IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘C’: NEW DELHI

BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.3094/DEL/2025
(Assessment Year: 2018-19)

Hero Fincorp Limited, 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi – 110 057.	vs.	DCIT, Circle 10 (1), Delhi.

(PAN : AAACH0157J)

(APPELLANT) (RESPONDENT)

ASSESSEE BY : Shri Rohit Jain, Advocate
Shri Himanshu Agarwal, Advocate
REVENUE BY : Shri Vikram Singh Sharma, CIT DR

Date of Hearing : 06.07.2026
Date of Pronouncement : 25.08.2026

O R D E R

PER S. RIFAUR RAHMAN, AM:

1. This appeal is filed by the assessee against the order passed by the ld. Addl./JCIT (Appeals), Bhubaneswar dated 07.01.2026 for the Assessment Year 2020-21 raising following grounds of appeal :-

> “1. That on facts and circumstances of the case and in law, the impugned order dated 21.03.2025 passed by the National Faceless Appeal Centre, Delhi ('the NFAC')/CIT(A) affirming the validity of the assessment order, is illegal and bad in law.
>
> **Disallowance under section 14A of the Act**

2. That the NF ACICIT(A) erred on facts and in law in confirming the disallowance to the extent of Rs.l,16,450 u/s 14A of the Income Tax Act, 1961 ("the Act").

2.1 That the NFAC/CIT(A) failed to appreciate that the assessing officer, having failed to record any dissatisfaction, with the suo-motu disallowance, had no jurisdiction to make any further disallowance under section 14A of the Act.

Addition of share premium under section 56(2)(viib): Rs.168,30,67,669.50

3. That the NFAC/CIT(A) grossly erred on facts and in law in confirming the addition of Rs.168,30,67,669.50 made by the assessing officer under section 56(2)(viib) of the Act.

3.1 That the NFAC/CIT(A) erred on facts and in law in not appreciating that considering that the appellant had issued share warrants (and not shares) in the previous year 2016-17, the provisions of section 56(2)(viib) of the Act are, per se, not applicable.

3.2 That the NFAC/CIT(A) further erred on facts and in law in not appreciating that conversion of warrants issued in previous year 2016-17 into equity shares in previous year 2017-18 pursuant to exercise of option by subscribers was merely as per the mandated! pre-agreed terms of issuance of warrants, and therefore, the provisions of section 56(2)(viib) of the Act cannot be invoked on mere conversion.

3.3 That the order passed by the NFAC/CIT(A) is self-contradictory inasmuch as on the one hand issuance of warrants in previous year 2016-17 is (albeit erroneously) held to be as good as acquiring shares, the addition under section 56(2)(viib) has, on other hand, been affirmed in previous year 2017-18.

3.4 That the NFAC/CIT(A) erred on facts and in law in rejecting the valuation report obtained from technical expert under rule 11 UA of IT Rules, failing to appreciate that the report cannot be rejected without attributing any cogent reasoning.

3.5 That the NFAC/CIT(A) erred in not appreciating that rejection of Discounted Cash Flow ('DCF') method merely on the basis of variance between the projected revenues and actual revenue, is untenable in law, without appreciating the exhaustive details/ explanation submitted by the appellant for such difference.

3.6 That the NFAC/CIT(A) erred in not reversing the action of the assessing officer of changing the appellant's methodology from DCF method to Net Asset Value ('AV'), despite accepting that adoption of DCF method is, per se not faulty.

> 3.7 That the NFAC/CIT(A) erred on facts and law in levelling various false and baseless allegations while disregarding the valuation report and confirming the addition.

2. With regard to ground no 1, it is general in nature and does not require any adjudication.

3. With regard to Ground No. 2, it has been raised in connection with a disallowance of Rs.1,16,450 made u/s 14A of the Income Tax Act, 1961 (in short 'Act'). The brief facts as emanating from the orders of authorities below are that the assessee had, during the year under consideration earned a dividend income of Rs.1,16,450/- from the investment in the shares, which income was exempt u/s 10(34) of the Act. The assessee also worked out a suo-motu disallowance of Rs.910, which according to the assessee was the correct amount which could have been disallowed u/s 14A read with Rule 8D of the Income Tax Rules. This suo-motu disallowance had been worked out based on 1% of monthly average of investments on which the assessee had earned the dividend income during the year under consideration.

4. During the assessment proceedings, the Assessing Officer required the assessee to explain as to why the disallowance u/s 14A should not be made on total amount of investments held by it. According to the Assessing Officer, the correct amount of disallowance u/s 14A read with Rule 8D as further supplemented by Circular No. 5 of 2014 issued by the CBDT works out to be Rs.56,97,807/-. The assessee in response to the show-cause notice from the Assessing Officer submitted and claimed that all the investments were old investments held by the assessee and no fresh investments have been made during the year under consideration. The assessee further explained that correct interpretation of section 14A read with Rule 8D would reveal that only such investments are required

to be considered, which has yielded the exempt income during the year under consideration. However, the Assessing Officer did not accept the contentions of the assessee and made a disallowance of Rs.56,97,807/-.

5. Aggrieved, in the appeal before the ld CIT(A), assessee reiterated its contentions along with its other contentions that the suo-motu disallowance worked out by it at Rs.910 was only amount of disallowance which could be made as per the provisions of section 14A read with Rule 8D. The assessee further claimed before the ld CIT(A) that the Assessing Officer failed to record an appropriate satisfaction with regard to the suo-motu disallowance made by the assessee. As an alternative and without prejudice to the claim that suo-motu disallowance made by the assessee should have been accepted by the Assessing Officer, the assessee further claimed that the disallowance should have been restricted to the extent of exempt income earned by the assessee during the year under consideration which was admittedly a sum of Rs.1,16,450.

