

**आयकरअपीलीयअधिकरणन्यायपीठमुंबईमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“C” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM**  
**&**  
**SHRI ARUN KHODPIA, AM**

**I.T.A. No.6291/Mum/2025**  
(Assessment Year: 2017-18)

<b>Catwalk Worldwide Limited</b> Unit No.405-408, TantiaJogani Industrial Premise, J R Boricha Marg, Sitaram Mill Compound, Jacob Circle S.O, Mumbai- 400011 <b>PAN: AACCC1276B</b>	Vs.	<b>Assistant Commissioner of Income Tax, Circle 6(2)(1), Mumbai</b> Room No.504, 5 <sup>th</sup> floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai-400020
<b>Assessee- अपीलार्थी / Appellant</b>	:	<b>Revenue-प्रत्यर्थी/ Respondent</b>

**Assesseeby** : Shri Madhur Agrawal, Adv.  
**Revenueby** : Shri R.A. Dhyani (CIT – DR)  
**Date of Hearing** : 17.03.2026  
**Date of Pronouncement** : 15.05.2026

**ORDER**

**Per Arun Khodpia, AM:**

This captioned appeal is preferred by the assessee, directed against the order of Commissioner of Income Tax Appeals/ National Faceless Appeal Centre (NFAC), Delhi [in short, “the Ld. CIT(A)”], dated 11.09.2025 for the assessment year 2017-18, which in turn arises from the assessment order u/s 143(3) of the Income Tax Act, 1961 (“the Act”) dated 27.12.2019 passed by Assistant

Commissioner of Income Tax Circle-6 (2) (1), Mumbai (in short, “the Ld. AO”).

The grounds of appeal are as under:

*“1. Erred in confirming the addition made by the Assessing Officer (“AO”) of the entire share premium of Rs.36,54,46,130 by invoking the provisions of section 56(2)(viib) of the Income-tax Act, 1961 (‘the Act’);*

*2. Erred in confirming that the share premium received by the appellant company was unjustified, ignoring that the valuation was duly carried out by a qualified Chartered Accountant as per the Discounted Cash Flow (‘DCF’) method prescribed under Rule 11UA of the Income-tax Rules, 1962;*

*3. Failed to appreciate that as per Explanation to section 56(2)(viib) of the Act read with 11UA of the Income-tax Rules, 1962 (‘the Rules’), once the assessee has exercised its option and adopted a prescribed method of valuation (DCF method), supported by a valuation report from a qualified accountant, the AO has no jurisdiction to disregard such valuation merely based on his subjective perceptions or by substituting his own valuation methodology;*

*4. Erred in disregarding the DCF valuation on irrelevant and extraneous grounds such as projections, assumptions, financial performance and liquidity position, without demonstrating any specific infirmity or inconsistency in the valuation report and then carrying out the valuation by considering actual results of the Appellant company;*

*5. Failed to appreciate that the shares were issued to an unrelated party who was a strategic partner in the same line of business.”*

2. Brief facts of the case are that the assessee is a Private Limited Company, engaged in the business of manufacturing and trading of ladies footwear. The assessee company has filed its return on 30.12.2017, declaring income of Rs.79,240/- and book profit of Rs.8,44,63,698/-, has paid tax of Rs.1,87,67,058/-. During the year under consideration, the assessee company had allotted 705387 shares to Sara Suloe Pvt Ltd (SSPL) at face value of Rs.10/- plus a premium of Rs.518/-. The transaction of allotment of shares by the assessee during the year becomes the issue for addition in the present case. In the year under consideration, Ld. AO invoked the provisions of section 56(2)(viib) of the Act to

the aforesaid transaction, for which explanations were called for from the assessee. In response, the assessee submitted a valuation report under Discounted Cash Flow Method (DCF) dated 21.03.2016 prepared by Singhal Gupta and Co., Chartered Accountants, according to which the valuation per share has been worked out at Rs.536.17/-.

3. Ld. AO took adverse inference on the said valuation report, had observed that the valuer has not done any research work. That the valuation report was prepared on the basis of financial statements, projections and other information provided by the assessee company. That the actual figures of assessee company for financial year 2015-16, 2016-17, 2017-18 and 2018-19 are not matching with the figures as projected by the valuer, that the projected figures of Profit Before Tax (PBT) adopted by the valuer are at much more on higher side than the actual achievable figures. It is also noted by the AO that the valuer has not given any basis or details of research before using the projected figures for valuation. Therefore, the result arrived at on the basis of projections does not seem to be correct and justified. It was the opinion of Ld. AO that to arrive at the correct Fair Market Value of the share, the valuation was to be done under the Net Asset Valuation (NAV) Method which is an acceptable method as per provisions of section 56 (2)(viib) of the Act. According to which, the value of shares was computed by the Ld. AO and arrived at Rs.133.84/- per share only as on 31.03.2016. Then, the assessee was show-caused to justify the Fair Market Value

of the share at a premium of Rs.518/-, otherwise the provisions of section 56 (2)(viib) will be made applicable.

