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

ITAT95/2025 with IA GA2/2025

ITAT95/2025 with IA GA2/2025 (Calcutta High Court, 2026-02-04) | 2026-02-04

## Rs.7,26,50,000 share-capital/premium deletion sustained; unrebutted subscriber evidence and the year-specific section 68 proviso governed.

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

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

Assessment years: 2009-10

### 01 FACTS OF THE CASE

Revenue challenged the ITAT order dated 8 February 2024 in ITA 43/Kol/2021 for AY 2009-10. Express Tradelink received Rs.7,26,50,000 in share capital and premium from nine corporate subscribers. The section 68 dispute concerned identity, capacity, genuineness and the subscribers' non-appearance despite summons.

Source: PDF pp.2–4, paras 2–7

## 02 DISCUSSION BY THE HON'BLE COURT

The record included PAN details, applications/allotments, bank statements, returns and audited accounts, with confirmations under section 133(6). The Court considered net worth rather than merely low returned income. It held that the Finance Act 2012 proviso could not be applied retrospectively to AY 2009-10 and found no corroborative link showing that the subscribers' funds belonged to the assessee.

Source: PDF pp.4–6, paras 8–11

## 03 JUDICIAL DECISION

Finding no perversity or substantial question, the Court dismissed Revenue's appeal and disposed of GA 2/2025 without costs.

Source: PDF p.6, disposal

## 04 OUTCOME / IN WHOSE FAVOUR

Tribunal deletion sustained for AY 2009-10.

Source: PDF p.6

## 05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

The year-specific proviso does not remove the original burden: The Court rejected retrospective application of the Finance Act 2012 proviso, while also examining identity, creditworthiness and genuineness. The result therefore does not mean that a taxpayer for AY 2009-10 had no explanatory burden. The documentary record and the statutory period were separate parts of the reasoning. (PDF pp.4–5, paras 8–10)

Net worth and enquiry responses answered the capacity objection: The Court did not equate modest income with inability to invest where audited resources and confirmations supported capacity. Non-appearance was assessed alongside that positive evidence. For practical use, the actual financial statements, subscription trail and responses matter; merely reciting their document names would not reproduce the factual basis of this case. (PDF pp.3–5, paras 6–10)

Absence of contrary evidence constrained the appeal: The Court found no material connecting the subscription to the assessee's own money and no perversity in the Tribunal's conclusion. That is an evidentiary and appellate limit, not an automatic immunity for all share premiums. A different record involving unreliable confirmations or an established money trail would require its own analysis. (PDF pp.5–6, paras 10–11)

Source: PDF pp.4–5, paras8–10

## SOURCE & VERIFICATION

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

Complete 6-page original read and every page visually reviewed; source bytes verified. Commentary is editorial analysis of this order, not current-law clearance.

Full original and all five note panels re-reviewed on 21 October 2026; unsupported supplied assertions removed.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

## STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

## LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

### AI DISCLOSURE

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