6. The ld CIT(A) accepted the alternate submissions of the assessee and restricted the disallowance of Rs.1,16,450. While restricting the disallowance to the extent of exempt income, the learned CIT(A) refrained from adjudicating on the main issue of the assessee i.e. whether the suo-motu disallowance made by the assessee u/s 14A could have been rejected without recording any appropriate satisfaction as to how such disallowance was not appropriate with reference to the books of accounts of the assessee.

7. Before us, the ld AR of the assessee Shri Rohit Jain, Advocate reiterated his submissions and vehemently argued that the suo-motu disallowance computed by the assessee could not have been tinkered with by the

Assessing Officer without recording an appropriate satisfaction as to how such disallowance did not meet the requirements of section 14A read with Rule 8D. The ld AR in his written synopsis relied upon following judgements to submit that the learned CIT(A) was not justified in not adjudicating the main contentions of the assessee in this regard:

- **Maruti Suzuki India Ltd vs CIT ITA No. 696/2018 & ITA No. 735/2019;**
- **PCIT vs UK Paints India Pvt. Ltd.: ITA 24/2024 (Del.);**
- **Coforge Ltd. vs. ACIT: [2021] 436 ITR 546 (Del.)**
- **H.T. Media Ltd. v. PCIT: (2017] 399 ITR 576 (Del.)**
- **Taikisha Engineering India Ltd.: (2015] 370 ITR 338 (Del.)**
- **CIT v. Hero Cycles Ltd.: (2010] 323 ITR 518(Del.)**

8. On the other hand, ld CIT(DR) Shri Vikram Singh Sharma vehemently argued that CIT(A) had already allowed substantial relief to the assessee and has correctly restricted the disallowance to the extent of exempt income earned by the assessee and submitted that no further relief should be allowed to the assessee in this regard. It has been submitted by the ld CIT(DR) that once the Assessing Officer has worked out his own disallowance as against suo-motu amount of disallowance worked out by the assessee, it inherently conveys that Assessing Officer was not satisfied with the disallowance worked out by the assessee and there was no need to record any independent satisfaction before proceeding to work out a correct disallowance u/s 14A of the Income Tax Act.

9. Considered the rival submissions and perused the material placed on record. It is noted that the Assessing Officer in the assessment order has extensively referred to Circular No. 5 of 2014 and proceeded to work out a disallowance, which according to him should have been made by the

assessee by considering all the investments which were held by the assessee as the year end. The assessment order does not record any satisfaction expressly about the suo-motu disallowance made by the assessee as to how such disallowance does not satisfy the conditions of section 14A read with Rule 8D. Hon'ble Delhi High Court in the case of **PCIT vs. UK Paints India Pvt. Ltd. (Supra)** has while dealing with the similar situation made the following observations:

> *"12. It is clear from the above that neither the AO nor any of the appellate authorities – CIT(A) or ITAT – had found that the Assessee's computation of expenditure, which was allocable to earning exempt income, was erroneous or inadequate. None of the authorities had determined that the Assessee's computation of expenditure attributable to the exempt income was erroneous or had faulted the same. In the aforesaid circumstances, it was not permissible for the AO to proceed to compute disallowance under Rule 8D of the Rules. It is well settled that recourse to Rule 8D of the Rules for computing the disallowance under Section 14A of the Act is available only if the Assessee's computation of expenses attributable to earning exempt income, is found to be inadequate. In* ***Coforge Limited v. ACIT:(2021) 436 ITR 546***, the Coordinate Bench of this Court had examined the aforesaid issue and had concluded as under:
>
> *"13. Therefore, what emerges is, if the assessee claims a certain amount of expenditure was incurred by him to earn the income which does not form part of the total income, the Assessing Officer is required to examine the accounts, and thus, satisfy himself as to the correctness of the claim made by the assessee about the expenditure incurred in that regard. It is when an Assessing Officer is not satisfied as to the correctness of the claim made by the assessee, about the expenditure said to have been incurred by him on such income which does not form part of the total income under the Act, he then proceeds to determine the amount of expenditure, by following such method as is prescribed, i.e., Rule 8D of the Rules.*

13.1. This methodology, as envisaged under Rule 8D of the Rules, is required to be followed even where the assessee claims that no expenditure was incurred by him concerning income which does not form part of the total income under the Act.

13.2. The approach of the Tribunal has been that, since a disallowance was made, it follows logically, that the Assessing Officer was not satisfied. This, according to us, is not what is envisaged under the provisions of Section 14A of the Act. The satisfaction has to be arrived at by the Assessing Officer having regard to the assessee's accounts and not otherwise. Concededly, there is nothing in the record to suggest that the Assessing Officer examined the accounts from this perspective.

13.3. Furthermore, in our view, because the appellant/assessee had itself offered an amount which could be disallowed under Section 14A of the Act, the onus shifted onto the Revenue to ascertain, after examination of the accounts, as to whether or not the appellant's/assessee's claim was correct. It is only after the aforesaid exercise was conducted, could the Assessing Officer have taken recourse to the prescribed method i.e. Rule 8D of the Rules, for determining the expenditure, which, according to him, needed to be disallowed under Section 14A of the Act."

