

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

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:2134/Chny/2025

निर्धारण वर्ष / **Assessment Year: 2015-16**

DCIT, Central Circle -1(2), Chennai.	vs.	Whitelotus Solar Private Limited, (Studio-N), SY No.70, Narne Nagar, Beside Lanco Hills, Manikonda, Hyderabad – 500 089. Telangana.
(अपीलार्थी/Appellant)		[PAN:AABCW-4598-D] (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Bipin C.N., C.I.T.

प्रत्यर्थी की ओर से/Respondent by : Ms. Vinita Shah, C.A. (by Virtual)

सुनवाई की तारीख/Date of Hearing : 22.01.2026

घोषणा की तारीख/Date of Pronouncement : 11.03.2026

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

This appeal by the revenue is filed against the order of the learned Commissioner of Income Tax, Appeal, CIT(A), Chennai -18 (in short "ld.CIT(A)"), for the assessment year 2015-16, dated 02.05.2025 against the order of the Assessing officer u/s.153A r.w.s. 143(3) of the Income Tax Act, 1961 (in short "the Act") dated 30.09.2021.

2. The revenue has raised the following grounds of appeal:

(i) *The Ld.CIT(A) has erred by deciding the appeal of the assessee based on an earlier order of the Ld.CIT(A)-5 Hyderabad dated 14.06.2018 and not on the basis of merits of the case.*

(ii) The Ld.CIT(A) has failed to appreciate that the assessee and its group concerns were searched during the year 2019 while the appeal order of CIT(A)-5, Hyderabad was passed in the year 2018 and therefore would not have captured the information unearthed during the search conducted on the assessee and group concerns and related individuals.

(iii) The Ld.CIT(A) has erred while stating that there is no change in facts and circumstances of the case as it was during the passing of order by the CIT(A) on the original assessment under 143(3), while the assessment order u/s.153A clearly bring out the modus followed by the assessee to bring in unaccounted cash generated by related group concerns/individuals.

(iv) The Ld.CIT(A) failed to consider that in the assessment order u/s 143(3) the AO has raised the issue that in Form PAS-03 of RoC the assessee company has stated that consideration for allotment of shares is against cash which confirms with the modus of the assessee, unearthed during search operation, to introduce unaccounted cash as unsecured loans/issue of shares.

For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.

3. The brief facts of the case emanating from the records are that the Search and Seizure operation u/s.132 of the Act was carried out at residential/business premises in the cases of M/s.Golden Shelters Private Ltd, NKV Krishna Group on 16.10.2019. During the course of search, statements of Mr. NKV Krishna and Mr. Saravana Kumar was recorded on 19.10.2019 and 24.10.2019. Based on the statement, Annexure I, II, and III were compiled on the basis of pen drive found and seized vide ANN/KP/BNC/ED/S1-(3) on 17.10.2019 from the residence of Shri Badri Narayan Kota, wherein details of unaccounted cash introduced in the group companies as unsecured loans/share application money was worked out.

4. The assessee is a group company of NKV Krishna Group, engaged in the business of generating power either by Hydro, Thermal, gas, diesel oil or through renewable energy sources. The assessee filed its return of income for the Assessment year 2015-16 u/s.139(1) of the Act on 29.09.2015 declaring a loss of Rs.10,76,863/-. The case was selected for limited scrutiny under CASS

and passed the order u/s.143(3) of the Act dated 29.12.2017 by making an addition of Rs.9,98,20,000/- u/s.68 of the Act as unexplained credit on account of allotment of preference share capital. On appeal, the Id.CIT(Appeals - 5), Hyderabad, on perusal of the evidence for source of the funds and submission by the assessee, deleted the addition by passing an order dated 14.06.2018. The assessee company was also searched u/s.132 of the Act. Accordingly, the notice u/s.153A of the Act was issued and the assessee in pursuance of the said notice filed its return of income on 20.02.2021 declaring loss of Rs.10,76,863/-. After the scrutiny proceedings, the Assessing Officer passed on order u/s.153A of the Act determining the total income at Rs.9,88,23,137/- by making an addition of Rs.9,99,00,000/- u/s.68 of the Act as unexplained credit on account of preference share capital.

