

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'E', NEW DELHI**

**Before Sh. Raj Kumar Chauhan, Judicial Member
&
Smt. Renu Jauhri, Accountant Member**

ITA No. 5317/Del/2025 : Asstt. Year: 2017-18

DCIT, Central Circle-26, New Delhi-110055	Vs	ANR International Pvt. Ltd., 167, 1 st Floor, Block-2, FIE, Parparganj, Laxmi Nagar, New Delhi-110092
(APPELLANT)		(RESPONDENT)
PAN No. AAACS3221N		

**Assessee by: Sh. Ruchesh Sinha, Adv.,
Dr. Rakesh Kumar, Adv. &
Ms. Monalisa Maity, Adv.
Revenue by: Ms. Ankush Kalra, Sr. DR**

Date of Hearing: 11.03.2026	Date of Pronouncement: 05.06.2026
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ORDER

Per Raj Kumar Chauhan, Judicial Member:

The appeal of the Revenue is directed against the order dated 13.05.2025 of Id. CIT(A)-29, New Delhi passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "*the Act*") wherein the addition made vide assessment order dated 07.12.2019 were ordered to be deleted.

2. Facts in brief as culled out from the order of the authorities below are that the assessee filed return of income for A.Y. 2017-18 declaring income of Rs.5,29,89,170/- on 26.10.2017. Return was processed u/s 143(1) of the Act and subsequently case was selected for limited scrutiny on the

basis of CASS by issuing notice u/s 143(2) of the Act dated 13.08.2018. Subsequent notice u/s 143(2) were also issued and in response to those statutory notices, the assessee company has filed detail stating that it was engaged in business of import and trading of chemical and received commission as consignment agent. The assessee company has issued 10,00,000 shares at face value of Rs. 10/- each and taken premium of Rs.20/- per share. The assessee company has received total share capital of Rs. 1,00,00,000/- from three parties namely, Ritika Chawchharia (Rs.22,00,000/-), Anoop Kumar HUF (Rs. 72,00,000/-) and Rishu Agencies Pvt. Ltd. (Rs.6,00,000/-) apart from a total share premium of Rs.2,00,00,000/- from these parties only. Vide submission dated 25.11.2019, the copy of Income Tax Returns, statement of income and bank statement for Financial Year 2016-17 of the three parties to whom share capital was allotted during the year was filed. The AO observed that these three parties has very low gross total income/ total income as compared to amount paid on account of share capital and share premium. Hence, a show-cause notice dated 25.11.2019 was issued. In reply to the show-cause notice, the assessee has explained the source of funds of these three entities but the Id. AO did not found the explanation satisfactory and issued a show-cause notice as to why the amount of share premium of

Rs.2,00,00,000/- should not be added to the income of the assessee u/s 56(2)(viib) of the Act. The said show-cause notice dated 25.11.2019 remained uncomplied. It was therefore concluded by the Id. AO that the assessee has not discharged the onus cast on it to prove the creditworthiness of the creditors of the transaction. Hence, the sum of money received by the assessee company during the year as share capital and share premium amounting Rs.3,00,00,000/- was added as income of the assessee u/s 68 of the Act. Penalty proceeding u/s 271AAC were also initiated.

3. Aggrieved by the said Assessment Order, the assessee filed appeal before the Id. CIT(A). The Id. CIT(A) noted that additional evidence was filed before the Id. CIT(A) as the Assessing Officer did not permit the filing of the additional evidence when requested by the assessee. A remand report was called with respect to the additional evidence under Rule 46A. The stress of the Id. AO in the remand report was that the assessee has failed to prove source of source. The said remand report was considered and the Id. CIT(A) proceeded to delete that addition by making observation extracted below as under:

"9. Ground Nos. 3 to 7: The appellant had filed its return of income on 26.10.2017 declaring income of Rs. 5,29,89,170/-. Subsequently, the case of the appellant was selected for Limited Scrutiny. Accordingly, notice u/s 143(2) of the Act was issued on 13.08.2018 and assessment was completed u/s 143(3) on 07.12.2019 at an assessed income of Rs.8,29,89,170/-. In the

assessment order, the Assessing Officer made addition of Rs. 3 crores on account of share capital received from the following 3 persons:

S.No.	Name of the Party	No. of Equity Shares	Amount received as capital (Rs.)	Amount received as share premium (Rs.)
1.	Ritika Chhawchharia	2,20,000	22,00,000	44,00,000
2.	Anup Kumar HUF	7,20,000	72,00,000	1,44,00,000
3.	Rishu Agencies (P) Ltd.	60,000	6,00,000	12,00,000
		10,00,000	1,00,00,000	2,00,00,000

The present appeal emanates against the aforesaid addition made in the assessment order.