*13. It is also apposite to refer to the decision of a Coordinate Bench of this Court in **H.T. Media Ltd. v. Pr. CIT:2017:DHC:4694-DB**, whereby this Court examined the issue and concluded as under:*
"35. In order to disallow this expense the AO had to first record, on examining the accounts, that he was not satisfied with the correctness of the Assessee's claim of Rs.3 lakhs being the administrative expenses. This was mandatorily necessitated by Section 14A(2) of the Act read with Rule 8D(1)(a) of the Rules."

*14. In **Maxopp Investment Ltd. v. Commissioner of Income Tax, New Delhi: (2018) 402 ITR 640,** the Supreme Court has held as under:*

> *"51. Having regard to the language of Section 14A(2) of the Act, read with Rule 8D of the Rules, we also make it clear that before applying the theory of apportionment, the AO needs to record satisfaction that having regard to the kind of the assessee, suo moto disallowance under Section 14A was not correct. It will be in those cases where the assessee in his return has himself apportioned but the AO was not accepting the said apportionment. In that eventuality, it will have to record its satisfaction to this effect. Further, while recording such a satisfaction, nature of loan taken by the assessee for purchasing the shares/making the investment in shares is to be examined by the AO."*
>
> *15. In the present case, it is clear that the AO had not found fault with the Assessee's computation of expenditure allocable to exempt income and, therefore, recourse to Rule 8D of the Rules for determining the expenditure incurred for earning exempt income, was not available. It is also relevant to highlight that the learned CIT(A) had also noted that the AO had not found the Assessee's computation expenditure for earning exempt income as inadequate."*

10. Respectfully following the aforesaid judgement of Hon'ble Delhi jurisdictional High Court, we are of the firm view that the ld CIT(A) should have accepted the contentions of the assessee that in absence of an appropriate satisfaction about the correctness or otherwise, the suo-motu disallowance made by the assessee was required to be accepted and no further disallowance could have been made u/s 14A read with Rule 8D of the Income Tax Rules.

11. Accordingly, the disallowance of Rs.1,16,450/- made by the Assessing Officer and upheld by the CIT(A) is not justified and the same is hereby deleted.

12. With regard to ground nos. 3 TO 3.7 pertains to an addition of Rs.168.31 crores made under section 56 (2) (viib) of the Act, the facts are that the assessee had on 15.09.2016 (falling in the Assessment Year 2017-18) issued

57,65,905 share warrants for a face value of Rs.10/- at a premium of Rs.510.30 per warrant. Each of such warrants were to be converted into an equal number of share for a face value of Rs.10/- at any time within a period of 18 months i.e. on or before 14.03.2018. It is further observed that against the said issue price, the assessee received partial amount of Rs.177.94 per share warrant as the first call money in Assessment Year 2017-18 and remaining amount of Rs.332.36 per warrant was received as the second call on allotment of the shares which happened during the year under consideration. It is further observed that all these share moneys/shares were allotted to the group concerns of the assessee. The valuation of shares had been done based on a valuer's report dated 16.08.2016 by adopting a DCF method based on the future business projections beginning from 01.04.2017 and ending on 31.03.2021.

13. The Assessing Officer challenged the methodology of valuation adopted by the assessee by comparing the projections made in the valuation report and actual figures of sales/profitability which had been earned by the assessee during the subsequent year. The Assessing Officer observed that the projections made were of self-serving nature and based on irrelevant assumptions which were tailored to justify the premium. Such projections, according to the Assessing Officer, are lacking when compared with the actual financial or the assets base of the assessee company. The Assessing Officer, therefore, proceeded to reject the DCF method and worked out a fair market value of each share at Rs.228.41 as against Rs.510.30 worked out by the assessee. The Assessing Officer worked out based on the FMV of NAV method. Accordingly, the Assessing Officer calculated share at Rs.228.41 worked out an amount of premium of Rs.291.89 per share as an excess premium which according to Assessing Officer was not justified and computed a sum of Rs.168.31 crores as an amount of taxable income u/s

56(2)(viib) of the Income Tax Act. The Assessing Officer also relied upon the judgement of ITAT in ITA No. 2189/D/2018 in the case of **Agro Portfolio Pvt. Ltd.** while concluding that the amount of premium received by the assessee is excessive which is not justified on the given facts of the assessee's case and that Assessing Officer can take recourse to NAV method of determining FMV of share. The findings and reasons assigned by the Assessing Officer in the assessment order are as under:

> *"As per the details furnished by the assessee as shown above, the company has issued equity shares at a price of Rs.520.30 determined as per valuation report taken from a chartered accountant. The above reply submitted by the assessee is carefully examined and found not tenable. In this regard, it is stated that DCF method is completely a projection based approach which cannot stand the light of actual scenario. In the valuation report submitted by the assessee, the valuer has made following submission:-*
>
> ***Factual comparison***

Particulars	***AY 2018-19***		*% Deviation*
	Amount on which DCF is done	***Actual Figure as per ITR***	
Turnover	*2577.81*	*1814.03*	*42*
Profit before tax	*621.74*	*247.93*	*151*

> *The above clearly establishes the fact that the projections by the company M/s Hero Fincorp Ltd. in computing the FMV of shares as per DCF method are contradictory to the actual achieved by the company in year under consideration. Therefore, the DCF valuation report is not correct. The FMV of the shares as prescribed by the Act should be done with reference to Rule 11UA of the Act which comes out to be less than the face value of the shares issued. The share was issued at Rs.520.30/- per share. Whereas, as per the adopted method of tax computation*

for valuation share as per income tax rule is 11UA of the Income Tax Rule 1962 turns out to be 228.41/- per share. As per current year balance sheet fair market value of the share is computed as under:-

As per Balance sheet March 31, 2018	
Formulae	*(A-L)*PV/PE*
A=Total value of asset	*137330800000.00*
Less:Advance tax Paid	*768000000*
Asset	***136562800000.00***
L=Total value of liability	*137330800000.00*
Less:Equity paid capital	*948500000*
Less:Reserve & surplus	*22028200000*
Less:Contingent liability	*279000000*
Liability	***114075100000.00***
PE=Total amount paid up equity share capital as shown on balance sheet	*984500000*
PV=Paid up value of equity share	*10*
Value per share as per above formulae	***228.4174708***

The real figures as per audited financial statements are not at all in tune with the projections taken for the valuation of shares and there is a huge mismatch between the fair market value of equity share as computed by the assessee and as computed by the department. Therefore, the above is just a self-serving projection and has no basis to the reality of the financials of the company. The assessee has used the DCF method just to project a valuation self-suiting for its own purpose and not on the basis of actual. The DCF figures adopted by the assessee are full of irrational assumptions just to suit the valuation adopted by the assessee. Assessee has made valuation report for his convenience and to fit the premium values being received by him. The assessee has a right to adopt discounted cash flow *method but the same has to be used in proportion to the size of the business and if the assessee's contentions of projections are accepted then the value can be suited for its own will and pleasure to arrive at the self-serving value of the share.* ***The above argument also gets strengthen with the actual figures available on records where assessee for the year under consideration has declared the turnover of Rs.1814.03 Cr as against shown in the valuation report to be of Rs.2577.81 Cr.*** *Effectively a difference of more than Rs.763 Cr. This itself proves that in the present case DCF is not the correct method. The DCF method has to be used in tandem with the existence of asset and market share of the assessee.*

The reliance is placed on the decision of the ITAT, Delhi in the case of Agro Portfolio Private Ltd. Vs. ITO (ITA No. 2189/Del/2018) (171 ITD 74-Delhi Tribunal) wherein the ld. Tribunal observed that

"….15. In these circumstances, we are unable to accept the contentions of the assessee that in view of the provisions under section 56(2)(viib) of the Act read with Rule 11UA(2) of the Rules the Ld. AO had no jurisdiction to adopt a different method than the one adopted by the assessee, and if for any reason the AO has any doubt recording such valuation report and does not agree with the same is bound to make a reference to the Income tax Department Valuation Officer to determine the fair market value of such capital asset. This is so because unless and until the assessee produces the evidences to substantiate the basis of projections in cash flow and provides reasonable connectivity between those projections in cash flow with the reality evidences by the material, it is not possible even for the Departmental Valuation Officer to conduct any exercise of verification of the acceptability of the value determine by the merchant banker. This is more particularly in view of the long disclaimer appended by the merchant banker at page no. 16 & 17 of the paper book which clearly establishes that no independent enquiry is caused by merchant banker to verify the truth or otherwise the figures furnished by the assessee at least on test basis. The merchant bankers solely relied upon an assumed without independent verification, the truthfulness accuracy and completeness of the information and the financial data provided by the company. A perusal of this long disclaimer clearly shows

that the merchant banker did not do anything reflecting their expertise, except mere applying the formula to the data provided by the assessee. We, therefore, are unable to brush aside the contention of the Revenue that the possibility of tailoring the data by applying the reverse engineering to the pre-determined conclusions.

16. For all these reasons, we are of the considered opinion that there has not been any possibility of verifying the correctness or otherwise of the data supplied by the assessee to the merchant banker, in the absence of which the correctness of the result of DCF method cannot be verified. This left no option to the AO but to reject the DCF method and to go by NAV method to determine the FMV of the shares. Without such evidence, it serves no purpose even if the matter is referred to the Department's Valuation Officer. We, therefore, do not find any illegality or irregularity in the approach of conclusions are by the authorities below. While confirming the same, we dismissed the appeal as devoid of merits…"

Further in the case of M/s VVA Hotels Private Ltd. Honorable High Court of Madras has opined in para 8 that, "On going through the figures of excess projection of sales, as mentioned by the assessing officer in a tabulated form in para 4.2 of the assessment order, we find that the excess projection for 2013-14 was 10%, for 2014-15 – 4%, for 2015-16 -8% and for 2016-17 - 18%. Therefore the finding recorded by the CIT(A) that the difference was marginal is found to be correct".

Hence, honorable High Court has stated that there should be marginal difference between the actual sales and the projected sales adopted for the determination of share price under share price. However, in the instant case, it is seen that there is 42% difference in the actual and projected turnover. Further, even in the profit there is a huge difference of 151%. Therefore, assessee by showing excess profit of 151% for the share valuation has defrauded the revenue.

Therefore, the assessee's contention is rejected as it is just a summary of thoughts and devoid of scientific data or evidence, rather than hard facts of data and projections based on asset based and otherwise to be in tune with business. Therefore, the

only method available is the book value method which is a hard fact based on evidence. Thus DCF value adopted by the assessee is hereby rejected and the FMV of the shares as prescribed by the Act is adopted with reference to Rule 11UA of the Act.
Section 56(2)(viib) states

"… In particular and without prejudice to the generality of the provisions of subsection(1), the following income shall be chargeable to income-tax under the head "Income from other source" namely:-

Where a company, not being a company in which the public are substantially interested,

receives, in any previous year, from any person being a resident, any consideration for issue of shares

that exceeds the shares as exceeds the fair market value of the shares.

For the purpose of this clause-

1. *The fair market value of the shares shall be the value*

(i) *as may be determined in accordance with such method as may be prescribed; or*

(ii) *as may be substantiated by the company to the satisfaction of the Assessing Officer, base on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, any other know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, whichever is higher…"*

Hence the difference of premium of Rs.291.9/- (Rs.520.30/- Less Rs.228.4/-) per share against total shares issued of 57,65,905 in no. i.e. ***Rs.168,30,67,669.50/- (291.9 * 57,65,905) is proposed to add back to the total income of the assessee as per section 56(2)(viib) of the Act, during the year under consideration.*** *I*

> *am satisfied that the assessee has under reported particular of income, penalty u/s 270A is being initiated separately."*

14. Aggrieved with the above order, the assessee preferred an appeal before the ld CIT(A) and the assessee made various submissions to counter the reasoning of the Assessing Officer. However, the ld CIT(A), after noting the various facts agreed with the contentions of the Assessing Officer and held that the higher projections under the DCF method were made by the valuer at the instructions of the assessee because the valuer was to be paid his fee for preparing such report which serves the assessee's purpose. The ld CIT(A) further observed that there is no relationship between the future projections and past performance of the assessee which could justify a higher premium than what has been worked out by the Assessing Officer. The decision and findings/reasons of ld CIT(A) upholding the addition made on this issue are as under:

> "***6.4.2 Decision****: I note that the DCF method per se is not faulty but the method of estimating the future projected revenues on which DCF method was applied, is not only arbitrary but laden with faulty approaches. The DCF method adopted by the assessee is based on high revenues projected by the valuer apparently at the instructions of the assessee because the valuer was paid by the assessee for preparation of such report which serves the appellant-assessee's cause. However, at the same time the DCF method is not completely inappropriate method provided the future revenues are projected on the basis of past performance in terms of revenue, expenses, profit, capital asset expansion, customer base expansion, opportunities for growth, etc. etc. There is nothing wrong in the mathematical method of discounting of a future value. But what is at fault is projection of unrealistic revenues having no relation to the past performance in respect of the above mentioned parameters. As commented by the Ld. AO the projection of future revenues is found to be self serving and thereby discounted cash flow method is also found to be self serving.*

6.4.2.1 *The Ld. AO also found that the revenues actually achieved in FY 2016-17 and FY 2017-18 are far below the projected revenues. When asked for the reason for achievement of such low revenues vis-à-vis the projected revenues the appellant replied that such a comment was made by the AO only in hindsight. Irrespective of whether an observation was made in hindsight or otherwise the fact remains that future revenues are not only dependent on past performance but indeed function of past performance. But in the instant case there does not exist any such relationship between the future projected revenues and the past performance of the company. Therefore, the projected revenues are self serving figures only. Though Rule 11UA gives the option between DCF and NAV methods, the DCF method adopted by the assessee was skewed, twisted and manipulated to serve the needs of the assessee so as to arrive at a huge chargeable premium. Whereas the NAV method is based on book results which can no way be manipulated.*

6.4.2.2 *As per the facts on record the first tranche of the amount of Rs.102,60,00,127/- against the share warrants was received in September 2016 and December 2016 (i.e., FY 2016-17). Whereas the second tranche of Rs.197,40,00,244/- against the share warrants was received in February 2018. That means by the time of paying the second tranche by the warrant subscribers (Feb 2018), the financial results for FY 2016-17 were out. These financial results clearly spell out the actual revenues in FY 2016-17 were much below the projected revenues. Such a huge gap between the expected and the actuals should be an eye opener for the warrant subscribers for not converting the warrants into equity shares. On the contrary the warrant subscribers went ahead and converted the warrants into equity shares because the warrant subscribers have the right and option to exit by not converting the warrants into equity shares. Moreover, the warrant subscribers were the related parties of the appellant-assessee. All this suggests that it is a design and scheme of the appellant-assessee and its related parties to so value the shares by a valuer engaged for compensation that they appear real in contrast to the reality.*

> *Therefore, the revenue projections made by the assessee held to be arbitrary and self serving so as to invoke DCF method. The basis (of projected future revenues) for adopting DCF method is grossly incorrect and therefore, adoption of DCF method is also equally incorrect. Hence the NAV method adopted by the AO is held be me to be the most appropriate method for computation of share premium.*
>
> *In view of the foregoing I hold that the action of the Ld. AO in computing the share premium through NAV method as per Rule 11UA is most appropriate and correct. Accordingly, the grounds raised on this issue are rejected and hence* ***dismissed.***

15. Aggrieved with the above order, the assessee is in appeal before us.

16. At the time of hearing, the Ld AR of the assessee has submitted that DCF method of valuing a share is a most appropriate method for determining the fair market value of a share. It has been submitted that the management of the assessee company adopted a conservative, scientific and reasonable approach to determine the FMV of the shares issued by it. Amongst others, it has been submitted that during the assessment year 2017-18, the assessee had issued 1,34,92,216 equity shares of the face value of Rs.10/- at a premium of Rs.510.30 to unrelated third parties which were non-resident. The non-resident/ unrelated third parties had also believed the similar projections and valuation and had heavily invested in the assessee company. It has been submitted that the assessee being an NBFC is India's leading and fastest growing financial service company which is backed by most trusted consumer brand i.e. HERO. It was submitted that assessee had very aggressive business expansion plans with legacy customers. It is the contention of the assessee that it had business of retail consumer loan, two wheeler financing, inventory financing and working capital facility for Hero Motocorp dealers, bill discounting, loan against industrial and residential and commercial property, SME billing discount, SME working capital,

leasing of vehicles and long term loans for business expansion etc. It has been submitted that the assessee had infused equity capital of Rs.106 Crores in Financial Year 2012-13, Rs.312 Crores in Assessment Year 2014-15 and Rs.407 Crores in Financial Year 2015-16. It has been submitted that no businessman would infuse such huge capital unless it has substantial growth plans. It has been submitted that assessee had also launched its first marketing campaign in Financial Year 2015-16 through the TV, Radio and other digital platforms. The assessee has submitted that the Ld Assessing Officer and CIT(A) while comparing the projections with the actuals restricted the comparison to the financial results of Financial Year 2017-18 only. It has been submitted that going forward the actual performance for Assessment Year 2019-20 and 2020-21 were much higher than the projections made for those years under the DCF method. It has been submitted that actual year on year (YOY) growth in profit before tax in Assessment Year 2019-20 was 67% whereas the projected YOY growth for the said Assessment Year was only 39%. Similarly actual year on year growth in revenue in Assessment Year 2020-21 was reported at 47% as against the projected year on year growth of 33% under the DCF method. It has been submitted that the actuals for the Financial Year 2017-18 were also largely impacted by the demonetization announced by the Government on 08.11.2016 because large amount of business of consumer financing was impacted due to the low cash available in the market. It was submitted that large amount of the business of the assessee is depended upon the cash based sector. It has further been submitted that even the past performance of the assessee indicated a strong growth which in turn indicate and supported the strong future projections. It has been submitted that past performance of the assessee company in the revenue and the assets based were as under:

Revenue

INR Crores	FY-14 A	FY-15 A	FY-16 A	FY-17E
Income from operations	121	299	771	1,580
Profit before tax	23	50	123	319
Y-o-Y Growth in Revenue		147%	158%	105%

* A-Actual, E-Estimated

Assets

Overall metrics	**FY-15A**	**FY-16A**	**FY-17E**	**FY-18E**
Asset book	**3,072**	**6,371**	**12,650**	**19,136**
y-o-y growth		107%	99%	51%
PAT	**33**	**81**	**210**	**410**
y-o-y growth		147%	159%	95%

17. In the light of these submissions, it has been claimed that reasoning of Assessing Officer or for that matter Ld CIT(A) does not convey the true state of affairs and reveal only partial facts.

18. Ld AR of the assessee also heavily relied upon the legal provisions that Rule 11 UA explicitly give an option to the assessee to value share and determine the fair market value of an equity share based on DCF method for which a valuation report had been obtained. It has been submitted that assessee cannot be denied the right to exercise its option to determine FMV of a security under the DCF method and such report obtained bonafidely from an expert cannot be rejected without assigning any bonafide reasons for such rejection. Ld AR of the assessee had relied upon various decisions of the Courts/different Benches of Tribunals rendered in the context of various provisions of the Act mandating the assessee to obtain a report, wherein it has been held that the report issued by the technical expert is binding on the assessing officer and the value declared by the assessee on the basis of report of expert valuer cannot be disturbed by the assessing officer. The assessee has referred to and relied upon the following judgements:

- G.L. Sultania and Anr. V. SEBI (AIR 2007 SC 2172

- CIT v. Bharti Cellular Ltd.:330 ITR 239 (SC)
- Hindustan Lever Employees' Union v. Hindustan Lever Ltd.:1995 AIR (SC) 470
- Shreyans Industries Ltd. v. JCIT:277 ITR 443 (P&H)
- Akash Ceremics (P.) Ltd. vs. ITO:[2024] 168 taxmann.com 407 (Guj.)
- **PCIT v. Cinestaan Entertainment Pvt. Ltd. : ITA No. 1007/2019 (Del.)**
- **DCIT vs. Weldon Polymers (P.) Ltd.:[2024] 207 ITD 517 (Delhi-Trib.)**

19. It was submitted that the **Hon'ble Delhi High Court** in the case of **PCIT vs. A.H. Multisoft (P.) Ltd.: [2025] 305 Taxman 347 (Del.)** held that the report of an expert could not be rejected on ground of general disclaimers, without AO pointing out any material error in data as used by expert. The DCF method is a recognized method but it is not an exact science and can never be done with arithmetic precision and, therefore, the valuation by a valuer has to be accepted unless, specific discrepancy in the figures and factors taken are found.

20. It is further submitted that future events are beyond the control of any person, much less the assessee, and therefore, comparison, simplicitor, between projected and actual numbers cannot, it is submitted, be made the basis to allege that the valuation made prior to the future events is unrealistic or incorrect. Further, the valuation has to be based on contemporaneous data available as on the date of valuation, including projections, forecasts, trends, market share, as perceived on a rational/ intelligible basis.

Hon'ble Jurisdictional Delhi High Court in the case of PCIT v. Cinestaan Entertainment Pvt. Ltd.: ITA No.1007/2019 (Del.), wherein the Hon'ble Court held as follows:

"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**." (emphasis supplied)*

21. In this regard, reliance is further placed on the following decisions wherein it was held that FMV of a share determined as per DCF method and duly supported by the valuation report of Chartered Accountant cannot be rejected merely on ground that valuation of equity shares was based on projection of revenue which did not match with actual revenues of subsequent years:

- CIT vs. M/s. VV A Hotels Private Limited: 429 ITR 69 (Mad.)
- DCIT vs JUS Scriptum Magnus (P). Ltd.: [2025] 178 taxmann.com 695 (Delhi – Trib.)
- Rockland Diagnostics Services Pvt. Ltd. v. ITO: ITA No.316/Del/2019 (Delhi - Trib.)
- India Today Online (P.) Ltd. v. ITO: [2019] 104 taxmann.com 385 (Delhi -Trib.)
- Intelligrape Software Pvt. Ltd., v. ITO: ITA No. 3925/Del/2018(Delhi - Trib.)
- Vodafone M-Pesa Ltd. vs. DCIT: 181 ITD 242 (Mum.)
- DCIT v. Credalpha Alternative Investment Advisors (P.) Ltd.: 94 ITR(T) 596 (Mum.)

22. Yet another contention raised by the Ld AR on behalf of the assessee is that the provisions of section 56(2)(viiib) are not applicable to the issuing of share warrants. By referring to the provisions of section 56(2)(viiib), the Ld AR has highlighted the difference between the definition of "shares" and that of "share warrants". The Ld AR submitted that Rule 11UA of the Income Tax Rules mandates the determination of fair market value of securities. According to the Ld AR, the meaning of securities is required to be drawn based on the definition given under the (Securities Contracts Regulation Act, 1956).

23. Ld AR further submitted that the provisions of section 56(2)(viib) were brought into statutory book primarily to eliminate the transactions of receiving large premium to curb the menace of unaccounted money. It has been submitted that when the transactions of receiving the share premium are admittedly between the related parties and all such transactions have been carried out above board, the applicability of provisions of section 56(2)(viib) fails at the threshold itself. Ld AR relied upon the judgement of a division bench of Delhi Tribunal in the case of **OYO Hotels and Homes Private Limited vs. DCIT, Circle-19(1), New Delhi in ITA No. 5718/Del/2025.** By drawing a parity with the said judgement of Delhi Tribunal, Ld AR submitted that:

i) that the share warrants have been issued based on a valuation report obtained from a Chartered Accountant,

ii) that for obtaining the share valuation report, the data for projections was supplied by the assessee,

iii) that the Assessing Officer and the learned CIT(A) in that case found the discrepancy in data as was projected with the actual results which were declared by the assessee

iv) that the addition was made by rejecting the data on the ground that aggressive profits were projected as compared to the actual declared by the assessee and according to the AO/CIT(A) the actual growth was not commensurate with the growth projected by the assessee. All such findings have been recorded by the learned ITAT in the said judgement of OYO Hotels and Homes Private Limited in **Para 12, Page-31 to 32** of its order, a copy of which has been placed on record by the learned AR as under:

> *12. Considered the rival submissions and material placed on record. From the above facts on record, we observe that the assessee had issued CCPS after the reorganization of the*

> *company and in order to issue the above CCPS, the assessee had obtained the valuation certificates from the two valuers, which justified the issue of shares at a premium. The contention of the revenue is that the assessee had obtained the share valuation on the basis of aggressive projections which does not justify the issue of shares at such premium, considering the consistent losses recorded at the time of issue of shares. Further they observed that the data for projection was supplied by the assessee even though there was no apt atmosphere to issue shares, particularly the shares were issued during the period of Covid pandemic. Basically, the AO noticed that the data for valuation was supplied by the assessee with the intention to value the shares at an abnormal prices in order to manipulate the share prices to get the unfair introduction of capital, which contravenes the provisions of section 56(2)(viib) of the Act. Based on that Ld CIT(A) also sustained the additions by accepting the findings of AO on the issue of aggressive valuation of shares by adopting the data supplied by the assessee and found discrepancies in the data while compared with the projections and actual performance and also rejected on the ground aggressive profit projected/declared by the assessee, according to him the growth is not commensurate with the aggressive growth projected by the assessee*

24. It has been submitted that the Hon'ble ITAT after considering the host of judgements which have been referred to and discussed in the said order of OYO Hotels and Homes Private Limited (Supra) has held that the shares were issued to the shareholders by adopting the price value on the basis of fresh valuation report. Such issue of shares cannot be treated as a mechanism to introduce unaccounted money into the system. The judgement of **M/s. Agro Portfolio Pvt. Ltd. (Supra)** relied upon by the department was clearly distinguishable on facts. The Hon'ble Tribunal further held in **Para-14** of the said judgement held that the provisions of section 56(2)(viib) of the Income Tax Act and the intention of the legislature while introducing these provisions was to curb the circulation of

unaccounted money. It has been further held that the settled proposition of law is that the tax authority cannot review the valuation of shares which was done on the basis of Rule 11UA of the IT Rules. In the said judgement, it was pointed out by the learned AR, that the tax authorities cannot change the valuation method adopted by the assessee as Rule 11UA gives a clear mandate to adopt a method of valuation and choice of selecting the method rests with the assessee.

25. On the other hand, Ld CIT(DR), Shri Vikram Singh Sharma has heavily relied upon and supported the orders of the Assessing Officer/CIT(A). It has been submitted that the Assessing Officer was fully justified in making the addition in accordance with the provisions of section 56(2)(viib) of the Act. He has submitted that the facts and figures given in the chart were supplied by the assessee and the valuer simply did an arithmetic exercise to certify these figures without carrying out any independent study pertaining to the market in which the assessee operates. He has submitted that the Ld CIT(A) has correctly observed that since the valuer was to be paid by the assessee to prepare the reports, which suits the interest of the assessee. He has submitted that the Assessing Officer is fully justified in ignoring such DCF valuation and making a valuation based on NAV which are supported by the audited financials of the assessee.

26. Further Ld CIT-DR argued that when there was a difference in the projected figures as per DCF method and amounts actually realized in the subsequent year, the Assessing Officer had no option but to reject such projections and proceed to determine the FMV of the share through the NAV based valuations. Ld DR took the bench through the orders of Assessing Officer and CIT(A) to submit that approach of the Assessing Officer and Ld CIT(A) is proper in accordance with law.

27. During the hearing, the Bench raised a specific point and observed that the valuation has to be seen based on estimates made in the DCF method as on the date of valuation report and not by comparing such projections with the actual result, which may vary due to various reasons. In response, Ld CIT(DR), though agreed that valuation is required to be examined as on the date of valuation report yet submitted that the projections made in such valuation reports have to be realistic and based on past growth history of the entity.

28. Considered the rival submissions and material placed on record. We observed that the main issue which is required to be examined in this case as to whether the Assessing Officer could have proceeded to ignore the valuation carried out by the assessee for the purposes of issuing the shares by carrying out a comparison with the actual results against the projections which was made in the valuation report prepared under DCF method. The assessee admittedly obtained this valuation report before the share warrants were allotted, which were to be converted into the equity shares within a period of 18 months. The valuation report was obtained on 16.08.2016 and the share warrants were admittedly issued on 15.09.2016 at the valuation which had been carried out as per the given valuation report. The amount was to be received in two tranches as per the terms of issue of these shares. By the time the second tranche @ Rs.332.36 per warrant was received which fell in the current financial year, relevant to Assessment Year 2018-19. The Assessing Officer picked up the projections which were made in the valuation report for the financial year ended March 2018 and compared the facts and figures from the audited figures for the same period based on the ITR filed by the assessee. According to the Assessing Officer, such comparison contained variation both in the turnover as well as the profitability which as per projections was high as compared to actuals. This

according to the Assessing Officer justified the rejection of the projections made in the valuation report and justified his action of proceeding to determine the fair market value of the share on the NAV basis. This action of the Assessing Officer resulted in addition of Rs.168.31 crores, which is under challenge before us.

29. We noticed that Ld CIT(A) fully agreed with the approach of the Assessing Officer and further held that the projections made in the valuation report were also not justified based on the past growth history of the assessee's business. Ld CIT(A) thus upheld the action of the learned Assessing Officer.

30. We notice that various courts have time and again held and reiterated the legal proposition that report issued by the technical expert is binding on the Assessing Officer and the fair market value carried out in the report of expert cannot be disturbed by the Assessing Officer. The Hon'ble Delhi High Court in the case of **PCIT vs. A.H. Multisoft (P.) Ltd.: [2025] 305 Taxman 347 (Del.)** has held that the report of an expert cannot be rejected on the basis of general disclaimers without pointing out any material error in data as used by experts. It has further been held that DCF method of determining valuation of share is not an exact science and can never be done with arithmetic precision and therefore the valuation by the valuer has to be accepted unless specific discrepancy in the figures and factors taken are found.

31. Similarly, we may refer to the judgement of Hon'ble Delhi High Court in the case of **PCIT v. Cinestaan Entertainment Pvt. Ltd. in ITA No. 1007/2019 (Del.) –** the relevant extracts of which have been referred to in the earlier part of this order wherein amongst others it has been held that the attempt by the revenue to compare the projections made in the valuation

report when compared with the actual results leading to additions u/s 56(2)(viib) of the Act was specifically rejected.

32. We further notice that although the Assessing Officer and CIT(A) has held that the past projections did not justify the aggressive growth as was projected in the valuation report, however, such observations appears to have been made by the lower authorities without examining the past performance. In any case, past facts and figures have not been noted in the order of Ld CIT(A) before making such observations. However, the Ld AR demonstrated through the past audited accounts that the assessee was actually showing substantial growth both in revenue as well as profit and asset growth. It has been demonstrated before us that year on year (YoY) growth in the revenue in Financial Year 2015 and Financial Year 2016 was 147% and 158% respectively as against which the estimated growth for Financial Year 2017 was 105%. Similarly, the asset book also grew on year to year basis @ 147% in Financial Year 2016 which was estimated at 159% growth in the financial year ended 2017 and only 95% in the financial year ended 2018. These projections, when seen in the light of past growth do not appear to be exorbitant and aggressive as has been held by authorities below.

33. Another important point which has been submitted and noted by us is that the Assessing Officer considered the actuals for the period ended March 2018 only. However, Ld AR has submitted that the actual growth figures on year on year (YoY) basis for the Assessment Year 2019-20 was 67% as against the projections of 39%. Similarly in Assessment Year 2020-21 the actuals were reported with a growth of 47% as against growth of 33% projected under the DCF method. Therefore, it has been demonstrated before us that it is not as if all the projections which were made while preparing the valuation report were aggressive but when the actual growth in Assessment Year 2019-20 and Assessment Year 2020-21 are seen and

compared with the projections made as per DCF method, it would emerge that the projected results were on the very conservative side rather lower than the results actually achieved in these years. On this count also, observations made by Assessing Officer solely on the basis of financial results for one year do not convey correct position and approach of the authorities below in challenging the projections is devoid of any merit.

34. Keeping in view the totality of facts as also the legal propositions and various court judgements, some of which have been referred by us in the foregoing paragraphs, we are of the firm opinion that the Ld CIT(A) was not justified in upholding the addition made by the Assessing Officer and we reverse the judgement of Ld CIT(A) on this issue and hold that the Assessing Officer was not justified in making the addition of Rs.168,30,67,669.50 and the addition so made is hereby directed to be deleted.

35. The appeal filed by the assessee is thus allowed on both the issues raised in this appeal.

Order pronounced in the open court on this 25TH day of August, 2026.

SD/-	**SD/-**
(RAJ KUMAR CHAUHAN) **JUDICIAL MEMBER**	**(S. RIFAUR RAHMAN)** **ACCOUNTANT MEMBER**

Dated: 25.08.2026
TS

Copy forwarded to:

1. assessee
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT, NEW DELHI