

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं सुश्री पदमावती यस, लेखक सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
MS. PADMAVATHY.S, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2005/Chny/2025
निर्धारण वर्ष /Assessment Year: 2016-17

I Love Diamonds Pvt. Ltd.,
No.1, Ganeshpura 3rd Street,
Cenatoph Road, Teynampet,
Chennai – 600 018.
PAN: AADCI 2948H

Vs. The Asst. Commissioner of Income
Tax,
Corporate Circle-2,
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. D. Anand, Advocate
: Mr. R. Anitha, Addl. CIT

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of Pronouncement

: 11.02.2026
: 09.03.2026

आदेश / ORDER

PER PADMAVATHY.S, A.M:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi, (in short "CIT(A)") passed u/s. 250 of the Income Tax Act, 1961 (in short "the Act") dated 20.05.2025 for Assessment Year (AY) 2016-17. The assessee raised the following ground of appeal:

"1. Addition under Section 68 of the Income Tax Act, 1961 (Rs. 6,50,00,000/-):

The learned CIT(A) erred in upholding the addition of Rs. 6,50,00,000/- under Section 68 of the Act, disregarding the fact that the Appellant had satisfactorily explained the identity of the investor (Mr. Anil Jain) and

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the genuineness of the transactions, with funds received through banking channels.

The learned CIT(A) erred in confirming the addition without adequately considering the detailed explanations and documents provided by the Appellant regarding the source of funds, which were loans from M/s. Sherisha Technologies Private Limited and M/s. Refex Industries Limited.

The learned CIT(A) failed to appreciate that the AO's findings regarding the creditworthiness of the investor and the genuineness of transactions were based on surmises and conjectures, particularly concerning the alleged "circular movement of funds" and "accommodation entries," without providing concrete evidence to the Appellant for rebuttal.

2. Violation of Principles of Natural Justice (Denial of Cross-Examination):

The learned CIT(A) erred in upholding the AO's action of recording the sworn statement of Mr. Anil Jain under Section 131 of the Act without providing the Appellant an opportunity to be present during the recording or to cross-examine the said witness, thereby violating the fundamental principles of natural justice.

The learned CIT(A) failed to appreciate that the denial of cross-examination of a crucial witness, whose statement formed the basis of the addition, rendered the assessment order unsustainable in law.

3. Disallowance of Bad Debts (Rs. 2,50,000/-):

The learned CIT(A) erred in upholding the disallowance of Rs. 2,50,000/- claimed as bad debts, without properly appreciating that the amount was genuinely irrecoverable and written off in the books of accounts.

The learned CIT(A) failed to consider the commercial expediency of the loan and its connection to the Appellant's business, despite the AO's erroneous interpretation of Section 37 and the requirement of prior income recognition.

4. Non-Consideration of Set-Off of Current Year and Brought Forward Losses:

The learned CIT(A) erred in upholding the AO's action of not allowing the set-off of current year losses and brought forward losses, which the Appellant was legally entitled to, thereby resulting in an inflated taxable income.

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The learned CIT(A) failed to direct the AO to correctly compute the taxable income after allowing the legitimate set-off of losses as per the provisions of the Act.

It is, therefore, most humbly prayed that the Hon'ble Income Tax Appellate Tribunal may be pleased to:

- 1. Delete the addition of Rs. 6,50,00,000/- made under Section 68 of the Income Tax Act, 1961.*
- 2. Delete the disallowance of Rs. 2,50,000/- made on account of bad debts.*
- 3. Direct the Assessing Officer to allow the set-off of current year losses and brought forward losses.*
- 4. Quash the initiation of penalty proceedings under Section 271(1)(c) of the Act.*
- 5. Grant any other relief(s) as deemed fit and proper in the facts and circumstances of the case.”*

2. The assessee is a private limited company and is engaged in the business of online trading of light weight diamond jewellery. The assessee filed a return of income for AY 2016-17 on 12.10.2016 admitting a loss of Rs.4,46,07,511/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The A.O noticed that the assessee has received share capital and premium to the tune of Rs. 10,92,00,000/- during the year under consideration. The A.O further noticed that investment to the tune of Rs. 1,65,00,000/- by one of the shareholders Shri Anil Jain's was immediately preceded by a credit entry from the assessee company itself. Accordingly, the A.O called on further details pertaining to amount invested by Shri Anil Jain. The A.O also summoned Shri Anil Jain and recorded his statements. After considering details submitted and the statement recorded, the A.O concluded that the amount invested by Shri Anil Jain trails back to chain of movement of funds across various entities and therefore, not genuine.

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Accordingly, the A.O added a sum of Rs. 6.5 Crores received from Anil Jain as unexplained u/s. 68 of the Act. The A.O also disallowed a sum of Rs. 2,50,000/- claimed under the head provision for bad debts. Aggrieved, the assessee filed further appeal before the CIT(A), who confirmed the addition made by the A.O.

