Principal Commissioner of Income Tax-4, New Delhi v. M/s J D Exim Pvt. Ltd.

ITA 669/2026

2026:DHC:6877-DB; ITA 669/2026; CNR DLHC011107072025 | 2026-08-18

Section 68 addition in AY 2016-17 rejected for a Rs. 10 crore land advance admittedly received in FY 2006-07; alleged capital-gain timing device did not justify that provision.

Income-tax Act, 1961: sections 68, 260A

High Court of Delhi | 2-judge bench (Division Bench) | Justice Dinesh Mehta | Justice Rajneesh Kumar Gupta

Assessment years: 2016-17

Deletion under section 68 does not approve the capital-gain timing

The Court acknowledged possible structuring but held that taxing the old advance under section 68 in the year under consideration was impermissible. It did not identify or direct another statutory remedy.

01 FACTS OF THE CASE

The assessee received a Rs. 10 crore land-sale advance in FY 2006-07. Its attorney executed the sale deed in FY 2013-14; the assessee claimed to learn this only in FY 2015-16 and reported the gain in AY 2016-17, setting it off against capital loss. The purchaser had booked the sale in FY 2013-14. Suspecting deliberate timing to use a Rs. 16 crore loss, the AO added the old advance under section 68. CIT(A) deleted it and the Tribunal affirmed on 28 November 2024.

Source: PDF pp. 2-3, paras 9-14

02 DISCUSSION BY THE HON'BLE COURT

Revenue argued that the assessee intentionally withheld the sale for two years to obtain set-off. The Court observed that there might have been a device, but other measures were available to address such a situation. Section 68 could not be used in AY 2016-17 for the amount admittedly received in FY 2006-07. The reasoning rejects the chosen statutory route without approving the alleged timing arrangement.

Source: PDF pp. 3-4, paras 15-17

03 JUDICIAL DECISION

After condoning 454 days' delay in re-filing and 21 days' delay in filing, the Court considered the merits and found no infirmity in the appellate orders deleting the addition. Revenue's appeal was rejected.

Source: PDF pp. 1-2, paras 1-8; p. 4, para 18

04 OUTCOME / IN WHOSE FAVOUR

Assessee succeeded: deletion of the Rs. 10 crore section 68 addition in AY 2016-17 stands. This is a merits disposal after condonation, not dismissal for delay or a ruling validating every aspect of the capital-gain set-off.

Source: PDF p. 4, paras 16-18

05 EXPERT COMMENTS

Separate receipt, transfer and reported recognition — The advance was received in FY 2006-07, the deed executed in FY 2013-14, and the gain reported for AY 2016-17 on a claimed later discovery. These are different events. The admitted old receipt defeats the particular section 68 addition; it does not decide that the taxpayer could choose the year of capital-gain recognition by claiming late knowledge.

An avoidance allegation does not substitute for the provision's requirements — The Court did not need to reject Revenue's suspicion to reject its chosen addition. Even allowing for a possible device, it held this use of section 68 outside the statutory framework. The useful analytical sequence is to identify the actual receipt and year before testing the proposed charge, rather than treating a suspected tax advantage as sufficient authority to tax the old sum in any year.

Other measures were mentioned, not authorised in this appeal — The observation about other and better measures contains no identified provision, remand direction or finding on limitation. It should not be turned into permission for a fresh proceeding or into approval of a particular alternative charge. Conversely, success here is confined to deletion of this addition, not a certification of the sale arrangement or capital loss.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court of Delhi official judgment PDF - AKHB Repository (DLHC011107072025_1_2026-08-18.pdf)

4-page official High Court of Delhi judgment PDF (DLHC011107072025_1_2026-08-18.pdf, 322,551 bytes).

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

Applies Section 68 of the Income-tax Act, 1961 for AY 2016-17. Income-tax Act, 2025 equivalence is not verified.

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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