

Receipts from allotment of shares in settlement of pre-existing liability couldn't be treated as unexplained credit

Summary – The High Court of Madras in a recent case of V. R. Global Energy (P.) Ltd., (the Assessee) held that where assessee allotted shares to a company in settlement of pre-existing liability of assessee to said company, since no cash was involved in transaction of said allotment of shares, conversion of these liabilities into share capital and share premium could not be treated as unexplained cash credits under section 68

Facts

- The assessee-company allotted 1,19,000 shares with face value of Rs. 10 at a premium of Rs. 5400 to one VR and the allotment of shares by the assessee to VR was in settlement of the pre-existing liability of the assessee to said VR.
- The Assessing Officer added the share premium and the share capital for the fresh allotment of shares and treated the same as unexplained cash credits under section 68, while holding that the method of valuation was not acceptable and that the share premium of Rs. 5400 was unreasonable.
- On appeal, the Commissioner (Appeals) upheld order of the Assessing Officer.
- On further appeal, the Tribunal confirmed order passed by the Commissioner (Appeals).
- On appeal to High Court:

Held

- The cash credits towards share capital were admittedly only by way of book adjustment and not actual receipts which could not be substantiated as receipts towards share subscription money.
- The appeal is, thus, allowed and the judgment and order of the Tribunal is set aside, for the reasons discussed above. Additions under section 68 are also set aside.