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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of Decision: 07.07.2025*

+ **ITA 199/2025 CM APPL. 38773/2025 CM APPL. 38774/2025**

PR. COMMISSIONER OF INCOME TAX-1 .....Appellant

Through: Mr Vipul Aggarwal, SSC, Mr Akshat Singh, Ms Sakshi Shairwal, JSCs and Mr Gaoraang Ranjan, Advocates.

versus

M/S CENTRAL PLASTICS PVT. LTD. ....Respondent

Through: Nemo.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**VIBHU BAKHRU, J. (ORAL)**

**CM APPL. 38773-74/2025**

1. For the reasons stated in the applications, the delays in filing and re-filing the above captioned appeal are condoned.
2. The applications are disposed of.

**ITA 199/2025**

3. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 31.05.2023 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.65/Del/2017 in respect of Assessment Year [**AY**] 2012-13 captioned *ITO v. M/s Central Plastics Pvt. Ltd.*
4. The respondent [**Assessee**] had filed its return of income for the AY 2012-13 declaring a loss of ₹ 18,581/-. The said return was picked up for scrutiny on account of large share premium received by the Assessee during the relevant period. The Assessing Officer [**AO**] observed that the Assessee



had received share capital from three companies, namely, Confiance Trading Pvt. Ltd., Monarch Infraprojects Pvt. Ltd. and Khandelwal SRK Estate Pvt. Ltd. The tabular statement setting out the amounts received; shares allotted; and the premium per share is set out below:

S. No.	Name of the share applicant	No. of shares	Face Value per share	Premium Per share	Total value of shares
1.	Confiance Trading Pvt. Ltd.	59523	10	410	2,49,99,660
2.	Monarch Infraprojects Pvt. Ltd.	59523	10	410	2,49,99,660
3.	Khandelwal SRK Estate Pvt. Ltd.	19047	10	410	79,99,740
Total		1,38,093			5,79,99,060

5. The AO issued notices under Section 133(6) of the Act to the aforesaid share applicants, namely, Confiance Trading Pvt. Ltd., Monarch Infraprojects Pvt. Ltd. and Khandelwal SRK Estate Pvt. Ltd. However, the said entities did not respond to the said notices. In the given circumstances, the AO held that a sum of ₹ 5,79,99,060/- received by the Assessee from the said entities remained unexplained and was taxable under Section 68 of the Act.

6. It is material to note that the Assessee received the amounts through banking channels.

7. Additionally, the AO disallowed the expenditure of ₹35,458/- incurred by the Assessee for payment of fees to the Registrar of Companies on account of increase in the capital.

8. The Assessee preferred an appeal against the aforementioned



assessment order before the Commissioner of Income Tax (Appeals) [CIT(A)] which was allowed *vide* order dated 16.09.2016. The CIT(A) held that the Assessee had discharged the initial onus under Section 68 of the Act by providing sufficient documents including bank details of the share applicants, copies of the bank statements, copies of the income tax return of the investor companies and the data from the MCA website. The said data reflected that the investor companies were live companies. The investor companies were also assessed to income tax and their final accounts indicated that sufficient funds were available with them. Thus, they had the ability to make the investments.

9. Insofar as the fee for increase in share capital is concerned, the CIT(A) held that the same was not revenue expenditure and directed that deduction in respect of the same be computed in accordance with the provisions of Section 35 D of the Act.

10. The Revenue preferred an appeal before the learned ITAT. The learned ITAT found that the investors had throughout confirmed their investments and there is no allegation that the capital receipts were the Assessee's money. The relevant conclusion of the learned ITAT is set out below:

*“21. In light of the aforementioned judicial rulings, we find that in the case in hand, the investors throughout have confirmed the investment and no material has been led by the Assessing Officer to even allege that such investment was made from the coffers of the assessee company as it is not the case of the Revenue that the assessee has purchased cheque by paying cash to the investor company.*

*22. The investors are corporate entities duly assessed to tax and have made investment through banking channel from their own sources which fact has neither been denied nor rebutted in the assessment nor by the first appellate authority. This is also evident from the chart exhibited elsewhere.*

*23. Considering the facts of the case in totality, we are of the considered*



*opinion that the assessee has discharged the primary onus cast upon it by provisions of section 68 of the Act. It is not the case of the Revenue that the assessee is a beneficiary of accommodation entry.*

*24. The Assessment Year under consideration is Assessment Year 2012-13 and for this Assessment Year, the assessee is not required to establish source of source.”*

11. It is contended on behalf of the Revenue that the Assessee had received share capital from the three investor companies and further invested the same in the similar companies. It is canvassed on behalf of the Revenue that the Assessee was one of the entities used for transfer of funds to the downstream investment companies.

12. The question whether the Assessee has produced relevant material to explain the source of its resources is essentially a question of fact. However, even if we accept the Revenue’s contention that the Assessee was conduit for passing funds from investor companies to downstream investee companies, the question of assessing the receipts as income of Assessee would not arise. This is because it is implicit that the amounts received is not the Assessee’s income.

13. The question whether the source of the funds is explained is, essentially, a question of fact. In view of the learned ITAT’s findings, we find that no substantial question of law arises for consideration of this Court in this appeal.

14. The appeal is, accordingly, dismissed.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**JULY 7, 2025/ ab**

[Click here to check corrigendum, if any](#)