5. Aggrieved by the addition the assessee challenged the order of the Assessing Officer before the Id.CIT(A). The assessee submitted that there is no seized material found during the search and therefore, no addition can be made in the absence of any incriminating material. Further, the assessee submitted that the impugned additions made by the Assessing Officer u/s.68 of the Act while passing the order u/s.153A of the Act, the exactly the same issue of allotment of shares was verified and added in the assessment order u/s.143(3) of the Act dated 29.12.2017. On appeal the Id.CIT(A) has deleted the same in his order dated 14.06.2018. Furthermore, there has been no change in the facts and circumstances that existed at the time of passing of the original assessment order u/s.143(3) compared to the time of passing of the assessment order u/s.153A of the Act.

6. On perusal of the submissions made by the assessee the Id.CIT(A) deleted the additions by passing an order dated 02.05.2025 by holding as under:

"5.4.7 While giving relief against the additions made in the original assessment, the CIT(A) has held "that the source of Rs.9,98,20,000/- is duly proved and there is no basis to make addition in the hands of the appellant company in view of the

evidences file before the AO and the factual position of the existence of loan in various companies". The balance amount of Rs. 80,000/- which is added in the order u/s 153A is also regarding the allotment of shares to N KV Krishna and Ms. Preetha. As the source regarding the allotment of shares to Shri. Krishna and Ms. Preetha has been accepted by the earlier CIT(A) based on their financials, the source of Rs. 80,000/- being amount paid for shares is also accepted.

5.4.8 As the addition made in respect of preferential share capital in the assessment order u/s 153A under appeal, has been decided already by the CIT(A) in the original assessment under 143(3) and there being no change in facts and circumstances of the case, the addition made is deleted. Accordingly, ground No.2 is allowed."

7. Aggrieved by the relief given to the assessee by the Id.CIT(A), the revenue is in appeal before us.

8. The Id.DR assailing the action of the Id.CIT(A), relied on the order of the Assessing Officer. Further the Id.DR submitted that the Id.CIT(A) has erred in relying the order of the Id.CIT(A), Hyderabad passed against the original assessment order u/s.143(3) of the Act, while deleting the impugned additions. Since the search action was taken place in the year 2019 and the order of the Id.CIT(A), Hyderabad against the order u/s.143(3) was passed in 2018, the order could not have captured the information unearthed in the search. In view of the above arguments the Id.DR prayed for setting aside the order of the Id.CIT(A) and to confirm the order of the Assessing Officer.

9. Per contra, the Id.AR for the assessee supported the order of the Id.CIT(A) and submitted that there was no seized material found during the search and therefore, no addition can be made in the absence of any incriminating material in the order passed u/s.153A r.w.s. 143(3) of the Act. Hence, there is no perversity in the order of the Id.CIT(A) in deleting the additions made by the Assessing Officer. Further, the Id.AR submitted that the impugned additions made by the Assessing Officer u/s.68 of the Act while passing the order u/s.153A of the Act, the exactly the same issue of allotment of shares was verified and added in the assessment order u/s.143(3) of the Act

dated 29.12.2017. On appeal the Id.CIT(A) has deleted the same in his order dated 14.06.2018 after verification of the source of the funds. Furthermore, there has been no change in the facts and circumstances that existed at the time of passing of the original assessment order u/s.143(3) compared to the time of passing of the assessment order u/s.153A of the Act.

10. The Id.AR drew our attention to the paper book (consisting of 44 pages), wherein the incriminating material found in pen drive, which has been extracted as Annexure I, II, III and IV (page Nos. 1 to 16), in which though the assessee's name is found, no amount has been mentioned in the impugned assessment year as undisclosed investments / cash transactions (Page No.8, sl.No.23 – F.Y.2014-15 – showing the amount as NIL). Therefore, the additions/disallowances made not based on incriminating material is bad in law. In support of his submission, the Ld.AR relied on the judgment of Hon'ble Apex Court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd., reported in [2023] 454 ITR 212 (SC).