4. In response, the assessee furnished its submissions before the AO stating that, as per the provisions of section 56(viib) the assessee has the option to choose either the NAV or the DCF method to value its shares. Accordingly, the assessee had obtained a valuation report from Singhal Gupta and Co. Chartered Accountants, having sufficient experience, who had valued the share on DCF method. The assignment was specific as valuation was to be done for acquisition of share by the strategic investor. It is submitted that the future prospects and projections of revenues and expenses are taken assuming that the management of company would be able to initiate step to achieve the projected results. Valuation is based on estimates of future financial performance. It is rebutted that it is not correct to comment that the valuer has not done any research work without examining the valuer and recording his statement as to the basis of his valuation and methods and data used. The assessee company has engaged the services of a professional as mandated by law and adopted the valuation accordingly. The assessee placed reliance on the decision of Hon'ble Bombay High Court in the case of **Vodafone M Pesa Ltd. V PCIT-7**, wherein the Hon'ble High Court has held that while the tax authority have the power to scrutinize the valuation report and are entitled to determine a fresh valuation, they do not have the power to change the valuation method, which has once been chosen.

5. The aforesaid response of assessee could not find favour by the AO, who noted his disagreement with the submissions of the assessee and have re-computed the valuation under DCF method, following the judgment of Hon'ble Bombay High Court in the case of **Vodafone M Pesa (supra.)**. After working out the valuation on DCF method (substituting the projected figures with actual figures), the Ld. AO arrived at a negative valuation of Rs. (- 58.67/-) per share, as against the valuation adopted by the assessee at Rs.536/-. Ld. AO further noted that the assessee company has not carried out any business activities, the company claims losses in earlier years. It does not have any asset base on the basis of its equity shares which can be subscribed by the subscribers paying such premium amount. Accordingly, an addition of Rs.36,54,46,130/- was made invoking provisions of section 56(2)(viib) of the Act.

6. Being aggrieved, the assessee preferred an appeal before the Ld. CIT(A) wherein the plea of the assessee that, the Assessing Officer cannot change the method of valuation has been dismissed by the Ld. CIT(A) Dissatisfied with the decision of Ld. CIT(A), the assessee filed the instant appeal before us.

7. At the outset, Ld. Counsel of the assessee (AR) submitted that the valuation shares of the assessee company under DCF method cannot be held as arbitrary, the same was preliminarily arrived at even at a higher rate. Subsequent to due diligence, considering various other factors, the equity share capital of assessee was then valued at Rs.89.81 crores. Accordingly, the assessee had issued the shares at Rs. 518.08 per share. It is submitted that the Assessing Officer did not

follow any prescribed method for valuation of shares as per settled position of the provisions of section 56(2)(viib) r.w.Rule 11UA of the Income Tax Rules (in short, “the Rules”).The unlisted shares can only be valued under DCF method or under NAV method. In present case, The AO merely substituted the projected PBT with the actual PBT, in this regard, it is submitted that the value under DCF method can only be determined using projected revenues and since the AO has replaced the projected revenues with actual revenues, the value arrived at by Ld. AO was not in accordance with DCF method and as such the Ld. AO had not followed any prescribed method for determining the value of shares. It is submitted that on this account itself, the addition made by Ld. AO ought to be deleted. Regarding deference in Profit Before Tax (PBT) under the projected valuation and actual PBT, Ld. AR clarified that for financial year 2015-16, the projected Profit Before Tax of Rs. 3.1 crore turned into a Loss Before Tax (LBT) of Rs. (27.78) crore because of one time correction by writing off of certain items totaling to Rs.17.26 crores, which was given effected to in consultation with a big four accounting firm.

