

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

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

**ITA No.694/KOL/2025  
(Assessment Year: 2012-13)**

**Income Tax Officer, Ward 9(1),**

**Kolkata**

5<sup>th</sup> Floor, Room No.5/12/2B,  
Aaykar Bhawan, P-7,  
Chowringhee Square, Kolkata-  
700069, West Bengal

**(Appellant)**

**Littlestar Securities Private  
Limited**

**vs.**

1/31, Netai Nagar, 1<sup>st</sup> Floor,  
Kolkata-700099, West Bengal

**(Respondent)**

**PAN No. AACCL0740K**

**Assessee by** : Shri Miraj D. Shah, AR  
**Revenue by** : Shri Manjeet Singh, DR

**Date of hearing:** 27.01.2026  
**Date of pronouncement:** 06.03.2026

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 08.08.2024 for the AY 2012-13.

2. At the outset, we note that the appeal of the assessee is barred by limitation by 153 days. At the time of hearing the counsel of the assessee explained the reasons for delay in filing the appeal. The Ld. D.R did not raise any objection in condoning the delay. After hearing the rival contentions and perusing the materials available on record, we find that the delay is for bonafide and genuine reasons and hence, we condone the delay and admit the appeal for adjudication.

3. The only issue raised by the Revenue in the various grounds of appeal is against the order of Id. CIT (A) deleting the addition of ₹27,63,00,000/- as made by the Id. AO u/s 68 of the Income-tax Act, 1961 (the Act) by treating the share capital/ share premium as unexplained cash credit.
  
4. The facts in brief are that the assessee filed the return of income on 23.09.2013, which was selected for scrutiny through CASS for large share capital/ share premium received by the assessee. The assessment was completed u/s 143(3) of the Act vide order dated 13.03.2015, assessing the total income at ₹27,63,00,680/- by making addition u/s 68 of the Act. The said order was challenged before the Id. CIT (A) who confirmed the addition and the matter travelled to ITAT. The Tribunal set aside the order of the Id. CIT (A) and restored the issue to the file of the Id. AO for deciding the issue afresh after affording reasonable opportunity of hearing to the assessee. In the set aside proceedings, the Id. AO again called for the details qua the share capital/ share premium from assessee which were duly furnished by the assessee before the Id. AO (faceless assessment scheme) on 25.01.2021. The assessee furnished before the Id. AO all the details /evidences, vide written submissions dated 23.02.2021, submitting that the assessee had issued 1,42,62,200/- equity shares of ₹1 each of which 1,40,00,000/- shares were issued to two companies at par and balance 2,62,200/- shares at a premium of ₹999/ per share thereby raising share capital/ share premium from 14 companies the details whereof is extracted by the Id. AO in Para no.6 of the assessment order. The assessee filed before the Id. AO copies of share application letters, share allotment letters , ITR acknowledgements of share applicants, audited accounts, bank statements and source of the applicants along with email id.

Thereafter, the Id. AO discussed the details qua these companies in the assessment order and finally, held that these 14 share applicants were not able to prove the creditworthiness of the subscribers and genuineness of the transactions as these companies were having more or less same addresses and were not having any fixed assets or inventories nor were carrying on any business activities beside having very meagre ROI. The Id. AO consequently treated the entire amount of ₹27,63,00,680/- as unexplained cash credit u/s 68 of the Act and added to the income of the assessee in the assessment framed u/s 143(3) read with section 254 read with section 144B of the Act dated 29.09.2021.

5. In the appellate proceedings, the Id. CIT (A) after taking into consideration the submissions of the assessee along with the evidences filed by the assessee allowed the appeal of the assessee by directing the Id. AO to delete the addition by categorizing the investors in the four categories as discussed in the following paras.

5.1. In the first category the Id. CIT (A) deleted the addition made in respect of money received from Shri Ganesh Mal Singhi and Anil Sharma by issuing 50,000/- equity shares to each party thereby receiving ₹1 lacs by holding that the Id. AO has not conducted any enquiry into the source of these individuals nor made any reference qua the investment made by them. Therefore, Id. CIT(A) deleted the addition of ₹1 lacs.

