

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.130/RPR/2026

निर्धारण वर्ष / Assessment Year : 2014-15

The Joint Commissioner of Income Tax (OSD),
Circle-1(1), Raipur (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Platinum World Hospitality Private Limited
Nayan Tara, Opportunity. C.M. House,
Civil Lines, Raipur (C.G.)-492 001
PAN: AAFCP6488B

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 10.03.2026

घोषणा की तारीख / Date of Pronouncement : 10.03.2026

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM

The present appeal preferred by the Revenue emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 12.12.2025 for the assessment year 2014-15 as per the grounds of appeal on record.

2. The brief facts in this case are as follows:

“3.1 The appellant is engaged in the business of operating a hotel. During the relevant previous year, the appellant issued 7,60,000 equity shares of Rs.10 each, which were partly paid to the extent of Rs.2 per share. Out of these, 4,95,000 shares were allotted to M/s.Aravali Highrise Pvt. Ltd., Kolkata, for a total consideration of Rs.45,00,000 including share premium.

3.2 In support of the share capital received, the appellant furnished a comprehensive set of documents, including the share application form, the allotment resolution, and the board resolution of the investor company. The appellant also produced the share certificates issued, the Permanent Account Number of the investor, its Certificate of Incorporation, Memorandum and Articles of Association, audited financial statements, and income-tax returns. Further, the appellant submitted the bank statements evidencing the receipt of funds, a confirmation letter from the investor, proof of having sent annual reports to the investor, an affidavit from the investor company affirming the transaction, the relevant ledger accounts, and a detailed explanation of the "source of the source," which showed that the investor had liquidated earlier investments to fund the subscription.

3.3 Despite the extensive documentation produced, the Assessing Officer held that the investor company had low income and therefore lacked creditworthiness, and consequently treated the sum of Rs.45,00,000 received from the investor as unexplained cash credit under section 68 of the Income-tax Act.”

3. In this background, the Ld. CIT(Appeals)/NFAC has held and observed as follows:

“4. Issues for Determination

The primary question for consideration is:

Whether the appellant has satisfactorily established the identity, creditworthiness and genuineness of the share capital/share premium received from M/s Aravali Highrise Pvt. Ltd. so as to avoid addition under Section 68 of the Act?

5. Discussion and Findings

5.1 Legal Requirements under Section 68

Section 68 requires an appellant to satisfactorily explain the nature and source of any credit appearing in its books, and judicial interpretation has consistently held that such explanation must establish (i) the identity of the creditor, (ii) the creditworthiness of the creditor, and (iii) the genuineness of the transaction. Further, by virtue of the proviso to Section 68 inserted w.e.f. 01.04.2013, a closely-held company is also required to establish the "source of the source" in respect of share capital or share premium received. In the present case, the appellant has furnished complete documentary evidence including the corporate records, income-tax returns, bank statements and investment schedules of M/s Aravali Highrise Pvt. Ltd., thereby explaining not only the nature and source of the funds but also demonstrating that the investment was made out of amounts realized on liquidation of earlier investments. Hence, the appellant has discharged the statutory onus under both the main section as well as the proviso to Section 68.

5.2 Identity of the Investor

The identity of M/s Aravali Highrise Pvt. Ltd. stands clearly established since the entity is a duly incorporated company under the Companies Act, holds a valid PAN, files regular income-tax returns, and has furnished copies of its Certificate of Incorporation, Memorandum and Articles of Association, audited financial statements and bank statements. The Hon'ble Supreme Court in CIT v. Lovely

Exports (P) Ltd. (2008) 216 CTR 195 (SC) has held that once the identity of a share applicant is established, the share capital cannot be treated as unexplained in the hands of the recipient company, and that the Assessing Officer is free to proceed against the investor if he has any doubt. Similarly, the Hon'ble Calcutta High Court in CIT v. Dataware Pvt. Ltd. (ITA 263/2011) held that when the appellant furnishes PAN and income-tax particulars of the investor, the Assessing Officer cannot dispute its existence.

