

Principal Commissioner of Income Tax-2, Kolkata v. M/s Express Tradelink Private Limited

ITAT 95 of 2025 (IA No: GA/1/2025)

ITAT 95 of 2025 (IA No: GA/1/2025) (Calcutta HC, decided 2026-02-04) | 2026-02-04

Deletion of Section 68 addition of Rs. 7,26,50,000/- on share capital and share premium for AY 2009-10; Finance Act, 2012 proviso to Section 68 ('source of source') is prospective from 01.04.2013; PCIT v. NRA Iron & Steel Pvt. Ltd. distinguished where all subscribers responded to Section 133(6) notices.

Income-tax Act, 1961: sections 68, 131, 133(6), 143(3), 260A

High Court at Calcutta | 2-judge bench (Division Bench) | Justice Rajarshi Bharadwaj | Justice Uday Kumar

Assessment years: 2009-10

Prospective operation of Finance Act 2012 proviso to Section 68 is critical to AY 2009-10 holding

The Court specifically relied on the pre-2013 text of Section 68 for AY 2009-10 under which the assessee was not statutorily required to prove 'source of source' of share capital.

01 FACTS OF THE CASE

For AY 2009-10, the Assessing Officer added Rs. 7,26,50,000/- under Section 68 towards share capital and premium received from corporate subscribers on the ground that the subscribers' directors did not appear personally under Section 131. Both CIT(A) and ITAT deleted the addition after verifying that every subscriber company had responded to Section 133(6) notices with complete financial and tax records.

Source: [PDF pp. 1-3, paras 1-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench held that: (1) The proviso inserted in Section 68 by the Finance Act, 2012 requiring a closely held company to prove the 'source of source' of share application money took effect prospectively from 01.04.2013 (AY 2013-14) and did not apply to AY 2009-10; and (2) The Supreme Court decision in PCIT v. NRA Iron & Steel Pvt. Ltd. was distinguishable because in NRA Iron & Steel field inquiries revealed non-existent or shell entities with negligible income, whereas here all investor companies were active income-tax assesseees registered with the RoC who duly complied with Section 133(6) notices and established net worth far exceeding their investments.

Source: [PDF pp. 3-6, paras 5-10](#)

03 JUDICIAL DECISION

Finding no perversity in the concurrent orders of the CIT(A) and the ITAT and no substantial question of law under Section 260A, the High Court dismissed the Revenue's appeal.

Source: [PDF p. 6, paras 11-12](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee - Revenue appeal dismissed; deletion of Rs. 7,26,50,000/- Section 68 addition upheld.

Source: [PDF p. 6, para 12](#)

05 AKHB REVIEW POINT

For assessment years prior to AY 2013-14, the Finance Act 2012 'source of source' proviso to Section 68 does not apply, and NRA Iron & Steel cannot be invoked where all investor companies respond to Section 133(6) notices with verified net worth.

Source: [AKHB analysis based on PDF pp. 3-6](#)

SOURCE & VERIFICATION

[High Court at Calcutta official judgment PDF - AKHB Repository \(20260204_WBCHCO0013922025.pdf\)](#)

6-page official High Court at Calcutta judgment PDF (20260204_WBCHCO0013922025.pdf, 103,990 bytes).

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STATUTORY SCOPE

Applies Section 68 of the Income-tax Act, 1961 for AY 2009-10 prior to the Finance Act, 2012 proviso effective 01.04.2013. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-18. Full 6-page primary judgment PDF text read and verified page-by-page. Distinguishes PCIT v. NRA Iron & Steel Pvt. Ltd. (2019) 412 ITR 161 (SC) on facts and holds the Finance Act 2012 proviso to Section 68 prospective from AY 2013-14.

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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