

AO cannot change the valuation method from DCF to NAV: ITAT Chennai

M/s. Brio Bliss Life Science P Ltd. (ITA. No: 3067/Chny/2019 Ltd)

Facts:

1. AO noticed that during the year under consideration the assessee company has received share premium of Rs. 1.75 crores and Rs. 2.05 crores from M/s. Fulcrum Venture India Trust for allotment of equity shares with a premium of Rs. 22/-per share.
2. The assessee has justified issue of share premium at Rs. 22/- per share with the help of valuation report from an independent auditor.
3. The AO, rejected explanation furnished by the assessee. Although, it has followed discounted cash flow (DCF) method to determine the share price, but there were some infirmities in projections considered by the assessee to arrive at a free cash flow, where the projected turnover and profit before tax considered by assessee for assessment year 2016- 17 & 2017-18 was much higher than the actual turnover achieved for two assessment years.
4. Therefore, AO rejected valuation report submitted by the assessee and determined fair value of equity shares under rule 11UA of the I.T. Rules, 1962 by adopting Net Asset Value (NAV).

ITAT Chennai held as below:

1. The DCF method followed by the assessee is one of the permissible method of valuation of shares in terms of rule 11UA of IT Rules, 1962 and said method is based on free cash flow of future years on the basis of projected financial statements.
2. Further, the projected financials under DCF method need not be equal to the actual performance of the company in subsequent years.

3. The AO has failed to carry out necessary enquiries to ascertain correctness of DCF method followed by the assessee, but simply went on to reject the method only on one ground that there was a difference in two financial years when compared to projected free cash flow and actual cash flow.

4. The issue is set aside to the file of the AO and to re-consider the issue of addition towards share premium u/s. 56(2)(viib) of the Act, in light of various arguments made by the assessee, including valuation report submitted under DCF method.

5. The AO is free to examine method followed by the assessee, however, he does not have power to change method followed by the assessee from DCF method to NAV method, and to decide the issue in accordance with law.