5.3 Creditworthiness of the Investor

The Assessing Officer rejected creditworthiness solely on the ground that the investor company had relatively low profits in the relevant year. However, creditworthiness is not determined by annual profits alone; instead, it requires examination of the net worth, accumulated reserves, investment portfolio, and the capacity of the investor to mobilize funds. The appellant has demonstrated, through duly audited financial statements and bank statements, that the investor possessed sufficient capital and reserves accumulated over earlier years and that it liquidated existing investments to make the impugned investment. In CIT v. Kamdhenu Steel & Alloys Ltd. (Del HC), the Court held that low income does not negate creditworthiness if the investor's financial statements show adequate funds. Similarly, in CIT v. Vrindavan Farms Pvt. Ltd. (Del HC), it was held that once bank statements and financial records demonstrate availability of funds, creditworthiness stands established. The Full Bench decision in CIT v. Sophia Finance Ltd. (205 ITR 98) further clarifies that even where the shareholder shows modest income, the addition cannot be made if the investor's financial capacity is appropriately supported by documentary evidence. Applying these judicially settled principles, the creditworthiness of the investor is duly proved.

5.4 Genuineness of the Transaction

The genuineness of the transaction is also fully established. The funds were received through proper banking channels, duly reflected in the books of both the appellant and the investor company, and supported by confirmation letters, board resolutions, share certificates, and ROC filings. The bank trail remains unquestioned by the Assessing Officer. The Hon'ble Delhi High Court in CIT v. Oasis Hospitality Pvt. Ltd. held that banking transactions, share application forms

and statutory records are adequate to prove genuineness of a share capital transaction. The ITAT Mumbai in Green Infra Ltd. v. ITO held that the valuation and share premium charged are commercial decisions of the management and cannot be questioned by the Revenue unless the specific anti-abuse provisions of section 56(2)(viib) apply, which is not the case here. Furthermore, the Supreme Court in Standard Vacuum Oil Co. (59 ITR 685) affirmed that share premium is a capital receipt not chargeable to tax. Thus, the transaction is genuine in law as well as in fact.

5.5 AO's Reliance on Suspicion

The Assessing Officer has proceeded merely on suspicion, principally because the investor's income was low and the share premium appeared excessive to him. However, suspicion, however strong, cannot replace evidence. The Supreme Court in Umacharan Shaw & Bros v. CIT (37 ITR 271) held that conjectures and surmises cannot take the place of legal proof. Likewise, in CIT v. P.K. Noorjahan (231 ITR 570), it was held that the Assessing Officer must base conclusions on cogent material and cannot draw adverse inference purely on suspicion. In the present case, the Assessing Officer has brought no adverse evidence to rebut the detailed documents submitted by the appellant. Hence, the addition cannot be sustained on mere suspicion.

5.6 Failure of the AO to Conduct Proper Enquiry

The appellant specifically requested the Assessing Officer to summon the directors of both the appellant company and the investor company for verification. Nonetheless, no summons under section 131 and enquiries under section 133(6) were issued by the Assessing Officer. The Supreme Court in CIT v. Orissa Corporation (159 ITR 78) held that where the appellant provides complete details and the Assessing Officer fails to pursue further enquiry, the addition under section 68 cannot be justified. In the present case, the Assessing Officer's failure to conduct proper enquiry amounts to a violation of principles of natural justice.

6. Considering the evidences furnished and the judicial precedents discussed above, it is clear that the appellant has satisfactorily established the identity of the investor, its creditworthiness based on financial statements and bank records, the genuineness of the transaction through banking documents and statutory filings, and has also explained the

source of the source as required under the amended Section 68. The Assessing Officer has not produced any substantive material to contradict the appellant's submissions. The addition made is therefore based solely on conjectures, suspicion and incorrect application of law. Accordingly, the addition of Rs.45,00,000 made under Section 68 is hereby deleted.

7. In the result appeal filed by the appellant is allowed.”

4. At the time of hearing, none appeared for the assessee. The submissions of the Ld. Sr. DR were recorded and the matter is heard on merits. The Ld. Sr. DR supported the findings of the A.O.

5. I have carefully considered the documents on record and submissions of the Ld. Sr. DR. I do not find any infirmity in the findings of the Ld. CIT(Appeals)/NFAC since the order of the said authority is well reasoned and backed by examination of various documents which it had enumerated in its findings and therefore, there is no reason to interfere with the findings of the First Appellate Authority which is upheld.

6. As per the above terms, grounds of appeal of the Revenue are dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in open court on 10th day of March, 2026.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 10th March, 2026.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur