, New Delhi-110003

**Vs.**

**(Respondent)**

**PAN No. AABCC3130H**

**Assessee by** : S/Shri Deep Agarwal &  
Shubhankar Ghosh, ARs  
**Revenue by** : Shri Santanu Ghosh, DR

**Date of hearing:** 22.01.2026  
**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 25.11.2024 for the AY 2012-13.

2. At the time of hearing, the assessee raised additional ground which is extracted below:

*"1.That the assessment order passed under section 143(3) of the Income-tax Act, 1961 is bad in law and without jurisdiction and liable to be quashed, as all notices issued under section 142(1), the Show Cause Notice and the Assessment Order framed the basis of the impugned assessment were issued prior to 29.03.2022, i.e., before the CBDT Notification No. 18/2022 dated 29.03.2022 conferring jurisdiction upon the National Faceless Assessment Centre (NFAC) to conduct assessments under section 144B of the Act.*

- 2.1. After hearing the rival contentions and perusing the material on record, we find that the assessee has raised the above additional ground of appeal challenging the jurisdiction of the AO to make addition. In our opinion the issue raised in the additional ground is a purely a legal issue qua which all the facts are available in the appeal folder and no further verification of facts are required from any quarter whatsoever. In our considered view the assessee is at liberty to raise any legal issue before any appellate authority for the first time even when the same has not been raised before the lower authorities. The case of the assessee is squarely covered by the decisions of the Apex court in the case of i) Jute Corporation of India Ltd. Vs CIT in 187 ITR 688 , ii) National Thermal Power Co. Ltd v. CIT [1998] 229 ITR 383 and also by the decision of Hon'ble Calcutta High Court in PCIT vs. Britannia Industries Ltd. [2017] 396 ITR 677 (Cal). Therefore, we are inclined to admit the same for adjudication.
3. The facts in brief are that the assessee company is engaged in investment activities related to shares and securities. This is second round of appeal. Notices u/s 142(1) of the Act were issued on 13<sup>th</sup> and 20<sup>th</sup> August, 2021, which were not complied with. Hence, the AO made the addition of ₹2,95,60,000/- to the total income of the assessee.
4. In the appellate proceedings, the Id. CIT (A) confirmed the order of the Id. AO by observing and holding as under:-

*"5.3 The appellant disputes the addition of Rs. 2,95,60,000 under section 68, arguing that the share capital and share premium were genuine transactions backed by valid documentation. The appellant provided details of share allottees, including their PAN, audited financials, and evidence of filing income tax returns.*

The AO scrutinized the documentation and found significant discrepancies and inadequacies. The AO noted that the share capital was raised at a substantial premium, which was unjustified given the financial position of the company. The financial statements of the subscriber companies, as downloaded from the ROC, revealed that these entities had minimal operational income, casting doubt on their creditworthiness. The AO observed that the subscribers were likely shell companies used to route unaccounted money, relying on judicial precedents that emphasize the need for proving the identity, creditworthiness, and genuineness of transactions.

Under section 68, the onus lies on the assessee to establish three essential elements:

*Identity of the Creditors:* The appellant submitted details such as PAN and registration information for the share allottees. However, mere identification is insufficient if the entities lack substantial business operations or financial capacity.

*Creditworthiness of the Creditors:* The financial analysis of the subscriber companies showed negligible profits and insignificant business activities, undermining their financial capacity to make such substantial investments. The high reserve and surplus figures were inconsistent with their operational performance, reinforcing the AO's doubts about their creditworthiness.

*Genuineness of the Transactions:* The appellant's claim that the share premium was justified by potential future growth lacks documentary support. The valuation of shares appears arbitrary and not based on financial fundamentals or market conditions. Judicial precedents, such as those cited by the AO, support the view that the burden of proof remains with the assessee to substantiate such claims.

The appellant has failed to discharge the burden of proof under section 68. The AO's decision to treat the share capital and share premium as unexplained cash credits is justified, and the addition is upheld.

5.4 The appellant argues that section 68 should not apply as the share capital and premium were received through banking channels and supported by documentation. They also contend that there was no cash credit in the books, as the transactions involved consideration other than cash.

The AO highlighted that even though the funds were routed through banking channels, this does not automatically establish the genuineness of the transactions. The Supreme Court, in several rulings, has clarified that the mere availability of banking records does not suffice if the source and genuineness of funds remain dubious. The AO further noted that the share premium was disproportionately high, which could not be explained by the company's financial metrics.

The application of section 68 is justified in cases where there are significant doubts about the nature and source of funds, even if they are routed through banking channels. The appellant's inability to produce a credible valuation report or explain the basis for the high share premium undermines their argument. The AO's reliance on judicial precedents, which emphasize substance over form, is appropriate. The

*appellant's argument lacks merit, as the unexplained nature of the premium remains unsubstantiated. The addition under section 68 is therefore sustained.*

*5.5 The appellant asserts that the initiation of penalty proceedings under section 271(1)(c) is unjustified, as there was no concealment of income or furnishing of inaccurate particulars.*

*The initiation of penalty proceedings under section 271(1)(c) is a separate matter from the assessment itself. The AO initiated these proceedings based on the prima facie finding of unexplained cash credits. The outcome of these proceedings will depend on whether the appellant can satisfactorily prove that there was no deliberate attempt to evade taxes.*

*The initiation of penalty proceedings is procedural and justified at this stage. The merits of the penalty will be determined separately.*

*5.6 In view of the detailed discussions above, the following order is passed:*

*The addition of Rs. 2,95,60,000 under section 68 is confirmed, as the appellant has failed to discharge the burden of proof regarding the identity, creditworthiness, and genuineness of the share capital and share premium transactions.*

*The initiation of penalty proceedings under section 271(1)(c) is valid and will be adjudicated separately.*

*The appeal is dismissed. The assessment 5.7 stands confirmed."*

5. After hearing the rival contentions and perusing the materials available on record, we find that the assessment has been framed by the National Faceless Assessment Centre vide order dated 14.03.2022, which in our opinion, is without jurisdiction as the Provisions of Section 151A of the Act which provides for faceless assessment were notified on 29.03.2022 vide notification no. 18/2022/F. No. 370142/16/2022-TPL(Part) though the same were brought on statute book by the Taxation and Other Law (realization and amendment of certain provisions) Act, 2020 with effect from 01.11.2020. Considering these facts, the assessment framed by the National Faceless Appeal Centre is null and void as the same is without jurisdiction and cannot be sustained. The case of the assessee find support from the decision of the co-ordinate Bench in case MD Mahimud SK Vs ITO ITA No. 2230 & 2229/Kol/2024 order

dated 4.3.2025. Similarly, the Telangana High Court in case of Kankanala Ravindra Reddy vs. Income-tax Officer [2023] 156 taxmann.com 178 (TELANGANA)/[2023] 295 Taxman 652 (TELANGANA)[14-09-2023], Hon'ble Jurisdictional High Court in case of Triton Overseas (P.) Ltd. vs. Union of India [2023] 156 taxmann.com 318 (Calcutta)[13-09-2023] and Bombay High Court in Samp Furniture (P.) Ltd. vs. Income-tax Officer [2025] 477 ITR 187 (Bombay)[05-08-2024] decided the issue in favour of the assessee.

5.1. Therefore, respectfully following the above decisions , we quash the assessment framed by the AO/NFAC.

6. 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