Principal Commissioner of Income Tax-2, Kolkata v. M/s. Mundhra Construction Pvt. Ltd.

ITAT/10/2025 (IA No: GA/1/2025)

ITAT/10/2025 (IA No: GA/1/2025) (High Court at Calcutta, 2025-03-07) | 2025-03-07

The Revenue appeal was allowed and the substantial questions answered for the Revenue; the Tribunal's favourable order was held unsustainable.

Income-tax Act, 1961: 68

High Court at Calcutta | Division Bench | T. S. Sivagnanam | Chaitali Chatterjee (Das)

Assessment years: 2012-13

Scope of this source order

The judgment gives differing monetary totals in its narrative; CIT(A)'s confirmed amount is stated as Rs.2,82,00,000 with Rs.10,798 deleted. Avoid inventing a reconciled total or treating high premium alone as conclusive.

01 FACTS OF THE CASE

Revenue challenged the Tribunal's 13 August 2024 order in ITA807/Kol/2024 for AY2012–13, which had overturned NFAC's 27 March 2024 decision on share-capital credits under section 68. The Court discussed registered subscriber companies, substantial premiums paid by outside entities and no premium paid by two promoter-directors. NFAC had confirmed Rs.2,82,00,000 while deleting Rs.10,798; the source elsewhere gives differing gross figures.

Source: Paras1–4,6, PDF pp.1–3,6–8

02 DISCUSSION BY THE HON'BLE COURT

Corporate registration established identity but did not alone establish capacity and genuineness. The Court examined NFAC's subscriber-specific findings, including Lucky Prime's claimed investment absent from its balance sheet and common features of subscriber companies. The Tribunal merely said the paper book proved the three ingredients without explaining why NFAC's detailed findings were wrong. Applying the reasoning in Balgopal Merchants and the factual-probability approach, the Court found that reversal legally unsustainable.

Source: Paras4–8, PDF pp.3–9

03 JUDICIAL DECISION

Revenue's appeal was allowed and the substantial questions answered in its favour. The Tribunal's allowance of the assessee's appeal was held erroneous and unsustainable; the connected application was closed. No express remand direction was made.

Source: Paras8–10, PDF p.9

04 OUTCOME / IN WHOSE FAVOUR

Revenue-favourable final appellate result against the Tribunal's deletion. The decision requires reasoned engagement with the actual subscriber evidence; incorporation documents or a general statement that the paper book proves the case did not discharge that task here.

Source: Paras7–10, PDF pp.8–9

05 EXPERT COMMENTS

A reversal needs reasons answering the findings below — The central appellate defect was not simply that the Tribunal reached a different view. It failed to confront NFAC's detailed adverse findings before asserting the three section 68 ingredients were proved. A useful appellate presentation should identify each material finding, the contrary document and why it changes the inference.

Identity and capacity remain distinct inquiries — The High Court accepted registration-based identity but required proof of capacity and genuine investment. Lucky Prime's claimed investment absent from its balance sheet illustrates the importance of matching the transaction to the subscriber's records. High premium and related-company features were evaluated cumulatively, not as a standalone prohibition on premium issues.

Use qualified amounts and procedural locators — The question and NFAC summary identify Rs.2,82,00,000; page5 describes Rs.2,82,10,798 before the Rs.10,798 deletion, while page3 states Rs.2,84,15,960. These amounts are not silently equated. The caption says GA1/2025 but the final paragraph says GA1/2024; obtain the underlying order before relying on those inconsistent particulars for execution or citation.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 9-page source PDF; corrected note based on this document.

All 9 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Source-era statutory provisions only; no Income-tax Act, 2025 equivalence asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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