5.2. In the second category, the Id. CIT (A) deleted the addition in respect of share capital/ share premium from 8 subscribers by deleting the addition of ₹19,13,00,000/- by observing and holding as under:-

"7.5.3 Second Category – "Corporate Investors at-premium" (At serial numbers 6,7,8,11,12,13,15, and 16 of Table 2 above)

(i) In the case of these 8 investors scrutiny assessments u/s 143(3) of the Act for the AY under consideration, that is, AY 2012-13 have been completed and following additions have been made to their Total Income wrt share application moneys received on high premium per share:

SL No (as per table)	Name of the Applicant	No of shares	Face Value (Rs)	Share Premium (Rs)	Amount received (Rs)	Addition in scrutiny assessment (Rs Crores)
2)						
6	INTIMATE SECURITIES P. LIMITED	23,300	1/-	999	2,33,00,000	27.93
7	IMAX SECURITIES PVT LTD	28,000	1/-	999	2,80,00,000	36.42
8	ROVER SECURITIES PVT LTD	17,800	1/-	999	1,78,00,000	23.63
11	PALAK HIRISE PVT LTD	38,600	1/-	999	3,86,00,000	12.19
12	LIMELIGHT PROMOTERS PVT LTD	26,000		999	2,60,00,000	15.08
13	EVERSAFE SECURITIES PVT LTD	31,100	1/-	999	3,11,00,000	14.48
15	MICRO INFRA PROPERTIES P. LTD	8,100	1/-	999	81,00,000	13.25
16	SEASIDE SECURITIES PVT LTD	18,400	1/-	999	1,84,00,000	12.09
	Total	191300			19,13,00,000	

(ii) Clearly the source of share application money received by the Applicant has already been brought to tax by the department by making additions in the hands of the above mentioned "Corporate Investors at-premium" of much higher amounts than have been invested by them in the Appellant company; and therefore again adding the same in the hands of the Appellant as being unexplained sum of money would tantamount to double addition of the same sum, which is not permissible.

(iii) To support this view reliance is placed on the decision of the Jurisdictional Tribunal and Jurisdictional High Court, viz., Honble ITAT, Kolkata and Hon'ble Calcutta HC in the case of :

**Deputy Commissioner of Income-tax v. Narsingh Ispat Ltd [2023] 156 taxmann.com 344 (Kolkata - Trib.)** – In this case on perusal of the details of share capital raised during the year, the Assessing Officer noted that the assessee had raised share capital from two share applicants H and S, both of which were companies. The Assessing Officer held that the assessee entered into sham transactions with the investors to introduce unaccounted income in the form of share application. He observed that the assessee did not have any regular business transactions or regular acquaintance with the

investors, and that the investors had no reason to invest in the business of the assessee. The entire share capital raised by the assessee was added to the assessee's income under section 68. On appeal, the Commissioner (Appeals) was satisfied that the share capital and share premium were given through banking channels, that the identity and creditworthiness of the parties were not in doubt, and that the transactions were genuine. He deleted the addition. On appeal filed by the Department before the Hon'ble ITAT, Kolkata "B" bench, it was held as under:

8. On going through the above findings as well as the available records so far as the alleged sum of Rs. 10,52,00,000/- received from Honesty Dealers Pvt. Ltd., is concerned, we find that the sum of Rs. 14,80,00,000/- was raised by Honesty Dealers Pvt. Ltd., during the financial year 2008-09 towards share capital and share premium. Thereafter, Honesty Dealers Pvt. Ltd., was subjected to scrutiny proceedings and vide order dt. 12-3-2015, passed under section 144/263/143 (3)/147 of the Act, the said sum of Rs. 14,80,00,000/- was added. Since the alleged sum has been added in the case of Honesty Dealers Pvt. Ltd., and the sum received by it was invested in the form of loans and advances and investments, during the year under consideration some of the funds have been received backed by Honesty Dealers Pvt. Ltd., and has been utilised for investing in the equity share capital of the assessee company. These details have gone uncontroverted at the end of the revenue authorities and it remains an admitted fact that the source of the source stands proved with the details filed before us and, therefore, making an addition again in the hands of the assessee would tantamount to double addition and, therefore, the addition in the year under consideration is not warranted and the Id. CIT(A) has rightly deleted the same.

9. We find support from the decisions of the ITAT, Kolkata in the case of ITO v. Happy Structure (P) Ltd. [IT Appeal No. 1977 (Kol) of 2016, dated 22-5-2019] wherein on similar facts it was held that:-

"Applying the proposition of law laid down in the above referred cases to the facts of this case and keeping in view the fact for the share applicant company have been assessed to tax u/s 143 (3) of the Act and the source of money in question was brought to tax in their hands, we uphold the order of the Id. CIT(A) that no additions can be made in the case of the assessee company"

10. The Id. CIT(A) duly perused the submissions of the assessee and noted that source of share application money received by the assessee from M/s Honesty Dealers Pvt Ltd has already been added in the hands of the share applicant. Hence, in view of the settled legal position, as the source has already been added, we uphold the action of the Id. CIT(A) in deleting the addition.

(Emphasis Given by underlining)

- Against this order of the Tribunal appeal was filed by the Department before the Hon'ble HC of Calcutta, who vide its decisions in the case of **Principal Commissioner of Income-tax v. Narsingh Ispat Ltd** [2024] 161 taxmann.com 483 (Calcutta), while deciding the below mentioned question of law:

Whether on the facts and in the circumstances of the case the Tribunal was justified in law to delete the additions under Section 68 of the said Act to the tune of Rs. 19,14,50,500/- despite the fact that the genuineness of the share capital could not be established, as one of the major applicant M/s. Honesty Dealers Private Ltd. had subscribed to the shares of the assessee, whose source being receipt of the share capital from other companies was

*already held as bogus receipt and added in the hands of M/s. Honesty Dealers Private Ltd. ?*

*held as under:*

5. *The CIT(A) has examined the factual position in respect of both the companies but in so far as M/s. Honesty Dealers Private Limited the CIT(A) found in the assessment year 2009-10, which is a scrutiny assessment under Section 147 of the Act dated 12.3.2015, the entire receipt of share capital has been added in the hands of M/s. Honesty Dealers Private Limited. Further, on perusal of the balance-sheet of the said company, the CIT(A) found that the major chunk of share capital received in the assessment year 2009-10 has been invested in the shares of the assessee company and has been out of the share capital raised in the assessment year 2009-10 and in the very same assessment year the entire share capital raised by M/s. Honesty Dealers Private Limited has been added back in the hands of the party.*

8. *Thus, we find no question of law much less substantial question of law is arising for consideration in this appeal.*

9. *Hence, the appeal fails and is dismissed.*

*(iv) As on the same set of facts, the Jurisdictional High Court of Calcutta has already ruled in favour of the assessee in its recent decision dated 11/0-3/2024 as quoted above, it is felt that, in so far addition made by the AO of the sum of Rs. 19,13,00,000/- invested by the above tabulated 8 "Corporate Investors at-premium" is concerned, it amounted to double addition and therefore the same ought to be **deleted** in the hands of the Appellant.*

5.3. In third category, the Id. CIT (A) dealt with the corporate investors to whom the shares were issued at a premium. The Id. CIT (A) noted that the corporate investors to whom the shares were issued at a premium, as mentioned in table at a page no.16 of the Id. CIT (A) at a serial no.5,9,10 and 14 of the said table, in whose cases the scrutiny assessments u/s 143(3) of the Act were framed. In respect of three investors at a serial no.5,10 and 14 the scrutiny assessments were framed for A.Y. 2012-13 and in case of investors at a serial no.9, the scrutiny assessment was made for A.Y. 2011-12. In all these cases the scrutinizes were selected to examine the source of capital introduced in the return of income filed by these entities. Therefore, the Id. CIT (A) also extracted at table 4 at page no.45 of all the details which inter-alia included the number of shares issued, face value, premium at which shares were issued,

amount received and addition made in the respective assessments completed u/s 143(3) of the Act. Therefore, the Id. CIT (A) noted that source was fully examined during the assessment proceedings and only addition was made u/s 14A of the Act which proved beyond doubt that the source in the hands of the investors were sufficiently proved.

5.4. In the fourth category, the Id. CIT (A) observed that these were the two corporate investors at a serial no.1 and 2 in table no.2 in the appellate order to whom the shares were issued at par. The Id. CIT (A) noted that these subscribers had produced before the Id. AO all the details/evidences and therefore, the addition made by the Id. AO qua these two entities are also bad in law and accordingly deleted the addition. The Id. CIT (A) thus, deleted entire addition to the tune of ₹27,63,00,000/- by allowing the appeal of the assessee.

6. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has issued shares to various entities as are dealt with by the appellate authority in four categories. The Id. CIT (A) has discussed the details as to their identity, creditworthiness and genuineness in detail qua each entity while deleting the addition. We note that all these subscribers have filed all the evidences before the Id. AO comprising their PANs, audited balance sheets, confirmations, majority of the subscribers responded to the notices issued u/s 133(6) of the Act filing all the details before the Id. AO as well as before the Id. CIT (A) the details whereof are as under:-

SL	Name	Category	133(6) notice issued	133(6) notice replied	Amount Subscribed (₹)
1.	Ganesh Mal Singh	Subscriber to MOA	No	NA	1,00,000
2.	Anil Sharma	Subscriber to MOA	No	NA	1,00,000