8. To substantiate the said fact, it is further submitted that as per Board of Directors report of the assessee for financial year 2015-16, which is furnished before us during the hearing, such adjustments are apparent which are extracted as under:

*“The Company in consultation with a Big Four Accounting Firm decided to make the following one-time corrections and write-offs totaling to 17.26 Cr in FY16:*

*1. Shutting down of all the loss-making stores resulting in fixed asset write-off of 71.65 Lac*

*2. In order to match with global standards, the company decided to write-down overaged stocks valuing 7.7 Cr.*

*3. Writing off / back of non-recoverable carried forward balances netting off to 36 Lac*

*4. Fund raising expenses incurred amounting to 1.18 Cr*

*5. In the first time ever, ₹ 7.29 Cr worth of discount provision was made in accordance with AS-9 and AS-29.*

*6. Slowing down of business was undertaken in FY16 H2 while diligence was underway resulting in non-quantifiable revenue loss and operating profit.”*

9. It is argued that the aforesaid write off adjustment was done in pursuance to fair presentation as per accounting standards, which could not have been projected at the time of obtaining the valuation report. Ld. AR further explained that when a new investor initiates due diligence, the prospective company is generally expected to maintain only routine operations and avoid undertaking significant business activities. Consequently, the slow down arising from the said due diligence process during the financial year 2015-16, further contributed to a variation between projected and actual financial figures. To establish this fact, Ld. AR drew our attention again to the Board of Directors report for financial year 2015-16, wherein the Board has categorically noted about the slowing down of business on account of due diligence during the period. The said comment of the directors is extracted (supra).

10. Ld. AR further submitted that the turnover for financial year 2016-17 has been increased approximately 44.45% from the turnover of financial year 2015-16, which clearly indicates that the assessee company was witnessing a growth

in its business. Ld. AR also rebutted to the allegation of the Ld. AO, regarding the assessee did not carry out any business activities then how the heavy premium has been charged by the assessee justifies. It is refuted; that the allegation was completely devoid of merits looking at the growth of actual operations of the assessee company in financial year 2016-17. It is also clarified by the Ld. AR that the assessee is a manufacturer and seller of footwear having not involved with any intellectual tangible properties or complicated plant and machinery which would require heavy investment in capital assets. On the contrary, the assessee company gains its brand value, goodwill with intrinsic market reach and satisfied customers which being a self-generated asset that could not be recognized in the balance-sheet. Ld. AR also submitted that certain external factors also contributed to the variations between projected PBT and actual PBT, such as demonetization of currency notes on 8<sup>th</sup> November, 2016, which adversely impacted business nation-wide including the business of assessee. As a result, a reduced customer spending led to sales falling short of projections. The second factor was the introduction of Goods and Service Tax regime from 1<sup>st</sup> July, 2017, requiring significant adjustment to existing business practices which temporarily affected the cash flows and profitability of assessee. Thirdly, the rapid growth of e-commerce platforms intensified pricing pressures on offline retailers like the assessee, so heavy discounts were necessary to remain competitive impacting the profitability. It is also submitted that the AO had computed the value of shares under NAV method at Rs.133.84/- per shares, however has proceeded to make

addition for the entire amount of share premium without giving any effect of his own valuation under NAV.

11. After discussing the aforesaid contentions on merits, Ld. AR came up with legal propositions and have submitted that the intent behind the introduction of section 56(2)(viib) of the Act was to curb the generation and flow of unaccounted money. In the present case, an unrelated independent party had invested in the shares of assessee under a strong business synergy and eventually it became controlling entity. It is further pointed out that the Ld. AO has rejected the valuation report issued under Rule 11UA of the Rules determining the value of shares under DCF method and recomputed the valuation of the shares by replacing actual PBT from financial year 2015-16 to 2018-19 with projected PBT. On this aspect, Ld. AR placed his reliance on the decision of Co-ordinate Bench of ITAT Delhi in the case of **Cinestaan Entertainment (P.) Ltd. v. Income Tax Officer Ward 6(2), New Delhi reported in [2019] 106 taxmann.com 300 (Delhi)**, which is further approved by **Hon'ble Delhi High Court in ITA No.1007/2019**, wherein the view expressed by Tribunal was affirmed by the Hon'ble High Court, that the revenue was free to conduct its own valuation using either DCF or NAV method instead of rejecting the assessee's valuation solely because actual performance later diverged from projections. This approach of revenue is held as irrational. Ld. AR also placed his reliance on various decisions and has furnished a written submission which reads as under:

*"31. In this regard, attention is invited to the decision of **Hon'ble Delhi Tribunal in case of Cinestaan Entertainment (supra)**, wherein, similar to the facts of the present*

