

OD 22

ORDER SHEET
ITAT/67/2026
IA NO:GA/1/2026, GA/2/2026
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 5 KOLKATA
VS
ARS FINANCIAL CONSULTANT PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE RAJARSHI BHARADWAJ

AND

The Hon'ble JUSTICE UDAY KUMAR

Date: 6th May, 2026.

Appearance:
Mr. Siddhartha Lahiri, Sr. Adv.
Mr. Kuntal Kr. Goswami, Adv.
...for the appellant

The Court: Learned counsel appearing for the appellant files affidavit of service. Let the affidavit of service be kept with the records.

No one appears for the respondent/assessee.

Heard learned counsel appearing for the appellant.

There is a delay of 55 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application being GA/1/2026 is allowed.

The appeal is admitted on the following substantial question of law for consideration.

“i) Whether on the facts and circumstances of the case and in law, the Learned Tribunal has erred in law by quashing the assessment

order passed under Section 143(3) dated 20.03.2015 by erroneously holding that notice u/s 143(2) was issued by non-jurisdictional AO without considering the fact that the notice u/s 143(2) was correctly issued on 29.08.2013 by the jurisdictional ITO, Ward – 34(1) with whom the jurisdiction of the case/PAN lied till 23.01.2014 when the case/PAN was transferred to ITO, Ward – 1(3) by passing a jurisdiction transfer order u/s 127 ?

ii) Whether on facts and circumstances of the case and in law, the Learned Tribunal has erred in law by allowing the appeal of the assessee when the jurisdiction was never challenged by the assessee within the time prescribed u/s 124(3) of Income Tax Act, 1961 ?

iii) Whether on the facts and in law, the Learned Tribunal is justified in deleting the addition made by the A.O. towards unexplained share capital and share premium u/s. 68 of the Act, simply relying on the new ground raised by the assessee challenging the validity of the notice issued under Section 143(2), even though the directors of the share subscribing companies did not appear before the AO in response to the summons u/s 131 of the IT Act which is a provision enabling the income tax authorities to investigate any issue of tax evasion or irregular transaction and even the Hon'ble Supreme Court in the decision in the case of Pr. CIT, Central-1 Vs. NRA Iron & Steel (P.) Ltd. in Civil Appeal No.2463 of 2019 has held that the Practice of conversion of un-accounted money through the cloak of Share Capital/Premium must be subjected to careful scrutiny ?”

The appellant shall file requisite number of informal paper books prepared out of Court including therein all relevant materials used before the learned Court below within ten weeks from date and serve copies thereof upon the learned advocate for the respondent.

Settlement of index and all other formalities are dispensed with.

Since the respondent is not represented, service of notice of appeal be effected upon them.

Let the matter appear in the monthly list of August, 2026.

IA No.GA/2/2026 is disposed of.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)