3.	Empire Niketan Pvt. Ltd.	Share Applicant	Yes	No	2,11,00,000
4.	Imax Securities Pvt. Ltd.	Share Applicant	Yes	No	2,80,00,000
5.	Intimate Securities P. Ltd.	Share Applicant	Yes	No	2,33,00,000
6.	Micro Infra Properties P. Ltd.	Share Applicant	Yes	No	81,00,000
7.	Reward Plaza P Ltd.	Share Applicant	Yes	No	70,00,000
8.	Rover Securities P. Ltd.	Share Applicant	Yes	Yes	1,78,00,000
9.	Circle Infra Projects Pvt. Ltd.	Share Applicant	Yes	Yes	35,00,000
10.	Eversafe Securities Pvt. Ltd.	Share Applicant	Yes	Yes	3,11,00,000
11.	Fairplan Securities Limited	Share Applicant	Yes	Yes	3,49,00,000
12.	Girik Securities Pvt. Ltd.	Share Applicant	Yes	Yes	1,14,00,000
13.	Limelight Promoters Pvt. Ltd.	Share Applicant	Yes	Yes	2,60,00,000
14.	Palak Hirise Pvt. Ltd.	Share Applicant	Yes	Yes	3,86,00,000
15.	Pratham Niketan P. Limited	Share Applicant	Yes	Yes	70,00,000
16.	Seaside Securities Pvt. Ltd.	Share Applicant	Yes	Yes	1,84,00,000

6.1. We note from the above table that even the notices were issued u/s 133(6) of the Act which were duly complied with by the subscribers. Similarly, we note that in the case of 14 subscribers, the assessments were framed u/s 143(3) of the Act and their capital and the reserve were added in some cases and a few investors have accepted the addition made in their hands the details whereof are as under:

*Table B\_Subscribers name, amount subscribed and status of assessment u/s 143(3)*

1.	Names of the Parties	Assessed u/s 143(3)	Capital & Reserves added	Capital & Reserves accepted	Amount subscribed
2.	Palak Hirise Pvt. Ltd.	2012-13	Yes	NA	3,86,00,000
3.	Limelight Promoters Pvt. Ltd.	2012-13	Yes	NA	2,60,00,000
4.	Eversafe Securities	2012-13	Yes	NA	3,11,00,000

	Pvt. Ltd.				
5.	Empire Niketan Pvt. Ltd.	2012-13	NA	Yes	2,11,00,00
6.	Micro Infra Properties P. Ltd.	NA	NA	NA	81,00,000
7.	Seaside Securities Pvt. Ltd.	NA	NA	NA	1,84,00,000
8.	Pratham Niketan P. Limited	2012-13	NA	NA	70,00,000
9.	Reward Plaza P. Limited	2012-13	Yes	NA	70,00,000
10.	Fairplan Securities Limited	2012-13	Yes	Yes	3,49,00,000
11.	Intimate Securities P. Limited	2012-13	Yes	NA	2,33,00,000
12.	Imax Securities Pvt. Ltd.	2012-13	Yes	NA	2,80,00,000
13.	Rover Securities Pvt. Ltd.	2012-13	Yes	NA	1,78,00,000
14.	Circle Infra projects Pvt. Ltd.	2012-13	NA	Yes	35,00,000
15.	Girik Securities Pvt. Ltd.	2012-13	NA	Yes	1,14,00,000
	20 Sydney Agencies Pvt. Ltd.		43,00,000		11,90,50,000

6.2. We have perused the decision of the Hon'ble Calcutta High Court in the case of *PCIT vs. Omkar Parivahan Finance Pvt Ltd (ITAT No. 227 of 2024) dated 01.01.2025 wherein* it is held that, the fact that the networth is much higher than the investments made by the share subscribers, their creditworthiness stands established. The share subscribers are found to have also furnished their bank statements, evidencing the source of payments along with a separate explanation regarding the same. It is observed that none of the lower authorities were able to point out any specific falsity therein. We thus note that the assessee was able to discharge its initial onus of establishing the genuineness of the transactions as well. It is thus noted that the three ingredients laid down in Section 68 of the Act was met by the assessee.

6.3. The case of the assessee is also covered by the decision of the jurisdictional Hon'ble Calcutta High Court in the case of PRINCIPAL

COMMISSIONER OF INCOME TAX-2. KOLKATA VS M/S EXPRESS TRADELINK PVT. LTD- ITAT 95 OF 2025. In this case the Revenue challenged the tribunal's order on the ground that the tribunal failed to apply the "test of human probability," contending that nine subscriber companies had declared meagre income disproportionate to the high share premium invested and that their directors failed to appear in response to summons issued under Section 131. However, the Court noted that the assessee had produced extensive documentary evidence including PAN details, share application forms, allotment advices, bank statements, ITR acknowledgements, and audited financial statements of all subscriber companies. The Court held that under Section 68, once the assessee provides credible documentary evidence establishing identity, banking transactions, and financial details of the investors, the initial onus stands discharged and the burden shifts to the Revenue. The Assessing Officer cannot dismiss such audited records as mere "paper compliance" without bringing contrary evidence on record. The Court further observed that the non-appearance of directors cannot invalidate documented transactions, especially when the AO possesses powers under Section 131 to enforce attendance or seek verification from the respective Assessing Officers of the investors. Suspicion, however strong, cannot replace evidence. The Court also held that reliance on PCIT v. NRA Iron & Steel (P) Ltd. was misplaced because that case involved non-existent or phantom entities, whereas in the present case the investors were traceable taxpayers who confirmed the transactions under Section 133(6). Additionally, for AY 2009-10, the "source of source" requirement was inapplicable since the proviso to Section 68 introduced by the Finance Act, 2012 is prospective. The Court concluded that documented banking transactions and substantial net worth of the investors established

creditworthiness, and since the Revenue produced no evidence linking the funds to the assessee's own money, the Tribunal's findings were justified and no substantial question of law arose. It was held by the Hon'ble Court that:

*"3. We have heard Mr. Soumen Bhattacharjee, the learned Advocate for the Revenue and Mr. Subash Agarwal, the learned Advocate for the respondent-assessee.*

*4. The focal point of the Revenue's grievance is that the learned Tribunal failed to appreciate the "Test of Human Probability." It is contended that the nine subscriber companies, while being income-tax assesseees, declared meagre income which bore no rational proportion to the high share premium paid. Further, the Revenue places heavy reliance on the non-appearance of the directors of these companies in response to summons issued under Section 131 of the Act.*

*5. We have carefully perused the records and the findings of the learned Tribunal. It is observed that the respondent-assessee had placed a voluminous "Paper Book" before the authorities, which included PAN details, share application forms, allotment advices, bank statements, ITR acknowledgments, and audited financial statements of all nine corporate subscribers.*

*6. The law on Section 68 is no longer res integra. Once the assessee offers a reasonable explanation supported by "Cast Iron" documentary evidence of identity and banking flow, the initial statutory onus stands discharged. The burden then shifts squarely to the Revenue. The AO cannot merely brush aside audited balance sheets and PAN details as "paper compliance" without bringing on record contrary evidence to impeach the veracity of such documents.*

*7. A significant portion of the Revenue's argument rests on the non-appearance of the subscribers' directors. We reiterate our settled view that personal appearance is not a statutory substitute for documented financial traceability. The AO is vested with co-terminus powers under Section 131. If the AO fails to utilize these powers to compel attendance or to seek verification from the creditors' respective Assessing Officers, the Revenue cannot visit the consequences of such investigative failure upon the assessee. Suspicion, however strong, cannot replace evidence.*

*8. Regarding the Revenue's reliance on the decision of the Hon'ble Supreme Court in PCIT vs. NRA Iron & Steel (P) Ltd., we find the same to be fundamentally misplaced. That case dealt with "phantom" entities where notices were returned unserved. In the present case, the investors are traceable taxpayers who confirmed the transactions through Section 133(6) responses. To equate "traceable investors" with "phantom entities" is a leap in logic that this Court cannot countenance.*

*9. Furthermore, for the Assessment Year 2009-10, the "Source of Source" doctrine remains inapplicable as the proviso to Section 68, introduced by the Finance Act, 2012, is prospective. The Tribunal noted that the subscribers possessed substantial Net Worth (Reserves and Surplus) far exceeding the investment amounts, thereby satisfying the creditworthiness test.*

10. *In a corporate assessment, documented traceability through legitimate banking channels carries greater evidentiary weight than the subjective suspicion of an officer. Terms like "money laundering" or "round-tripping"*

*should not be used casually without specific, corroborative evidence showing a "live link" that the funds originated from the assessee's own coffers. No such evidence has been brought on record by the Revenue.*

11. *In the result, we find no perversity in the findings of the learned Tribunal. The findings are based on a sound appreciation of facts and settled legal principles. Consequently, no substantial question of law arises for consideration."*

6.4. The Ld. AR relied on the decision of the Hon'ble jurisdictional High Court in the case of PCIT vs. Balaka Vinimay Pvt Ltd (GA No. 2 of 2025) dated 21.07.2025. In this case also, the assessee and the share subscribers had furnished all the relevant details in support of the share application monies before the AO. The AO however disbelieved the explanation since there was non-compliance of summons u/s 131 by the directors of the share subscribers. Taking note of the practical difficulty that the assessee cannot be called upon to produce the share subscribers after a gap of 10 to 12 years, and having regard to the documents placed on record, the Hon'ble High Court dismissed the Revenue's appeal and upheld the order of this Tribunal deleting the addition u/s 68 by observing as under:

*".....It is not in dispute that the assessee had filed complete details of each of the shares to prove the identity and creditworthiness of the shareholders and the genuineness of the transactions was proved by producing copies of the confirmation letters, bank statements, audited financial statements, identity proofs, source of funds, investments by the share subscribers in the assessee company, replies which were given to the notice issued under Section 133(6) of the Act and various other details to show that most of the share subscribers have also passed through scrutiny proceedings. These details were placed before the learned Tribunal by way of paper books in three volumes. The learned Tribunal has in extenso referred to the details which have been furnished. Furthermore, the shareholders have responded to the notice under Section 133(6) of the Act directly to the Assessing Officer and their respective assessment orders framed under Sections 147/143(3) of the Act were also placed before the Assessing Officer as well as before the learned Tribunal. Thus, it is evident that the assessee has produced all the documents before the Assessing Officer not once but twice and the authority except indicating a theory of routine entries of paper companies/shell companies, no discrepancies had been pointed out in the financials of the alleged cash creditors. Furthermore, all the share subscribers are private limited companies duly registered with the Ministry of Corporate Affairs and*

have been furnishing the audited financial statements in the portal of the Ministry. That apart, the share subscribers have also demonstrated that there was immediate source of funds available in the bank accounts which had been applied for making investments in the equity shares of the assessee company. One more particular important factor which was lost sight of is, that the matter pertains to the financial year 2007-08 and the scrutiny assessment was completed on 27.09.2021. After a gap of 13/14 years, after actual transactions had taken place and final assessment orders had been passed, proceedings was initiated.

Thus, the predicament faced by the assessee was taken note by the learned Tribunal and it had observed that it is practically difficult that after a gap of 10 to 12 years, the assessee can call for the share subscribers who invested long time before and there is every possibility that the shareholders would have sold their equities and new shareholders would have taken their place. The learned Tribunal referred to the decision of the co-ordinate Bench in the case of True- Man Consultants Pvt. Ltd. vs ITO in ITA No. 1158/Kol/2023, wherein almost identical issue of unexplained share capital from various share subscribers came up for adjudication and after considering the factual aspect and following the judicial pronouncements, the appeal filed by the assessee was allowed by the Tribunal. The revenue preferred an appeal before this Court in ITAT/203/2024 and by order dated 25th April, 2025, the appeal filed by the revenue was dismissed.

Thus, we find that the factual issues have been thoroughly adjudicated by the Tribunal apart from noting that the assessee had been put to multiple levels of scrutiny and the assessee was able to bring on record documents in support of their claim. Therefore, we are of the view that the addition made under Section 68 of the Act was rightly ordered to be deleted.

For the above reasons, we find no ground to interfere with the order passed by the learned Tribunal. Accordingly, the appeal fails and the same is dismissed. The substantial questions of law are answered against the revenue."

6.5. The case of the assessee is also supported by the decision of the Hon'ble Calcutta High Court in the case of PCIT vs. Bright Commodeal Pvt Ltd (ITAT No. 162 of 2025) dated 28.08.2025, wherein, it was held as under:

"We have perused the reasons assigned by the learned Tribunal for allowing the assessee's appeal. It is seen that the assessing officer issued notice under Section 133 (6) of the Act to the investing companies and both the parties have complied with the said notice and furnished the requisite details.

Summons under Section 131 of the Act was issued to the Director of the assessee company to be personally present and also to produce the Directors of the investing company for examination of genuineness of the transaction, identity and creditworthiness of the lenders. The Tribunal noted that the Directors appeared pursuant to the summons but the assessing officer wrongly recorded that the Directors

*of the assessee company failed to appear in response to the summons issued under 131 of the Act.*

*Furthermore, the Tribunal examined the factual position and noted that the assessee has filed evidences as called for by the assessing officer in respect of the assessee as well as the investing companies. The evidences filed comprised of income tax returns, audited balance sheet, profit and loss account, audited report, bank statement and master data in respect of each of the subscribers. Furthermore, both the parties have submitted their reply pursuant to the notice issued under Section 133(6) of the Act. After noting these facts, the Learned Tribunal held that the assessing officer as well as the CIT(A) did not cause any verification or conduct any enquiry into the evidences which were filed by the assessee and merely harped on non-compliance of the summons issued under Section 131 of the Act, which is factually incorrect.*

*Learned Tribunal placed reliance on the decision of the Hon'ble Supreme Court in CIT-Vs- Orissa Corporation Ltd. (1986) 159 ITR 78 (SC) as well as the decision of this Court in Crystal Networks Pvt. Ltd. -Vs- CIT, (353) ITR 171 (Cal). The Tribunal also noted the decision of the Co-ordinate Bench in the case of ITO -VS- M/S Cygnus Developers India Pvt. Ltd. (ITA/282/Kol/2012) wherein the factual position was also similar to that of the case of the assessee.*

*Thus, we find that the facts have been examined by the Tribunal and the conclusion has been arrived at and therefore, no question of law, much less substantial questions of law, arises for consideration in this appeal."*

6.6. The decision of the jurisdictional Hon'ble Calcutta High Court in the case of Principal Commissioner Of Income Tax 1 vs M/S Shipra Enclave Pvt Ltd ITAT 94 OF 2025 also squarely applies to the assessee. In this case the facts were that the assessee had raised share capital and premium from fifteen corporate entities. During scrutiny assessment, the assessee produced comprehensive documentary evidence including PAN details, Income-tax return acknowledgements, bank records, and audited financial statements of all subscriber companies. Despite the availability of such material, the Assessing Officer issued summons under Section 131 to the directors of the subscriber companies and, upon their non-appearance, treated the entities as "shell companies" and added 26.22 crore as unexplained cash credit under Section 68, which was affirmed by the CIT(A). The Tribunal reversed the addition after noting that all subscriber companies were active taxpayers who had

responded to notices issued under Section 133(6) and confirmed the transactions conducted through banking channels. Before the High Court, the Revenue argued that the low income declared by the investors compared to the high share premium suggested accommodation entries, relying on the Supreme Court judgment in PCIT v. NRA Iron & Steel (P) Ltd. However, the Court held that the assessee had discharged its burden under Section 68 by establishing the identity, creditworthiness, and genuineness of the investors through strong documentary evidence. The Court further held that the non-appearance of directors could not invalidate documented transactions, especially when the AO had powers under Section 131 to enforce attendance. Distinguishing NRA Iron & Steel, the Court observed that the said judgment applies to phantom or non-existent entities, whereas the present investors were identifiable taxpayers who confirmed the transactions. Emphasizing that suspicion cannot replace evidence, the Court upheld the Tribunal's findings and dismissed the Revenue's appeal, holding that no substantial question of law arose. It was held:

*3. The factual matrix, as can be gleaned from the records, reveals that the respondent-assessee is a Non-Banking Financial Company (NBFC) duly registered with the Reserve Bank of India. For the relevant Assessment Year, its return was selected for scrutiny specifically to examine the receipt of a large share premium. During the assessment proceedings, the Assessing Officer (AO) noted that the assessee had raised share capital and premium from fifteen corporate entities.*

*4. It is seen from the record that the assessee had placed before the AO a voluminous "Paper Book" containing all requisite documents, including PAN details, Income Tax Return acknowledgments, and audited financial statements of all fifteen subscriber companies. Notwithstanding the availability of this documentary evidence, the AO issued summons under Section 131 of the Act to the directors of these companies. When they failed to appear personally, the AO proceeded to brand these companies as "shell entities" and added the entire amount of Rs 6,22,00,000/- as unexplained cash credit. This view was subsequently affirmed by the CIT (Appeals).*

*5. The learned Tribunal, however, reversed this finding, noting that the subscribers were active taxpayers who had confirmed the transactions in response to notices issued under Section 133(6) of the Act.*

6. We have heard Mr. Soumen Bhattacharjee, learned Advocate for the Revenue, and Mr. S.M Surana, learned Advocate for the respondent- assessee.

7. Mr. Bhattacharjee strenuously argued that the meagre income declared by the subscriber companies, when contrasted with the high premium paid to acquire the shares of the assessee, leads to an irresistible conclusion that the transactions were mere accommodation entries. He relied heavily on the decision of the Hon'ble Supreme Court in *PCIT vs. NRA Iron & Steel (P) Ltd.* and contended that the AO was justified in looking behind the "paper trail" to ascertain the true creditworthiness of the investors and genuineness of the transaction.

8. Per contra, Mr. Surana, learned Advocate for the assessee, submitted that as a regulated NBFC, the assessee's financial transactions are subject to stringent oversight by the RBI and the MCA. He pointed out that all fifteen subscribers were active assessees on the records of the Income Tax Department and had duly responded to the notices issued by the AO under Section 133(6) of the Act.