9.1 As can be seen from the findings contained in the assessment order, reproduced above, the sole basis of the AO in treating the aforesaid amount received from the aforesaid 3 persons to be unexplained cash credit, simply on the ground of doubting the creditworthiness of the persons on the basis that income reported in the return of income of the year under consideration did not commensurate with the amount of investment made by each such person.

9.2 Refuting the aforesaid finds of the AO, the appellant filed contemporaneous additional evidences listed supra with respect to each pi s establishing the creditworthiness and source of funds with each person before making investment in the assessee company.

9.3 The appellant has even filed application under Rule 46A of the Rules pleading admission of the additional evidences on the ground that sufficient opportunity was not afforded to the appellant during the course of assessment which was raised by the AO for the first time in the show cause notice dated 05.12.2019, giving time of only one day to file the reply on 07.12.2019 and assessment order was also passed on the same date.

9.4 I have gone through the record. I find that the additional evidences furnished by the appellant deserves to be admitted. Firstly, the issue raised in the appellant, i.e. creditworthiness of the creditors/shareholders cannot be iaided without seeing the detailed additional evidences furnished by the appellant and the AO has decided the issue with a very simplistic approach of

seeing the income reported in the ROI of each party for one year. Thus, the additional evidences need to be admitted in the interest of justice. Secondly, u is found that the AO raised the issue of doubting the creditworthiness only on 05.12.2019 and passed the order on 07.12.2019, Thus, the appellant was clearly prevent with sufficient cause in not furnishing the evidences, which justifies its admission under Rule 46A of the Rules. Thus, for the aforesaid multiple reasons, additional evidences are admitted and are considered while deciding the ground of appeal raised by the appellant on merits infra.

9.5 On merits of the matter, the identity of the investors is not in doubt. Genuineness of the transaction, i.e., subscription to shares of the appellant company is also not in doubt where share are allotted.

9.6 As regards, creditworthiness, 1 do not agree with the findings of the AO to only see the income of the investor for the year of investment without seeing the net-worth, or corpus built overt-time which is the real evidences of justifying the availability of the source of funds for making investment.

9.7 The decision of jurisdictional Delhi High Court in the case of CIT vs. Value Capital Services Pvt. Ltd.; 307 ITR 334, clearly holds otherwise in the following words:

"7.11. Considering the facts of the case in the light of documentary evidences available on record and. the fact that A.O. did. not make any adequate enquiry on the documentary evidences filed by the assessee-company clearly established that assessee-company proved identity of the creditors, their creditworthiness and the genuineness of the transaction in the matter. Merely low income declared in the return of income by the creditors is no ground to reject the explanation of the assessee company because their creditworthiness is in several crores as is already admitted by the A.O, in the assessment order. In view of the above discussion, we set aside the orders of the authorities below and delete the entire addition."

The Credit-worthiness of each subscribers needs to be seen from their respective net-worth which was sufficient in the present case as can be seen com the following:

"1. Ritika Chhawchharia

The copy of Balance Sheet/statement of affairs as on 31.03.2016, evidencing that her net-worth as on 31.03.2016 was Rs. 4,10,23,379 as against the investment made by her of Rs. 66,00,000 (approximately 16%) during the AY 2017-18. (P.B. Page 58)

The copies of ITR's evidencing the gross total income and the exempt income earned by her during the immediately preceding three assessment years, viz., AY 2014-15 to AY 2016-17. The same are reproduced herein below for ease of reference (P.B. Page 54-56)

Particulars	Ms. Ritika Chhawchharia		
	Gross Total	Exempted	Total Income
2016-17	18,40,141	24,32,800	42,72,941
2015-16	6,87,257	6,210	6,93,467
2014-15	11,97,860	10,87,870	22,85,730