3. The Ld. Authorized Representative (AR), at the outset, submitted that the finding of the A.O stating that Shri Anil Jain is a Director in assessee company is factually incorrect. The Ld. AR further submitted that the transaction of Rs. 1.65 Crores which is doubted by the A.O at the initial point of enquiry was a transaction of loan borrowed and returned by the assessee immediately since Shri Anil Jain agreed to invest through purchase of shares. The Ld. AR also submitted that the assessee has explained the source of Shri Anil Jain which is in the form of loan taken from M/s. Sherisha Technologies and from M/s. Reflects Industries Ltd. The Ld. AR further submitted that the assessee has also submitted the financial statements of the above two companies to substantiate the source of source. The Ld. AR argued that the A.O has made the addition in the hands of the assessee by trailing the financial statements of M/s. Sherisha Technologies and M/s. Reflects Industries Ltd to hold that the source for these companies to lend money to Mr.Anil Jain was not properly substantiated. The ld AR also submitted that it is not the onus of the assessee to substantiate the source of source of source and that the assessee has discharged the onus of proving the source. Accordingly it was argued that the addition made in the hands of the assessee cannot be sustained.

4. The Ld. Departmental Representative (DR), on the other hand, argued that the amount reflected as investment in the books of Shri Anil Jain does not

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match with the amount of share capital premium as reflected in the assessee's books. The Ld. D.R further drew our attention to the findings of the A.O, where he has established the entire flow of funds (page 19 of AO's order) to submit that the unexplained money is routed through layered transactions and therefore, the A.O has rightly made addition u/s. 68 of the Act.

5. We have heard the parties and perused the materials available on record. During the year under consideration, the assessee received money towards share capital and share premium and the AO called on the assessee to furnish details pertaining to the same. Based on the details furnished by the assessee, the AO traced the chain of alleged bogus transaction and accordingly held that the amount received by the assessee from Shri Anil Jain as non-genuine to make an addition u/s.68 of the Act. The contention of the assessee is that the assessee has discharged the onus of proving the identity, credit worthiness and the genuineness of the transaction and therefore no addition can be made u/s.68 of the Act. The revenue's argument is that the AO has clearly established that the funds are rotated through chain of non-genuine transactions and therefore the genuineness of the receipts in the hands of the assessee is rightly questioned. We notice from the perusal of the AO's order that the assessee has furnished the details pertaining to share capital/premium receipt before the AO which included the impugned receipts from Shri Anil Jain. We further notice that the assessee has furnished the details pertaining to Shri Anil Jain such as his ITR, PAN, bank statements, confirmation etc. We also notice that the AO has summoned Shri Anil Jain and in the statement recorded the details of source of funds in the hands of Shri Anil Jain was questioned and explained. In other words, the details of source for the money received in the hands of the assessee i.e. from Shri Anil Jain was explained

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and also the source of source i.e. source in the hands of Shri Anil Jain was also substantiated. The AO it is noticed that has gone step further to examine the source of the parties who have given the loan to Shri Anil Jain and has recorded a finding that the 2nd and 3rd layer of the transaction chain was not properly explained by the assessee (refer para 7.3 page 24 of AO's order). The Id AR during the course of hearing drew our attention to the financial statements of M/s. Sherisha Technologies to submit that the amount loaned to Shri Anil Jain is reflecting in the financial statements and argued that the assessee has explained the source of source of source even when the law requires only source of source to explained. We further notice from the perusal of the order of the AO that all the findings pertain to tracing the various layers of the transaction. The AO has not recorded anything adverse against the assessee except that Shri Anil Jain who has invested in Assessee Company is allegedly involved in providing accommodation entry. Then, the proper course would be to take action against Shri Anil Jain. We also notice that in the statement recorded from Shri Anil Jain, he has not said anything against the assessee and has explained the source of funds using which he has invested in the assessee company. It is noticed that the source in the hands of Shri Anil Jain is explained to be from the sale of shares to the tune of Rs.10.19 crores and the gain on the said transaction was offered to tax as stated in the AO's order. The reason as stated in AO's order is that the assessee has layered the fund flow through shell companies and that the assessee could not furnish any explanation with regard to the financial status/strength of the said shell companies. From the facts and circumstances as stated herein above it is clear the ground on which the AO has made the addition is that the assessee has not been able to substantiate the flow of funds in the entire chain of alleged layered transactions. However it is noticed that

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the allegation that it is the assessee that has used its own funds for layering is not supported by any material / evidences and that the AO has not brought anything on record in this regard. In our considered view, the assessee has discharged the burden cast on it by proving the nature and source of share capital premium by providing the relevant details with regard to the receipt of share capital / share premium and has also submitted the relevant documentary evidences in this connection which has not been rebutted. No infirmity has been pointed out by the A.O to discard it. Therefore impugned addition u/s.68 cannot be sustained. Accordingly we direct the AO to delete the addition made in this regard. Ground No.2 & 3 are allowed.

6. Ground No.3 pertains to disallowance of bad debts. During the course of hearing, both the parties did not present any arguments in this regard. Therefore the said ground is dismissed.

7. Ground No.4 pertains to set off of current year and brought forward losses. In this regard we direct the AO to examine the claim of the assessee and allow the same in accordance with law. Needless to say that the assessee be given an opportunity of being heard. It is ordered accordingly.

8. In result the appeal of the assessee is partly allowed.

Order pronounced on 09th day of March, 2026 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY. T. Varkey)

न्यायिक सदस्य / Judicial Member

Sd/-
(पदमावती यस)
(Padmavathy.S)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 09th March, 2026.

EDN, Sr. P.S

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF