

IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI 'G' BENCH, NEW DELHI

BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER,
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No:- 1829/Del/2025
(Assessment Year- 2018-19)

Assistant Commissioner of Income Tax, Room No. 316A, C.R. Building I.P. Estate, New Delhi-110002.	Vs.	Lord Shiva Construction Co. Pvt. Ltd., 66, Block-H-34, Sector-3, Rohini, Delhi-110085.
PAN No: AAACL2040G		
Revenue		Assessee

Revenue by : Sh. Muneesh Rajani, Sr. DR
Assessee by : Sh. Rajat Garg and
Sh. Ashu Garg, CA

Date of Hearing : 10.02.2026
Date of Pronouncement : 27.03.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the 'Ld. CIT(A)'], dated 16.01.2025 arising out the assessment order dated

23.08.2021 passed u/s 143(3) r.w.s. 144B of the Income Tax Act, 1961(hereinafter referred to as the “Act”] by the National Faceless Assessment Centre, Delhi (hereinafter referred to as ‘AO’) pertaining to Assessment Year (AY) 2018-19.

2. The brief facts of the case is the assessee had filed its return of income declaring a total income at Rs. 1,16,47,586/- on 04.09.2018 for the A.Y. 2018-19. The case was picked up for scrutiny under CASS and subsequently, the AO made addition of Rs 1,62,00,000/- received from its sister concern Vidhata Contractors u/s 68 of the Act; Rs 56,66,440/- as unexplained credit for share premium u/s 56(2)(viib) of the Act and cash deposit of Rs 71,00,000/- as unexplained cash credit u/s 68 of the Act.

3. Aggrieved the assessee appealed before the CIT(A) who deleted all the additions made as follows:

The appellant vide submissions has stated that the source of making advance to appellant was from the legit income earned from business of construction activities carried out by lender and submitted the confirmation letter from lender, copies of ITR form and audited financials of lender and bank statements of lender.

5.4.4 Although, the AO observed that the entries made by the appellant in its books of account are not in commensurate with the entries appearing in the bank account No.1273368149 of the appellant and in bank A/c No.864420100224 of M/s Vidhata Contractors & Builders Pvt Ltd and stated that both the sister concerns and the appellant have failed to explain the reasons for variation & mismatch of entries in terms of name of persons, name of item, opening of new bank account for deposit of cash and credit transfer on the same day etc. The AO has also stated that both the Directors of M/s Vidhata Contractors & Builders Pvt Ltd i.e. Asha Rani and Akash Jain are regular employees of the appellant company drawing handsome salary of Rs. 12,00,000/- and Rs.9,00,000/-respectively

from the company and they are also relatives of the Directors of the company and stated that it is very easy to arrange the colorful transactions in the modus operandi they wish for the beneficiary of the assessee.

5.4.5 The AO further observed that the sister concern of M/s Vidhata Contractors & Builders Pvt Ltd has declared total income at Nil thereby claiming loss of Rs.50,451/- in the ITR of AY 2018-19 in contrary to the source of large cash deposit of Rs. 1,62,00,000/- which claimed as kept idle for almost one year but which have been claimed deposited within the period of 10 days from 20/03/2018 to 30/03/2018 in new bank account opened separately for the purpose of the transactions instead of existing bank accounts and the genuineness & creditworthiness of transactions is not subject to verification. Also, he stated that the bank account was opened and managed through the sister concern for arrangement of accommodation entries by way of cash deposit and credit transfer entries routed through bank accounts for Rs. 1,62,00,000/-out of undisclosed sources of income of the appellant on different dates i.e. 20/03/2018, 22/03/2018, 26/03/2018, 28/03/2018 and 30/03/2018. All the entries of cash deposit and fund transfer have been made on the same day routed through the bank accounts of both the parties and in books of account of the appellant on the same date of each transaction but both the parties have failed to explain the reasons for exigencies of transactions and opening of new bank account separately. Also, the AO has mentioned that the appellant has made cash withdrawal of more than Rs.3,00,00,000/- from the current account maintained with Canara Bank.

5.4.6 The AO has only pin pointed out the cash deposits made by the lender in his bank account which was further used for making advance to the appellant in the form of unsecured loan as unexplained and unverifiable. The whole contention of the AO while making the addition u/s 68 of Rs. 1.62.00.000/- is the doubt raised on the genuineness of the cash deposits made by the lender. The AO is in assessment order has stated that the transactions are not apparently in the form of loans but they have been made under arrangement of accommodation entries in form of loan under the modus operandi of the assessee for getting routed the transactions through the bank account of its sister concern out of unexplained source of cash receipts.

5.4.7 I have carefully examined the assessment order and submissions and documents furnished by the appellant during appeal proceedings. The appellant has provided documentary evidence establishing the identity of the lender, M/s Vidhata Contractors & Builders Pvt. Ltd., which includes a valid PAN and audited financial statements and bank statements. These documents were verified, and the existence of the lender as a business entity was established. Additionally, the lender responded to notices under Section 133(6) issued by the AO and confirmed the loan transaction. The financial capacity of the lender can be established through submission of its income tax returns and audited financial statements. The appellant contention that the loan was routed through regular banking channels and corroborated by bank statements and also, the lender's funds were sourced from prior business activities.

5.4.8 After careful examination of the allegations raised by the AO and the rebuttals furnished by the appellant, I find that the explanations provided by the appellant are well supported by sufficient evidence and merit acceptance to accept the genuineness, credit worthiness of the transaction. Also,

the allegation raised by the AO pertained to the fact that both directors of M/s Vidhata Contractors & Builders Pvt. Ltd., namely Asha Rani and Akash Jain, were regular employees of the appellant company, drawing salaries and being related to the directors of the appellant. The AO argued that their relationship facilitated non-genuine transactions for the benefit of the assessee. In rebuttal, the appellant has submitted his claim by producing the copies of Form 3CD and Form AOC-2, disclosing all related party transactions without any qualifications from the tax auditor.

5.4.9 Also, considering the contention made by the AO and subsequent submissions before us, I have seen that during the course of appellate proceedings, the appellant has furnished the lender's bank statements, income tax returns, audited financial statements, and confirmations, all of which have been cross-verified. Furthermore, the lender had directly responded to inquiries under Section 133(6), reaffirming the genuineness of the loan transaction. The appellant with its submissions on record, has provided the source of cash deposits in the lender's bank account, originated from business activities conducted in earlier years with supporting evidences showing the capital fund, cash & bank balances available with the lender, audited financials, ITR form copies.

5.4.10 I have of the considered opinion that the appellant has discharged its primary onus under Section 68 of the I.T. Act by substantiating the identity, creditworthiness, and genuineness of the loan given by M/s Vidhata Contractors & Builders Pvt. Ltd. Accordingly, the rebuttals made by the appellant are found to be credible, supported by evidence, and satisfactorily explain the nature of the loan transaction. Therefore, the allegations raised by the AO do not hold merit, and the addition of Rs. 1,62,00,000/- made under Section 68 of the Act is hereby deleted. Accordingly, the said grounds of appeal raised allowed.

5.5.3 I have perused the findings of the AO in this regard and submission of the appellant. In this context, it is observed that the basic observation of the AO on rejection of the fair market value of shares is that the valuation adopted by the appellant is based on the report obtained from the Chartered Accountant whereas Chartered Accountant has been omitted in the law for the purpose of valuation under Rule 11UA vide Notification dated 24/05/2018.

5.5.5 I have also gone through the notification no. 23/2018 dated 24.05.2018 of CBDT. The relevant extract of the same is reproduced hereunder for ready reference:

"NOTIFICATION New Delhi, the 24th May, 2018 INCOME-TAX S.O. 2087(E). In exercise of the powers conferred by sub-section (2) of section 56 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:

1. (1) These rules may be called the Income-tax (6th Amendment), Rules, 2018.
- (2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 110. clause (a) shall be omitted

3. In the principal rules, in rule 11UA, in sub-rule (2), in clause (b), the words "or an accountant" shall be omitted.

[Notification No. 23/2018/F. No.370142/5/2018-TPL] PRAVIN RAWAL Dir. (Tax Policy and Legislation) Note. The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) vide notification number S.O.969(E), dated the 26th March, 1962 and last amended by the Income-tax (Fifth Amendment) Rules. 2018, vide notification number S.O. 1558 (E), dated 11th April, 2018."

5.5.6 On analysis of the Rule 11UA, I have of the considered opinion that the law states that report of merchant banker is required in case of Discounted Free Cash Flow method of valuation is adopted. But, the appellant has adopted the book value method for valuation of shares against which, a report from accountant is taken. I have gone through the report placed on record and the computation of book value of share as 22.82 per share and found the contention of the appellant tenable. The AO has merely applied the notification number INCOME-TAX S.O. 2087(E) without even referring to the provisions of Rule 11UA which is bad in law. Accordingly, the addition of 56,66,440/- made under Section 56(2)(viib) lacks merit and is hereby deleted. The grounds of appeal are allowed.

5.6.3 I have carefully considered the facts of the case, the submissions made by the appellant, and the observations recorded by the AO in the assessment order. The crux of the dispute revolves around the genuineness of the cash deposits made by the appellant during the relevant assessment year and whether the same can be treated as unexplained cash credits under Section 68 of the Income Tax Act. Upon a detailed examination of the submissions made by the appellant, it is observed that the cash deposits made during the assessment year were sourced from prior cash withdrawals made from the assessee's bank accounts as per the material available on record. The appellant has submitted comprehensive evidence, including cash books and bank statements, which reflect a clear correlation between cash withdrawals and subsequent deposits. The cash withdrawn was utilized for the purpose of business operations, specifically for making payments at multiple construction sites, where cash handling is a common practice due to labor requirements and procurement from vendors who prefer cash transactions.

5.6.4 The AO has observed that the appellant failed to explain the source of cash credits with cogent and credible evidence. However, the appellant has submitted multiple replies on various dates explaining the source of the cash deposits and submitting supporting documentary evidence, including bank statements reflecting cash withdrawals and cash books maintained in the ordinary course of business. The bank statements submitted by the appellant reflect clear cash withdrawals which correspond to the cash deposits made during the year.

5.6.5 The appellant contended that the cash withdrawals were made to meet the operational needs of the construction business, which involves handling cash across multiple sites for labor payments, material procurement, and contingency purposes. The existence of cash balances is verified from the audited books of accounts, and no inconsistency has been pointed out by the AO in this regard. The cash book has been consistently maintained by the appellant, and the AO has not established any contradiction in the records presented. Further, the availability of cash in hand as per the books is not under dispute, as it is duly reflected in the audited financials.

5.6.6 The AO has failed to fully appreciate the business model of the appellant as it is engaged in the construction industry which requires substantial cash availability at multiple sites for making daily wage payments, purchasing raw materials from vendors who prefer cash, and handling unforeseen contingencies. The Cash is often kept available to avoid disruption in construction activities and ensure smooth operational flow. The AO's observation questioning the necessity of holding cash in hand disregards the practical realities and operational exigencies in the construction sector where cash transactions are standard business practices.

5.6.7 Upon reviewing the submissions, the appellant has relied on several judicial precedents to substantiate the genuineness of the cash deposits and to establish that the onus placed under Section 68 of the Income Tax Act has been adequately discharged. The appellant referenced *Kvaerner Boving Construction Ltd. v. DCIT (1996) 54 TT (Delhi Trib.) 429* and *J.K. Chaturvedi v. Asstt. CIT (2004) 3 SOT 456 (Ahd Trib.)* to emphasize that when an assessee submits sufficient documentary evidence, such as cash books, bank statements, and audited financials, the AO must conduct an independent inquiry and cannot reject the explanation without substantive reasons. Furthermore, the appellant cited settled judicial principles that "sufficient cause" should be liberally interpreted in favor of substantial justice where no negligence or inaction is evident. The AO has failed to bring any contrary evidence to disprove the explanation furnished. Mere time gaps between withdrawals and deposits cannot justify treating legitimate cash transactions as unexplained income. By the principle of consistency, in the absence of any other income source and considering the nature of the business, the cash deposits are to be treated as part of the business turnover and not unexplained income. Therefore, the addition made by the AO is unsustainable. Accordingly, the addition of Rs.71,40,000/-made under Section 68 of the Act is deleted. The grounds of appeal raised are allowed.

4. Aggrieved by the aforesaid order of CIT(A), the Revenue is before us.

The Id DR vehemently relied on the order of the AO and stated that the assessee failed to furnish satisfactory explanation for additions made u/s 68 of the Act.

5. Per contra, the Ld AR of the assessee relied on the decision of the CIT(A).

6. We have heard the rival submissions and have carefully perused the materials on record. On the issue of addition of loan from the sister concern M/s Vidhata Contractors & Builders Pvt. Ltd, of Rs. 1,62,00,000/- u/s 68, we find that the CIT(A) found that the assessee discharged its onus by providing documentary evidences such as PAN and audited financial statements and bank statements to establish the identity of the lender, genuineness of transaction and creditworthiness of the lender and also noted that the lender responded to notices under Section 133(6) issued by the AO and confirmed the loan transaction. The ld Dr did not controvert the findings of the CIT(A). We therefore find no reason to interfere with the decision of CIT(A). Ground 1 and 2 are dismissed.

7. With respect to deletion of addition made under section 56(2)(viib), we find that the only reason for disallowance was that the assessee got the valuation of shares under Rule 11UA(2)(b) certified by a Chartered Accountant and not Merchant Banker, as prescribed by the CBDT's Notification no. 23/2018 dated 24.05.2018 which had omitted the reference of Chartered Accountant. We find that the CIT(A) has correctly

deleted the addition as the said CBDT notification is not applicable since the assessee has issued the share in the financial year 2017-18 and not in the financial year 2018-19 and has also received a report from the chartered accountant dated 20.10.2017. Further, the CIT(A) held that report of merchant banker is required in case where Discounted Free Cash Flow method of valuation is adopted whereas the assessee has adopted the book value method for valuation of shares against which a report from accountant is taken. We therefore find no reason to interfere with the decision of CIT(A). Ground 3 and 4 are dismissed.

8. With respect to addition of cash deposit in bank account, the CIT(A) held that the assessee has, through comprehensive evidences, including cash books and bank statements, has shown that the cash deposits made during the assessment year were sourced from prior cash withdrawals made from the assessee's bank accounts. We note that the ld DR has not been able to controvert the finding of the CIT(A) with any cogent evidence. We therefore find no reason to interfere with the decision of the CIT(A). Ground 5 is dismissed.

9. In the result, the appeal of the Revenue in ITA No:- 1829/Del/2025 is dismissed.

Order is pronounced in the Open Court on 27.03.2026.

Sd/-
[MADHUMITA ROY]
JUDICIAL MEMBER

Sd/-
[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 27.03.2026

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	02.03.2026
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	