9. We have carefully considered the rival submissions and perused the materials on record. It is a settled legal position that to discharge the initial onus under Section 68, the assessee must establish the identity of the creditor, their creditworthiness, and the genuineness of the transaction. In the instant case, the learned Tribunal conducted a meticulous factual inquiry and recorded a specific finding that the assessee provided a "Cast Iron" documentary foundation. The audited balance sheets of the subscribers demonstrated a substantial net worth, which was far in excess of the amounts invested.

10. Furthermore, we find that the AO's reliance on the non-appearance of the directors is misplaced and is not supported by the statutory scheme where robust documentary evidence is available. As held by this Court in *PCIT vs. Sreeleathers [2022] 448 ITR 332 (Cal)*, the AO is vested with co-terminus powers under Section 131 of the Act to compel attendance. If the AO fails to exercise these powers, he cannot subsequently visit the consequences of such failure upon the assessee. Personal appearance of a director is not a statutory substitute for documented traceability in a corporate assessment, especially when the entities are active taxpayers.

11. Insofar as the reliance on NRA Iron & Steel is concerned, we find the facts of that case to be clearly distinguishable. In that case, the investors were found to be non-existent or "phantom" entities upon field inquiry. In the case before us, the investors are identifiable taxpayers who directly responded to notices u/s 133(6) and confirmed the transactions through banking channels. Equating "traceable investors" with "phantom entities" is a leap in logic that cannot be countenanced. Furthermore, the valuation of shares is a matter of commercial wisdom. Unless the Revenue proves a "live link" showing that the funds originated from the assessee's own coffers, the AO cannot substitute his judgment for that of the marketplace.

12. In view of the aforesaid discussion, we arrive at a definite conclusion that in a corporate assessment, documented traceability (comprising ITR acknowledgments, PAN details, and Bank Statements) through legitimate banking channels carries greater evidentiary weight than the subjective suspicion of an Assessing Officer. The "Test of Human Probability" cannot be invoked as a tool to disregard a verified and audited paper trail. We also conclude that the ratio in *NRA Iron & Steel* is applicable only to

*"phantom" or "non-existent" entities found to be non-traceable upon field inquiry. It cannot be extended to active, traceable taxpayers simply because their investment decisions appear commercially improbable to the Revenue. Equating "traceable investors" with "phantom entities" is a leap in logic that cannot be countenanced. Furthermore, the valuation of shares is a matter of commercial wisdom. Unless the Revenue proves a "live link" showing that the funds originated from the assessee's own coffers, the AO cannot substitute his judgment for that of the marketplace.*

*13. Upon considering the submissions made on either side and perusing the materials on record, we find that the learned Tribunal has conducted a meticulous factual inquiry. The Tribunal has recorded a specific finding that the assessee had provided "Cast Iron" documentary evidence to establish the identity and creditworthiness of the subscribers. The audited balance sheets of these companies reflected a substantial net worth, which was far in excess of the amounts invested in the assessee company.*

*14. We are convinced that the findings of the learned Tribunal are based on a meticulous factual inquiry. The Revenue has failed to produce any contrary material to disprove the documents filed. It is a settled position that suspicion, however strong, cannot take the place of evidence. We find no perversity in the findings of the learned Tribunal.*

*15. For the reasons aforementioned, we are of the view that no substantial question of law arises for consideration in this appeal. The findings of the learned Tribunal are based on a sound appreciation of facts and settled legal principles.*

6.7. The case of the assessee is squarely covered by the decisions of Hon'ble Jurisdictional High Court in the cases of PCIT Vs. M/s Bright Commodeal Private Limited in ITAT/162/2025, IA No: GA/1/2025, GA/2/2025, vide order dated 28.08.2025, PCIT Vs. Devbhumi Vinimay Pvt. Ltd. in ITAT/16/2025, IA No.GA/2/2025, vide order dated 22.07.2025, PCIT Vs. Balaka Vinimay Private Limited in ITAT/131/2025, IA no. GA/1/2025, GA/2/2025 vide order dated 21.07.2025, PCIT Vs. Rajshree Integrated Cold Chain Pvt. Ltd., ITAT/286/2024, IA No.GA/2/2024, vide order dated 17.07.2025, PCIT Vs. One Point Commercial Pvt. Ltd., ITAT/27/2025, IA no.GA/1/2025, vide order dated 3.07.2025. Therefore, considering the facts before us, we do not find any infirmity in the order of Id. CIT (A), as Id. CIT(A) passed a very speaking and well reason order.



We therefore, respectfully following the above decisions, uphold the order of Id. CIT (A) by dismissing the appeal of the Revenue.

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

Order pronounced in the open court on 06.03.2026.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 06.03.2026

*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