Copies of bank statement for AY 2017-18; evidencing the availability of sufficient funds for investment(s) (P.B. Page 57)

2. Anup Kumar HUF

The copy of Balance Sheet/statement of affairs as on 31.03.2016, evidencing that the net-worth of the said HUF as on 31.03.2016 was Rs.12,19,99,515 as against the investment made by the HUF of Rs.2,16,00,000 (approximately 18%) during the AY 2017-18. (P.B. Page 67)

The copies of ITR's evidencing the gross total income and the exempt income earned by the HUF during the immediately preceding four assessment years, viz., AY 2013 14 to AY 2016-17. The same are reproduced herein below for ease of reference (P.B. Page 62-65)

Particulars	Anup Kumar HUF		
	Gross	Exempted	Total Income
2016-17	70,86,441	16,88,081	87,74,522
2015-16	74,50,497	-	74,50,497
2014-15	34,64,626	37,08,380	71,73,006
2013-14	47,97,771	1,15,12,684	1,63,10,455

- Copies of bank statement for AY 2017-18; evidencing the availability of sufficient funds for investment(s) (P.B. Page 66)

3. Rishu Agencies Private Limited

- *The copy of Balance Sheet/statement of affairs as on 31.03.2016, evidencing that the net-worth of the subscriber company as on 31.03.2016 was Rs. 63,11,973 as against the investment made by it of Rs. 18,00,000 (approximately 29%) during the AY 2017-18. (P.B. Page - 73-86)*
- *Copies of bank statement for AY 2017-18; evidencing the availability of sufficient funds for investments) (P.B. Page 72)"*

9.9 In view of the above, the investors had sufficient funds to make the investment in share of the appellant company. There is no finding that, the funds invested have been generated from the coffers of the appellant to deem the same as unexplained money and attract section 68 of the Act. Accordingly, it is held that there was no valid basis with the AO to invoke section 68 in the present facts. The addition of Rs. 3,00,00,000/- made by the AO under that section is hereby deleted. Ground of appeal Nos. 3 to 7 are hereby allowed."

4. Aggrieved by the impugned order, the Revenue is in appeal before us and raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case, and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 3,00,00,000/- made by the Assessing Officer under Section 68 of the Income Tax Act, 1961, on account of unexplained share capital and share premium received from the following parties:-

- 1. Ms. Ritika Chawchharia.*
- 2. Anup Kumar (HUF)*
- 3. Rishu Agencies Pvt. Ltd.*

2. That the order of the CIT (A) is erroneous and is not tenable on facts and in law.

3. That the grounds of appeal are without prejudice to each other."

5. We have heard Id. AR and Id. DR. The Id. AR at the very outset submitted that the Id. CIT(A) has legally admitted the additional evidence submitted by the assessee by following the provisions of Rule 46A as the case for admitting the additional

evidence was successfully made out by the assessee. It is further argued that as is evident from the remand report submitted by the AO in pursuance of prayer for admitting additional evidence, the AO has tried to stress the point that source of source is not established. It is argued that though by relevant document the assessee has succeeded in proving even source of source which otherwise became obligatory only w.e.f. assessment year 2023-2024. It is further submitted that Id. AO was misconceived in concluding that the net-worth of the creditor was not sufficient or not commensurate with the investment made by three parties while investing in share capital. It is further submitted that the Assessing Officer did not permit to file the relevant documents when the opportunity was sought by the assessee and has proceeded to pass the assessment order and making addition u/s 68 of the Act merely on the consideration of particulars in the ITR of the concerned year. It is further stated that Id. AR has relied the case of Hon'ble jurisdictional High Court in PCIT (Central)-1 Vs. Goodview Trading Pvt. Ltd. (2017) 77 taxmann.com 204 wherein para 8 to 10 it was held as under:

"8. It is quite evident from the CIT (A)'s reasoning in paragraph 4.3, that the materials clearly pointed to the share applicants' possessing substantial means to invest in the assessee's company. The AO seized certain material to say that minimal or insubstantial amounts was paid as tax by such share applicants and did not carry out a deeper analysis or rather chose to ignore it.

In these circumstances, the inferences drawn by the CIT (A) are not only factual but facially accurate.

9. Having regard to these circumstances, the Court discerns no question of law, least a substantial question having regard to the fact that the judgment in Lovely Exports (supra) was cited and applied.

10. For these reasons, there is no merit in the appeal; the same is accordingly dismissed."

6. The Id. AR has further relied the case of CIT-9 Vs. Vrindavan Farms (P) Ltd. in ITA No.71 of 2015, wherein similar circumstances the order of the Id. CIT(A) and ITAT was upheld and the addition u/s 68 of the Act was ordered to be deleted. The relevant portion contained in para 3 to 5 which is extracted below as under:

"3. Ms. Suruchi Aggarwal, learned Senior Standing counsel for the Appellant, relied upon the decision of this Court in CIT v. Nova Promoters & Finlease Ltd. 342 ITR 169 and urged that the Assessing Officer (AO) was not required to "point to the source from which the money was received by the Assessee". On the other hand, it was incumbent upon the Assessee to offer a satisfactory explanation regarding nature and source of the funds.

3. The ITAT has in the impugned order noticed that in the present case the Revenue has not doubted the identity of the share applicants. The sole basis for the Revenue to doubt their creditworthiness was the low income as reflected in their Income Tax Returns. The entire details of the share applicants were made available to the AO by the Assessee. This included their PAN numbers, confirmations, their bank statements, their balance sheets and profit and loss accounts and the certificates of incorporation etc. It was observed by the ITAT that the AO had not undertaken any investigation of the veracity of the above documents submitted to him. It has been rightly commented by the ITAT that without doubting the documents, the AO completed the assessment only on the presumption that low return of income was sufficient to doubt the credit worthiness of the share holders.

4. The Court is of the view that the Assessee by produced sufficient documentation discharged its initial onus of showing the genuineness and creditworthiness of the share applicants. It was incumbent to the AO to have undertaken some inquiry and investigation before coming to a conclusion on the issue of creditworthiness. In para 39 of the decision in Nova Promoters (supra), the Court has taken note of a situation where the complete particulars of the share applicants are furnished to the AO and the AO fails to conduct an inquiry. The Court has observed that in that event no addition can be made in the hands of the Assessee under Section 68 of the Act and it will be open to the Revenue to move against the share applicants in accordance with law.

5. In the facts and circumstances of the present appeals, the Court is satisfied that no substantial question of law arises. The appeals are dismissed."

7. The Id. DR on the other hand relied upon the Assessment Order stating that the additions were rightly made and prayed for allowing the appeal of the Revenue.

8. We have considered the rival submission. The extract of the impugned order of the Id. CIT(A) would show that the Id. CIT(A) has rightly with legal justification has admitted the additional evidence. The admission of the additional evidence has sufficiently proved the creditworthiness of all the three subscribers to the share of the assessee in the concerned year. It is evident from the material on record as discussed by Id. CIT(A) that the Id. AO has simply made the addition on the ground that from the financial shown in the ITR, the creditworthiness of the three subscribers to the share of the assessee was not established. We are convinced that by filing

the additional evidence before the Id. CIT(A) who has admitted the same lawfully, the assessee has sufficiently established the creditworthiness of the three subscribers. We agree with the Id. AR that for the relevant year there was no obligation upon the assessee to establish the source of the source and there was nothing to prevent the Assessing Officer or the Revenue to examine the source of the source of the subscribers. For these reasons, we are of the considered opinion that while relying the judgment of Hon'ble High Court in the case of Goodview Trading Pvt. Ltd. (supra) and Vrindavan Farms (P) Ltd. (supra). We are convinced that the appellant/assessee has successfully discharged the onus of proving the identity, creditworthiness of the parties and genuineness of the transaction. And for these reasons, the addition made u/s 68 of the Act was not justified and the same has been rightly deleted by the Id. CIT(A). We do not find any force in the grounds raised by the Revenue before us and the appeal of the Revenue is accordingly dismissed.

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

Order Pronounced in the Open Court on 05/06/2026.

Sd/-

(Renu Jauhri)
Accountant Member

Dated: 05/06/2026

Subodh Kumar, Sr. PS

Sd/-

(Raj Kumar Chauhan)
Judicial Member