case, the shares of the assessee was valued under DCF method. The AO made addition u/s. 56(2)(viib) by rejecting the valuation report as the actual revenue was not aligned with the projected and holding that the high share premium was not justified. The Hon'ble ITAT, after appreciating the legislative intent behind the provisions of section 56(2) (viib) and observed that this provision cannot be invoked on a normal business transaction of issuance of shares unless it has been demonstrated by the Revenue authorities that the entire motive for such issuance of shares on higher premium was for the tax abuse with the objective of tax evasion by laundering its own unaccounted money. It further held that where the Act provides that valuation must be carried out as per the prescribed method, and the assessee has adopted one of the prescribed methods, the Assessing Officer has to accept the same. If the AO is not satisfied, there is no express provision under the Act or the Rules permitting him to adopt his own valuation in the DCF method or to obtain a valuation from some different Valuer. An AO can interfere only where there is an enabling provision empowering him to tinker with the valuation report issued by an independent valuer qualified under Rule 11U. The Rules specifically provide two valuation methodologies-the asset-based NAV method, grounded in actual numbers from the latest audited financials, and the DCF method, which is based on estimated future projections. Such projections necessarily depend on multiple factors considered by the management and the valuer-growth prospects, economic and market conditions, business conditions, expected demand and supply, cost of capital, and various other assumptions. These elements, by nature, cannot be evaluated with arithmetical precision, as valuation under DCF is always an approximation driven by underlying facts and assumptions. Accordingly, valuation reflects the potential value of the business at that particular time, considering factors subject to change, and hence a valuation relevant on one date may not remain relevant after a period of time. Accordingly, the addition made u/s. 56(2) (viib) was deleted. [The copy of decision was tendered during the hearing before the Hon'ble Bench on 17th March 2026].

32. The above views expressed by the **Hon'ble Delhi Tribunal** is further upheld by the **Hon'ble Delhi High Court in ITA No. 1007/2019**, wherein it was observed that valuation is a matter of commercial prudence and must be determined strictly in accordance with the prescribed methodology. The assessee, being a start-up, had adopted the DCF method based on material and projections available on the valuation date. The Revenue was free to conduct its own valuation using either the DCF or NAV method, but instead rejected the assessee's valuation solely because actual performance later diverged from projections. The Court held that such an approach is irrational, as DCF valuation inherently rests on forecasts, which are susceptible to change. Valuation is not an exact science, cannot be done with arithmetical precision, and is best left to qualified experts. The Revenue failed to show that the assessee's methodology was incorrect or that the valuation was based on a wholly erroneous or demonstrably wrong approach. The AO had merely rejected the valuation without determining any alternate fair value. Further, since the shares were subscribed by independent outside investors, the Revenue could not question their commercial wisdom. The Hon'ble High Court, therefore, affirmed the ITAT's conclusion that the valuation adopted by the assessee was a finding of fact, supported by material on record, and no grounds existed for interference. [The copy of decision was tendered during the hearing before the Hon'ble Bench on 17th March 2026].

33. The appellant submits the above decisions in case of **Cinestaan (supra)** squarely applies to the facts of the present case, as in Appellant's case, as well, the transaction

*was between the unrelated parties and the AO has merely rejected the valuation report by comparing the actual profit with the projected and did not compute any other alternate fair value and rather computed the actual value itself.*

*34. The appellant further relies on the decision of **Hon'ble Jaipur Tribunal in case of Rameshwaram Strong Glass Put. Ltd. v. ITO [2018] 96 taxmann.com 542**, wherein the shares of the assessee was valued under DCF method. The Department rejected the valuation relied by the assessee by citing huge variance between the actual revenue and the projected revenue. The AO made addition u/s. 56(2) (viib) of the Act, by determining the fair value under NAV method. The Hon'ble ITAT deleted the addition by holding that valuation under the DCF method is inherently based on projections, which cannot be compared with later actual results, as forecasts depend on several factors and cannot be estimated with precision. Even where a company has little or no business history, its shares may still command a premium especially in start-up-type situations, which the Income-tax Act itself recognises and encourages. [The copy of the decision is enclosed hereby from Pg. No. 268 to 285 of the Paper Book.]*

*35. Similar view was taken in the decisions of **Hon'ble Delhi Tribunal in cases of JUS Scriptum Magnus (P). Ltd [2025] [178 taxmann.com 695]** and **IPSAA Holdings (P.) Ltd. vs. ACIT [2025] 176 taxmann.com 823**, wherein it has been held that once the assessee validly adopts DCF method for share valuation u/r. 11UA, the Assessing Officer cannot compare projections adopted by assessee with actual figures. [Copy of decision held in JUS Scriptum is enclosed from Pg. No. 286 to 295 & IPSAA Holdings (P.) Ltd. is enclosed from Pg. No. 296 to 301 of the Paper Book]”*

12. Based on aforesaid submissions, it was the prayer that the addition made u/s 56(2)(viib) by the Ld. AO was not justified on merits as well as in terms of settled legal position referred to (supra), the same is liable to be deleted.

13. Per contra, Ld. CIT DR representing the revenue submitted that the addition of share premium was made invoking the provisions of section 56 (2)(viib) of the Act, the AO has categorically pointed out the reasons for discarding the valuation done by the assessee. It is submitted that the valuer has used assumptions/presumptions and the data provided by the management of the assessee company only without any research work. On analysis of financial data and parameters, the assessee did not justify the premium of Rs. 518/- per share. The AO has rightly noted that the aggregated premium received and shown in

books of account is not based on Fair Market Value of shares. The assessee company was not carrying out any business activities, so the loss was reported in earlier years. The assessee company does not possess any asset base on the basis of which the equity can be subscribed at such a high premium. It is submitted that no justification why a prudent investor would pay such huge amount of premium on face value of share at Rs.10/- and no track record of business activity or profit to showcase. Ld. DR further submitted that the Ld. CIT(A) has rightly confirmed the addition as the assessee has failed to substantiate the commercial and financial justification of huge premium charge on issue of shares during the year under consideration. Mere submission of report cannot validate high share premium. The assessee has contended that valuation report cannot be judged in hindsight by looking at actual performance, the DCF method is not a shield to legitimize arbitrary premium by showing hypothetical cash flow, therefore, the AO completely justified to disregard defective valuation and determined fair value of the share in accordance with true intent of the statute. The addition made, therefore, deserves to be sustained.

14. We have considered the rival submissions, perused the material available on record and jurisprudence relied upon by the assessee. On perusal of the facts on record, admittedly the assessee has issued 7,05,387/- number of equity shares during the year on a face value of Rs.10/- + a premium of Rs.518.08 to a third party, namely, M/s. Sara Soule Pvt. Ltd. (SSPL). Before issue of shares, valuation is obtained by the assessee from a Chartered Accountant Firm "Singhal Gupta

and Co.” on 21<sup>st</sup> March, 2016, wherein the valuation was completed at Rs.536.17/- per share, using the projected financials for financial year 2015-16 to 2019-20. Ld. AO doubting the transaction, has called the information from assessee to justify the huge premium charged in allotment of shares, in terms of provisions of section 56(2)(viib) of the Act. In response, the Assessee furnished valuation report, which is analyzed by the Ld. AO with the actual financials of the assessee for subsequent years i.e. from FY 2015-16 to 2018-19 and found a huge difference in the projections as against the actual audited Profit Before Tax (PBT) of the assessee company. It is noticed that the projections are at much more higher side, therefore, Ld. AO computed the value of assessee’s share under NAV method and has arrived at the value of Rs.133.84/- per share as on 31<sup>st</sup> March, 2016. On further submission by the assessee, relying on a decision of Hon’ble Bombay High Court in the case of **Vodafone M Pesa (supra)**, Ld. AO also worked out valuation of assessee’s shares on DCF method, however, he adopted actual figures for the financial year 2015-16 to 2018-19 instead of projected figures and has computed the value of shares under DCF method at Rs. -58.67/-. The contention raised by the assessee before the AO regarding drop down of the profits and impermissibility of change in valuation method as well as adoption of actual figures in DCF method, which is not a correct way to compute the fair market value of a share, are disregarded by the Ld. AO and the addition was made. Ld. CIT(A) also approved the findings of Ld. AO and thus the addition of

Rs.36,54,46,130/- made by the AO u/s 56(2)(viib) stands confirmed by the Ld. CIT(A).

15. Before us, Ld. AR had made multifold arguments, whereas the revenue had reiterated the findings from the order of Ld. CIT(A) and Ld. AO. Regarding factual differences in actual Profit Before Tax (PBT) of the assessee and projected PBT of the assessee, Ld. AR has clarified that it was on account of various external factors such as demonetization in 2016, applicability of GST Law in July 2017 and rapid growth of e-commerce platforms for which the assessee company has to reduce its prices or allow heavy discounts to the customers to remain competitive, thus such factors impacted adversely the profitability of the assessee company. On legal count, Ld. AR placed reliance on the decision in the case of **Cinestaan Entertainment (P.) Ltd. (supra)**, wherein the Co-ordinate Bench of ITAT Delhi had decided the identical issue at length and the main take out from the said judgment is that as per section 56(2)(viib) read with Rule 11UA, the assessee has an option to which valuation of shares and determined fair market value either on DCF method or NAV method, the Assessing Officer cannot examine or substitute his own value in place of value so determined. The aforesaid decision of Tribunal was challenged by the revenue before the **Hon'ble High Court of Delhi in ITA No.1007/2019**, which is disposed of vide order dated 1<sup>st</sup> March, 2021 wherein the findings of Tribunal are upheld by the Hon'ble High Court which reads as under:

*“12. In this factual background, the learned ITAT then proceeded to examine whether the AO after invoking the deeming provision under Section 56(2)(viib), could have*

determined the FMV of the premium on the shares issued at nil after rejecting the valuation report given by the Chartered Accountant based on one of the prescribed methods under the Rules adopted by the valuer. On this aspect, after examining the statutory provisions and the factual position, the ITAT inter-alia observed as under:

"32. What is seen here is that, both the authorities have questioned the assessee's commercial wisdom for making the investment of funds raised in 0% compulsorily convertible debentures of group companies. They are trying to suggest that assessee should have made investment in some instrument which could have yielded return/profit in the revenue projection made at the time of issuance of shares, without understanding that strategic investments and risks are undertaken for appreciation of capital and larger returns and not simply dividend and interest. Any businessman or entrepreneur, visualise the business based on certain future projection and undertakes all kind of risks. It is the risk factor alone which gives a higher return to a businessman and the income tax department or revenue official cannot guide a businessman in which manner risk has to be undertaken. Such an approach of the revenue has been judicially frowned by the Hon'ble Apex Court on several occasions, for instance in the case of SA Builders, 288 ITR 1 (SC) and CIT vs. Panipat Woollen and General Mills Company Ltd., 103 ITR 66 (SC). The Courts have held that Income Tax Department cannot sit in the armchair of businessman to decide what is profitable and how the business should be carried out. Commercial expediency has to be seen from the point of view of businessman. Here in this case if the investment has made keeping assessee's own business objective of projection of films and media entertainment, then such commercial wisdom cannot be questioned. Even the prescribed Rule 11UA(2) does not give any power to the Assessing Officer to examine or substitute his own value in place of the value determined or requires any satisfaction on the part of the Assessing Officer to tinker with such valuation. Here, in this case, Assessing Officer has not substituted any of his own method or valuation albeit has simply rejected the valuation of the assessee.

33. Section 56(2) (viib) is a deeming provision and one cannot expand the meaning of scope of any word while interpreting such deeming provision. If the statute provides that the valuation has to be done as per the prescribed method and if one of the prescribed methods has been adopted by the assessee, then Assessing Officer has to accept the same and in case he is not satisfied, then we do not find any express provision under the Act or rules, where Assessing Officer can adopt his own valuation in DCF method or get it valued by some different Valuer. There has to be some enabling provision under the Rule or the Act where Assessing Officer, has been given a power to tinker with the valuation report obtained by an independent valuer as per the qualification given in the Rule 11U. Here, in this case, Assessing Officer has tinkered with DCF methodology and rejected by comparing the projections with actual figures. The Rules provide for two valuation methodologies, one is assets based NAV method which is based on actual numbers as per latest audited financials of the assessee company. Whereas in a DCF method, the value is based on estimated future projection. These projections are based on various factors and projections made by the management and the Valuer, like growth of the company, economic/market conditions, business conditions, expected demand and supply, cost of capital and host of other factors. These factors are considered based on

*some reasonable approach and they cannot be evaluated purely based on arithmetical precision as value is always worked out based on approximation and catena of underline facts and assumptions. Nevertheless, at the time when valuation is made, it is based on reflections of the potential value of business at that particular time and also keeping in mind underline factors that may change over the period of time and thus, the value which is relevant today may not be relevant after certain period of time. Precisely, these factors have been judicially appreciated in various judgments some of which have been relied upon by the Id. Counsel, for instance:*

*i) Securities & Exchange Board of India & Ors [2015 ABR 291 (Bombay HC)] -*

*"48.6 Thirdly, it is a well settled position of law with regard to the valuation that valuation is not an exact science and can never be done with arithmetic precision. The attempt on the part of SEBI to challenge the valuation which is by its very nature based on projections by applying what is essentially a hindsight view that the performance did not match the projection is unknown to the law on valuations. Valuation being an exercise required to be conducted at a particular point of time has of necessity to be carried out on the basis of whatever information is available on the date of the valuation and a projection of future revenue that valuer may fairly make on the basis of such information."*

*ii) Rameshwaram Strong Glass Pvt. Ltd. v. ITO [2018-TTOL-1358-ITAT-Jaipur]*

*"4.5.2. Before examining the fairness or reasonableness of valuation report submitted by the assessee we have to bear in mind the DCF Method and is essentially based on the projections (estimates) only and hence these projections cannot be compared with the actuals to expect the same figures as were projected. The valuer has to make forecast on the basis of some material but to estimate the exact figure is beyond its control. At the time of making a valuation for the purpose of determination of the fair market value, the past history may or may not be available in a given case and therefore, the other relevant factors may be considered. The projections are affected by various factors hence in the case of company where there is no commencement of production or of the business, does not mean that its share cannot command any premium. For such cases, the concept of start-up is a good example and as submitted the income-tax Act also recognized and encouraging the start-ups."*

