Principal Commissioner of Income Tax-2, Kolkata v. Minto Park Estates Private Limited

ITAT/4/2025 (IA No: GA/2/2025)

ITAT/4/2025 (IA No: GA/2/2025) (High Court at Calcutta, 2025-08-01) | 2025-08-01

The Revenue appeal was allowed, the Tribunal order set aside and the assessment dated 27 March 2015, as affirmed by CIT(A) on 20 October 2023, restored.

Income-tax Act, 1961: 68, 260A

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

Assessment years: 2012-13

Scope of this source order

The decision rests on cumulative evidence, not non-appearance alone. The source contains inconsistent per-share premium figures; avoid reproducing a calculated premium as established fact. Its description of the CBDT circular chronology should be checked against the circulars before independent reliance.

01 FACTS OF THE CASE

Revenue challenged the Tribunal's 10 April 2024 deletion of Rs.1,10,00,000 under section 68 for AY2012–13. The newly incorporated company had received share capital and premium. The assessment dated 27 March 2015, affirmed by NFAC on 20 October 2023, examined subscriber resources, recycled share funds and unexplained differential premiums. Some assessee-directors appeared; the investing companies' directors did not respond to summons. The source gives inconsistent premium rates and subscriber counts.

Source: Paras1–8, PDF pp.1–11

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the low-tax-effect objection on the recorded organised-evasion facts. Applying P. Mohanakala and NRA Iron and Steel, it required an objective appraisal of identity, capacity and genuineness. The AO had examined documents before issuing summons, and NFAC had discussed the evidence in detail; the Tribunal's contrary description was factually incorrect. Naina Distributors, Wise Investment and Vish Realty were distinguished on their verified records. Corporate registration alone did not answer the adverse findings about financial capacity and routed funds.

Source: Paras12–24, PDF pp.12–21

03 JUDICIAL DECISION

Revenue's appeal was allowed, the Tribunal's order set aside and the assessment dated 27 March 2015, as affirmed by the appellate order dated 20 October 2023, restored. The substantial questions were answered in Revenue's favour.

Source: Paras25–27, PDF p.22

04 OUTCOME / IN WHOSE FAVOUR

Final Revenue-favourable restoration of the section 68 addition. The result rests on the cumulative evidence and defects in the Tribunal's reasoning, rather than non-appearance, low income or a high premium taken alone.

Source: Paras15–27, PDF pp.14–22

05 EXPERT COMMENTS

Separate identity from the funding explanation — Registration and returns identified the subscribers but did not establish the capacity or commercial substance of the investment. The Court examined share-sale funding, circular premium flows, limited operating activity and unexplained differential pricing together. Nil taxable income alone is not a complete measure of available capital; the evidential task is to reconcile the actual investment with credible resources and their movement.

Identify whose response was missing — The source records appearances by assessee-directors, while subscriber-directors did not respond. Conflating those groups would misstate the evidence. Naina Distributors was distinguished because independent verification and detailed responses had otherwise established the transaction there. Here the Court found that documents had been examined, further verification sought and the unresolved deficiencies left unanswered.

Answer findings rather than recite ingredients — The Tribunal could not reverse detailed AO and NFAC findings by saying those authorities had not discussed the materials. An effective challenge should answer each subscriber-specific inference with its documentary basis. The judgment applies source-of-source reasoning to these facts; it should not be paraphrased as a retrospective statutory amendment or a universal prohibition on private-placement premiums.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 22-page source PDF; corrected note based on this document.

All 22 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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