Principal Commissioner of Income Tax-1, Kolkata v. M/s Shipra Enclave Private Limited

ITAT 94 of 2025 (IA No: GA/2/2025)

ITAT 94 of 2025 (IA No: GA/2/2025) (Calcutta High Court, 2026-02-04) | 2026-02-04

Share-capital addition deletion sustained on verified subscriber evidence; non-appearance did not overcome the unrebutted record.

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: 2012-13

01 FACTS OF THE CASE

Revenue challenged the ITAT order dated 29 November 2023 in ITA 543/Kol/2023 for AY 2012-13. Shipra Enclave, an RBI-registered NBFC, received Rs.6.22 crore in share capital and premium from 15 companies. The AO made a section 68 addition, relying on directors' non-appearance; the CIT(A) affirmed it. The Tribunal reversed that result after considering the subscriber evidence.

Source: PDF pp.2–4, paras 2–8

02 DISCUSSION BY THE HON'BLE COURT

The Court noted identifiable subscribers, responses under section 133(6), financial statements, returns and bank evidence, with net worth substantially exceeding the investments. The evidence remained unrebutted. The AO could enforce attendance under section 131; non-appearance alone did not displace the documented explanation. The Court distinguished the factual setting of NRA Iron & Steel and found no perversity or substantial question.

Source: PDF pp.4–7, paras 9–16

03 JUDICIAL DECISION

Revenue's appeal was dismissed and the Tribunal's deletion sustained. The connected application was disposed of without costs.

Source: PDF p.7, operative disposal

04 OUTCOME / IN WHOSE FAVOUR

Assessee successful; this was Tribunal reversal of the CIT(A), not concurrent deletion by both appellate authorities.

Source: PDF pp.3–7

05 EXPERT COMMENTS

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

Capacity was tested against the financial record: The Court emphasised net worth sufficient to fund the investments, rather than treating a small current-year income as conclusive incapacity. PAN, returns, bank movements and audited accounts formed a combined record. The decision does not establish that a PAN or bank transfer alone proves creditworthiness; the documented resources and unrebutted responses explain the result. (PDF pp.4–6, paras 9–14)

Non-appearance mattered in the context of other compliance: The subscribers had responded to statutory enquiries and were identifiable. The Court faulted reliance on non-appearance without using available enforcement powers or confronting contrary evidence. This reasoning is materially different from a case involving untraceable subscribers or false documents; those factual differences cannot be erased by citing the outcome alone. (PDF pp.4–6, paras 9–14)

The appellate result is confined to this evidence: The Court distinguished NRA Iron & Steel on its view of the facts and upheld the Tribunal's appreciation of evidence. It did not grant an unrestricted safe harbour for high share premiums or override the need to prove all three section 68 elements. A comparable appeal must identify a material defect or perversity rather than simply repeat the AO's suspicion. (PDF pp.5–7, paras 11–16)

Source: PDF pp.4–6, paras9–14

SOURCE & VERIFICATION

High Court at Calcutta official judgment PDF - AKHB Repository (20260204_WBCHCO0013912025.pdf)

Complete 7-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

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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