*iii) DQ(International) Ltd. vs. ACIT (ITA 151/Hyd/2015)*

*"10. In our considered view, for valuation of an intangible asset only the future projections can be adopted and such valuation cannot be reviewed with actuals after 3 or 4 years down the line. Accordingly, the grounds raised by the assessee are allowed"*

*34. The aforesaid ratios clearly endorsed our view as above. In any case, if law provides the assessee to get the valuation done from a prescribed expert as per the prescribed method, then the same cannot be rejected because neither the Assessing Officer, nor the assessee have been recognized as expert under the law."*

35. There is another very important angle to view such cases, is that, here the shares have not been subscribed by any sister concern or closely related person, but by an outside investors like, Anand Mahindra, Rakesh Jhunjhunwala, and Radhakishan Damania, who are one of the top investors and businessman of the country and if they have seen certain potential and accepted this valuation, then how AO or ta. CIT(A) can question their wisdom. It is only when they have seen future potentials that they have invested around Rs.91 crore in the current year and also huge sums in the subsequent years as informed by the ld. counsel. The investors like these persons will not make any investment merely to give dole or carry out any charity to a startup company like, albeit their decision is guided by business and commercial prudence to evaluate a startup company like assessee, what they can achieve in future. It has been informed that these investors are now the major shareholder of the assessee company and they cannot become such a huge equity stock holder if they do not foresee any future in the assessee company. In a way Revenue is trying to question even the commercial prudence of such big investors like. According to the Assessing Officer either these investors should not have made investments because the fair market value of the share is Nil or assessee should have further invested in securities earning interest or dividend. Thus, under these facts and circumstances of the case, we do not approve the approach and the finding of the Id. Assessing Officer or ld. CIT(A) so to take the fair market value of the share at 'Nil' under the provision of Section 56(2)(viib) and thereby making the addition of Rs.90.95 crores. The other points and various other arguments raised by the Id.counsel which kept open as same has been rendered purely academic in view of finding given above.

36. Other grounds are either consequential or have become academic, hence same are treated as infructuous. In the result appeal of the appellant assessee is allowed."

13. From the aforesaid extract of the impugned order, it becomes clear that the learned ITAT has followed the dicta of the Hon'ble Supreme Court in matters relating to the commercial, prudence of an assessee relating to valuation of an asset. The law requires determination of fair market values as per prescribed methodology. The Appellant-Revenue had the option to conduct its own valuation and determine FMV on the basis of either the DCF or NAV Method. The Respondent Assessee being a start-up company adopted DCF method to value its shares. This was carried out on the basis of information and material available on the date of valuation and projection of future revenue. There is no dispute that methodology adopted by the Respondent-Assessee has been done applying a recognized and accepted method. Since the performance did not match the projections, Revenue sought to challenge the valuation, on that footing. This approach lacks material foundation and is irrational since the valuation is intrinsically based on projections which can be affected by various factors. We cannot lose sight of the fact that the valuer makes forecast or approximation, based on potential value of business. However, the underline facts and assumptions can undergo change over a period of time. The Courts have repeatedly held that valuation is not an exact science, and therefore cannot be done with arithmetic precision. It is a technical and complex problem which can be appropriately left to the consideration and wisdom of experts in the field of accountancy, having regard to the imponderables which enter the process of valuation of shares. The Appellant-Revenue is unable to demonstrate that the methodology adopted by the Respondent Assessee is not correct. The AO has simply rejected the valuation of the Respondent-Assessee and failed to provide any alternate

*fair value of shares. Furthermore, as noted in the impugned order and as also pointed out by Mr. Vohra, the shares in the present scenario have not been subscribed to by any sister concern or closely related person, but by outside investors. Indeed, if they have seen certain potential and accepted this valuation, then Appellant-Revenue cannot question their wisdom. The valuation is a question of fact which would depend upon appreciation of material or evidence. The methodology adopted by the Respondent-Assessee, accepted by the learned ITAT, is a conclusion of fact drawn on the basis of material and facts available. The test laid down by the Courts for interfering with the findings of a valuer is not satisfied in the present case, as the Respondent-Assessee adopted a recognized method of valuation and Appellant-Revenue is unable to show that the assessee adopted a demonstrably wrong approach, or that the method of valuation was made on a wholly erroneous basis, or that it committed a mistake which goes to the root of the valuation process.*

*14. In view of the foregoing, we find that the question of law urged by the Appellant-Revenue is purely based on facts and does not call for our consideration as a question of law.”*

