

Valuation of preference shares issued at premium to be conducted as per prescribed guidelines - matter remanded by ITAT

Summary – The Jaipur ITAT in a recent case of Ginni Global (P.) Ltd., (the Assessee) held that Valuation of preference shares issued at premium should be conducted as per prescribed guidelines

Facts

- During relevant year, the assessee-company issued preference shares of Rs. 100 each at premium of Rs. 100 per share. During the course of assessment proceedings, the assessee was asked to submit calculation of fair market value for the purposes of section 56(2)(viib). In response, the assessee submitted its justification for valuation and also submitted valuation report from a Chartered Accountant.
- However, such valuation was not found acceptable to the Assessing Officer and referring to the provisions of section 56(2)(viib), read with rule 11UA, the Assessing Officer determined the fair market value of preference shares at Rs. 150.39 per share. Therefore, the excess amount over and above the fair market value was brought to tax as income under the head 'Income from other sources'.
- The Commissioner (Appeals) confirmed the addition made by the Assessing Officer.

Held

- The provisions of section 56(2)(viib) do not make any distinction between equity shares and preference shares. Regarding the valuation of the preference shares, the valuation should be determined as per rule 11UA(1)(c) which required the assessee to obtain a report from a merchant banker or a Chartered Accountant to determine the price which preference shares would fetch if sold in the open market on the valuation date.
- In the instant case, the revenue has not disputed the adoption of the NAV method by the assessee. Therefore, once the NAV method has been accepted, what has to be determined is the valuation of the preference shares based on net asset value as on the date of issue of such preference shares and not as per the last balance sheet date as has been adopted currently.
- Hence the matter was set aside to the file of the Assessing Officer to determine the corrected value of the preference shares as per the NAV method and such valuation has to be determined as on the date of issuance of such preference shares. In the result, the ground of appeal is allowed for statistical purposes.