11. Further, the Id.AR submitted that the same issue has been raised before the coordinate bench of this Tribunal in the case of the group company M/s.Anantram Orchards Pvt. Ltd. vide ITA No.1791/Chny/2025 dated 21.10.2025 for the A.Y.2018-19 and has been decided in favour of the assessee by holding that no incriminating materials were found for making such additions. The relevant extract of the order is given below:

14. The CIT(A) has failed to appreciate the said pen drive did not contain any information whatsoever about the addition / disallowance made by the AO in the impugned assessment years. The Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell (P) Ltd., supra, had clearly held that in a case of unabated assessment, no addition can be made in the absence of any incriminating material found during the course of search. As mentioned earlier, the assessment years under consideration are unabated assessments and thus, the AO could not have made the addition in the absence of incriminating material found during the course of search.

15. On identical facts, the Chennai Bench of the Tribunal in another group company case, namely Reform Realty & Logistics Development Pvt. Ltd., vs.

DCIT in ITA No.437/CHNY/2023 (order dated 25.10.2024), had deleted the addition by observing as under:-

6. We have heard the rival submissions, and perused the materials available on record. The assessee-company as a part of group company of NKV Krishna group, where search was conducted on 16.10.2019 u/s 132 of I T Act. The A.O has made the addition of share capital of Rs. 5,00,000/- each introduced by Shri NKV Krishna and Smt. Preetha u/s. 68 of the Act. The Ld. CIT(A) has noted that the assessee has not been able to explain the source of cash deposit and the nature of cash recorded in the books of account and confirmed the addition. The Ld AR took us to the seized documents of Annexure-I, II, III and IV where details of introducing unaccounted cash into share application money and unsecured loan /loan and advance was listed and assessee company name does not figure in any of these documents. The AO has made the addition based on the general statement that unaccounted cash was introduced as share capital without referring to any specific documents. The documents produced by the Ld DR as incriminating material was the copy of cash book and ledger account of Shri NKV Krishna and Preetha ji, which are entries of regular books of account . We therefore hold that addition of share capital of Rs 10,00,000/ has not been made based on incriminating material found during search The AO in the assessment order u/s 153A has assessed income at Rs 9,40,000/- against returned loss of Rs 60,000 , thus making only addition of share capital of Rs 10,00,000 u/s 68 of the Act. Therefore, in view of Honorable Supreme Court decision in the case of *Abhisar Buildwell (P) Ltd* addition cannot be sustained in present case without there being incriminating material. We accordingly delete the addition of share capital of Rs.10,00,000 u/s 68 of Income Tax Act made by the AO .

16. In light of the aforesaid reasoning and relying on the judicial pronouncement cited supra, since additions made by the AO on account of unexplained cash credit / share capital are not based on information / material unearthed in search proceedings, the said additions are liable to be deleted. Accordingly, we delete the additions made in the aforementioned cases.

12. In view of the above, the Id.AR reiterated that the Id.CIT(A) has rightly deleted the additions by following the order of the Id.CIT(A), Hyderabad passed against the original assessment order u/s.143(3) of the Act and prayed for confirming the same.

13. We have heard the rival submissions perused the material available on record including the orders of the lower authorities along with paper books filed. The undisputed facts emerging from the record are that the assessee had

originally filed its return of income for the assessment year 2015-16 declaring a loss of Rs.10,76,863/-. The assessment was completed u/s.143(3) of the Act, wherein the Assessing Officer made an addition of Rs.9,98,20,000/- u/s.68 of the Act on account of allotment of preference share capital. The said addition was carried in appeal and the Id.CIT(A), Hyderabad, vide order dated 14.06.2018, after examining the evidences and submissions furnished by the assessee, deleted the addition made by the Assessing Officer.

