Winwood Marketing Pvt. Ltd. v. Income Tax Officer, Ward 6(4), Kolkata

ITAT/301/2024 (IA No: GA/1/2024)

ITAT/301/2024 (IA No: GA/1/2024) (High Court at Calcutta, 2025-11-17) | 2025-11-17

The assessee's appeal was dismissed without formulating a substantial question of law.

Income-tax Act, 1961: 68, 143(3); Companies Act, 2013: 62(1)(c)

High Court at Calcutta | Division Bench | Rajarshi Bharadwaj | Uday Kumar

Assessment years:

Scope of this source order

This does not hold that every genuine share swap attracts section 68. The claimed swap failed for lack of proof; the source also contains an apparent section 26A typographical reference.

01 FACTS OF THE CASE

Winwood challenged the Tribunal's 24 September 2024 order sustaining a Rs.4,79,44,500 section68 addition. It claimed a share-swap arrangement authorised by special resolution under Companies Act section62(1)(c). The order discusses Kushal Commodities and Swarnalaxmi Dealcom as share applicants and the failure to establish the alleged exchange. No assessment year is specified in this source.

Source: Tribunal extract pp.1–3; assessee submission pp.3–4

02 DISCUSSION BY THE HON'BLE COURT

The quoted Tribunal reasoning found no reconciliation or exchange notes identifying shares received by Winwood, no demonstrated ownership exchange, and inadequate support for the substantial premium. It distinguished the cited swap decisions on those facts. The High Court itself found that Winwood had not proved, before it or the Tribunal, possession of shares for the claimed swap arrangement.

Source: Tribunal extract pp.1–3; High Court finding p.4

03 JUDICIAL DECISION

The Court declined to formulate a substantial question of law, dismissed the assessee's appeal and disposed of the connected GA1/2024 application.

Source: Operative paragraph, PDF p.4

04 OUTCOME / IN WHOSE FAVOUR

Revenue-favourable final result: the addition survived because the asserted share swap was not proved on this record. The order does not establish a universal rule that a genuine, evidenced non-cash share exchange attracts section68.

Source: Reasons and disposition, PDF pp.3–4

05 EXPERT COMMENTS

A corporate authorisation does not establish the exchange — The special-resolution submission did not answer which shares Winwood owned and transferred or what it received. The decisive deficiency was proof of the transaction. Identify the securities, ownership movement and reconciliation before relying on a share-swap characterisation; approval under company law is not itself evidence that the claimed exchange occurred.

Keep the monetary figures attached to their proper entities — The Rs.4,79,44,500 is the disputed addition to Winwood. The Rs.5,60,36,170 discussed earlier is an addition in Kushal's assessment; the excerpt separately discusses contributions and premium concerning applicants. Combining these amounts or calling an applicant's assessed income Winwood's income would distort the record.

The cited authorities were distinguished, not generally displaced — The Tribunal excerpt rejected parity with V.R. Global Energy, Abhijeet Enterprise and Vishnu Distributors because the necessary exchange facts were not demonstrated. The High Court's short conclusion rests on the same evidential failure. This is a fact-sensitive adverse result, not a ruling that every share-swap precedent is inapplicable to every section68 dispute.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 4-page source PDF; corrected note based on this document.

All 4 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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