16. In view of aforesaid decisions, the revenue needs to bring on record as to why the projections taken by the assessee are not fair and proper. The Assessing Officer cannot disregard the valuation report of CA mainly on the ground that valuation of equity share carried out by the assessee was just on projection of revenue, which did not match with the actual revenues in the subsequent years. Ld. AR also relied upon the decision of ITAT Delhi in the case of **Deputy Commissioner of Income Tax vs. JUS Scriptum Magnus (P.) Ltd. [2025] 178 taxmann.com 695 (Delhi)**, where in the Tribunal has held as under:

*“Once assessee validly adopts DCF method for share valuation under rule 11UA, Assessing Officer cannot substitute it with NAV method and also cannot compare projections adopted by assessee with actual figures.”*

17. An identical and similar view has been adopted under various decisions listed as under:

- i. *“Hon'ble Mumbai Tribunal decision in case of Gasifpower Tech Private Limited (ITA No. 1740/MUM/2025)*
- ii. *Hon'ble Jaipur Tribunal decision in case of Rameshwaram Strong Glass Put. Ltd. [2018] [96 taxmann.com 542]*

iii. *Hon'ble Delhi Tribunal decision in case of IPSAA Holdings (P.) Ltd. [2025] [176 taxmann.com 823]*”

18. As noted from the aforesaid decisions, that legislative intent emerging from the judicial precedents are-

(i) Section 56(2)(viib) is an anti-abuse provision introduced to the statute to check and regulate introduction of unaccounted money through share premium.

(ii) The bonafide nature of the transaction also needs to be considered in the light of the legislative intent.

(iii) For the harmonious interpretation of section 56(2)(viib), the corporate veil is to be lifted while testing transaction viz., between relatives, existing shareholders, holding and subsidiary companies etc.

(iv) Once the assessee has exercised an option for valuation of an unquoted equity share, in terms of Rule 11UA either as per NAV Method or as per DCF Method, the AO is bound to follow the valuation unless the AO brings in cogent material on record to establish perversity in the method adopted by the assessee.

19. In the present case, the assessee adopted DCF method which cannot be discarded only for the reason that the valuation was made on the basis of projections and the actuals in subsequent years are not matching with those of projections or having a huge difference therein. While the differences are explained by the Ld. AR before us, which are acceptable and can be trusted, the legal contentions raised by the Ld. AR also goes to the root of controversy before

us, as to whether the DCF method which is permitted under the provisions of section 56(2)(viib) adopted by the assessee can be changed by the AO during the course of assessment without finding any substantive reason to do so. The answer is “No” following the jurisprudence referred to (supra). Further, the AO in the present case has adopted DCF method, but by substituting the figures of actual PBT of the assessee replacing the projected one, which is not permissible as held in the case of **Deputy Commissioner of Income Tax vs. JUS Scriptum Magnus (P.) Ltd. (supra)** wherein the Hon’ble Delhi Tribunal has held that the Assessing Officer cannot disturb the valuation by comparing the projections adopted by the assessee with actuals.

20. In backdrop of aforesaid deliberations, facts, circumstances and applicable jurisprudence in the present case respectfully following the jurisprudence as emerging from the decision of Hon’ble Delhi High Court in the case of **Cinestaan Entertainment (P.) Ltd. (supra)**, which is further followed by this Tribunal in various other decisions, we are of the considered opinion that in present case the action of Ld. AO, which is further confirmed by the Ld. CIT(A), cannot be acceded to or considered to be justified, as the Ld. AO had first tried to adopt valuation on NAV method, which is not the method opted by the assessee, further the Ld. AO adopted DCF method, but while computing the same had filled the actual financials instead of projected financials, which is not permissible. The Assessing Officer ought not to have disturbed the method

adopted by assessee or cannot adopt the figures by replacing the projections with actual financials.

21. We thus, find substance in the contentions raised by Ld. AR that the findings of Ld. AO in making the addition u/s 56(2)(viib) and confirmation of the same by Ld. CIT(A) are not in accordance with the settled principles of law or in line with the intent of the legislature. Consequently, the grounds of appeal raised by the assessee in the present appeal are allowed.

22. We, accordingly, direct to set aside the order of Ld. CIT(A) and to vacate the addition of Rs.36,54,46,130/- made u/s 56(2)(viib) vide impugned assessment order u/s 143(3) dated 27.12.2019.

23. In result, the appeal of the assessee stands **allowed**, in terms of our aforesaid observations.

*Order pronounced in the open court on 15-05-2026.*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(ARUN KHODPIA)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated : 15-05-2026.  
*Ankit K., Sr. PS*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**