14. Subsequently, a search and seizure operation u/s.132 of the Act was conducted in the NKV Krishna Group cases on 16.10.2019 including the assessee company. Pursuant to the said search, notice u/s.153A of the Act was issued to the assessee and in response thereto the assessee filed its return of income declaring the same loss as returned earlier. Thereafter, the Assessing Officer passed an order u/s.153A r.w.s.143(3) of the Act and once again made an addition of Rs.9,99,00,000/- u/s.68 of the Act on account of preference share capital.

15. The principal contention of the assessee before the Id.CIT(A) as well as before us is that the assessment for the impugned assessment year had already attained finality prior to the date of search and, therefore, in the absence of any incriminating material found during the course of search relating to the said assessment year, no addition could be made while framing assessment u/s.153A of the Act. The Id.CIT(A), after examining the seized material and the submissions of the assessee, accepted the contention of the assessee and deleted the addition.

16. From the material placed before us, it is evident that the seized material relied upon by the Revenue consists of certain data contained in a pen drive seized from the residence of Shri Badri Narayan Kota and subsequently compiled in the form of Annexures I, II and III. The Id.AR has drawn our attention to the relevant pages of the paper book wherein the details extracted from the

said pen drive are reproduced. A perusal of the said annexures reveals that although the name of the assessee company appears therein, no amount has been reflected against the assessee for the financial year relevant to the assessment year under consideration. In fact, the entry relating to the financial year 2014-15 reflects the amount as "NIL". Thus, the seized material does not reveal any undisclosed investment or unaccounted transaction pertaining to the assessee for the relevant assessment year.

17. At this juncture, it is relevant to note that the assessment for the impugned assessment year had already been completed u/s.143(3) of the Act prior to the date of search and therefore constituted an unabated assessment. The law in this regard has been clearly settled by the Hon'ble Supreme Court in PCIT v. Abhisar Buildwell (P.) Ltd., wherein it has been held that in respect of completed/unabated assessments, the scope of assessment u/s.153A of the Act is limited to examining incriminating material found during the course of search and that no addition can be made in the absence of such incriminating material.

18. Applying the ratio laid down by the Hon'ble Apex Court to the facts of the present case, we find that the Revenue has not been able to demonstrate the existence of any incriminating material unearthed during the search which relates to the impugned addition made u/s.68 of the Act. The addition made by the Assessing Officer is essentially based on the very same issue which had already been examined during the original assessment proceedings u/s.143(3) of the Act and which was subsequently deleted by the Id.CIT(A), Hyderabad, vide order dated 14.06.2018. In the absence of any new material discovered during the search, the Assessing Officer was not justified in revisiting the same issue while framing the assessment u/s.153A of the Act.

19. We also find merit in the submission of the Id.AR that a similar issue arising in the case of a group concern, namely Anantram Orchards Pvt. Ltd.,

(supra) was considered by the Coordinate Bench of this Tribunal in ITA No.1791/Chny/2025 for the assessment year 2018-19, wherein the Tribunal held that in the absence of any incriminating material found during the course of search, the addition made u/s.68 of the Act in proceedings u/s.153A cannot be sustained. The facts of the present case being identical, the ratio laid down therein also supports the case of the assessee.

20. In light of the facts and circumstances and legal position, we are of the considered view that the Id.CIT(A) has rightly appreciated the facts of the case and correctly applied the settled legal principles in holding that the addition made by the Assessing Officer u/s.68 of the Act in the assessment framed u/s.153A of the Act is unsustainable in law. We do not find any infirmity or perversity in the order of the Id.CIT(A) warranting interference by this Tribunal. Accordingly, the order of the Id.CIT(A) deleting the addition made by the Assessing Officer is upheld and the grounds raised by the Revenue are dismissed.

21. In the result the appeal of the revenue is dismissed.

Order pronounced in the open court on 11th March, 2026 at Chennai.

Sd/-

(एबी टी वर्की)

(ABY T VARKEY)

न्यायिक सदस्य/Judicial Member

Sd/-

(एस. आर. रघुनाथा)

(S. R. RAGHUNATHA)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 11th March, 2026

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF