

IN THE HIGH COURT OF DELHI AT NEW DELHI
ITA 145/2010
COMMISSIONER OF INCOME TAX Appellant
Through : Mr Sanjeev Sabharwal

versus

VV INDUSTRIAL PROCESSORS PVT LTD Respondent
Through : None

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

O R D E R

25.02.2010

This appeal is in respect of the assessment year 2002-2003 and arises out of the Income Tax Appellate Tribunal's order dated 22.05.2009 in ITA 3728/Del/2008.

The only issue sought to be raised by the revenue is with regard to the deletion of the addition in respect of the share application money to the extent of Rs?81,40,000/- under Section 68 of the Income Tax Act, 1961.

The Assessing Officer had made an addition of Rs 88,40,000/- under the said Section 68 after treating the share application money received by the assessee as accommodation entries. The Commissioner of Income Tax (Appeals) partly allowed the appeal preferred by the assessee on this aspect of the matter, inasmuch as the addition of Rs 88,40,000/- was limited to only Rs 7 lacs on account of the fact that the share application money apparently received from Amba Alloys Private Limited was considered by the Commissioner of Income Tax (Appeals) to be unexplained. This was because the notice sent by the Assessing Officer to Amba Alloys Private Limited was returned unserved. Furthermore, no confirmation had been filed by the assessee in respect of the said Amba Alloys Private Limited. Consequently, the sum of Rs 7 lacs said to have been received from Amba Alloys Private Limited towards share application money was treated as unexplained by the Commissioner of Income Tax (Appeals) and the addition to that extent was sustained. However, in respect of the share application money to the extent of Rs 81,40,000/- received from other parties, the Commissioner of Income Tax (Appeals) deleted the said addition because of the fact that the assessee had filed confirmation letters from them and that notices issued to them had been served and the parties had also replied to the same confirming the making of the payments towards share application money. The Commissioner of Income Tax (Appeals), therefore, found that the onus, which was on the assessee, stood discharged. The identity of the subscribers was established and they had also confirmed having made the payments. In view of the foregoing, the Commissioner

of Income Tax (Appeals) deleted the addition to the extent of Rs?81,40,000/-. These findings of fact were confirmed by the Income Tax Appellate Tribunal by virtue of the impugned order. No substantial question of law arises for our consideration.

The appeal is dismissed.

BADAR DURREZ AHMED, J

**FEBRUARY 25, 2010 SIDDHARTH MRIDUL, J
SR**