

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER, AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No. 4354/DEL/2014
[Assessment Year: 2009-10]

The Dy.C.I.T
Circle -1(1)
New Delhi

Vs.

M/s Abhinav Steels Pvt. Ltd
401, Mahaveer ji Complex
LSC, Rishab Jain Vihar
New Delhi

PAN : AABCA 3974 H

[Appellant]

[Respondent]

Date of Hearing : 02.11.2017

Date of Pronouncement : 20.11.2017

Assessee by : Shri Ved Jain, Adv
Shri Ashish Goel, CA

Revenue by : Shri Surendrapal, Sr. DR

ORDER

PER B.P. JAIN, ACCOUNTANT MEMBER,

This appeal filed by the Revenue is directed against the order dated 21.05.2014 passed by the CIT(A)-IV, New Delhi in appeal No.90/13-14 for the AY 2010-11.

2. Briefly stated, the facts of the case are that the assessee is a company engaged in the business of manufacturing of M S Ingots, Steel

of CTD Bars, Channel and Angles. It filed its return of income for the A.Y. under consideration declaring an income of Rs. 3,96,58,690/-. The return was selected for scrutiny. During the course of the assessment the AO raised the issue of the share capital received by the assessee. Not being satisfied with the explanation and evidences submitted by the assessee the AO made an addition of Rs. 4,15,00,000/-. The assessee carried the matter to the CIT(A). The CIT(A) vide order dated 21st May 2014, after examination of the assessee's explanation and evidences deleted the above addition.

3. Aggrieved by the order of the CIT(A), the Revenue is in appeal before us and has raised the following grounds of appeal:

“1. On the facts and the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 4,15,00,000/- made on account of unexplained share application money by ignoring the fact that the assessee has failed to conclusively prove the genuineness of the transactions before the AO.

2. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.

4. It was contended by the learned DR that CIT(A) was not justified in deleting the addition made by the Assessing Officer. It was submitted that the learned AO has given a detailed reasoning for making these additions under Section 68 of the Income Tax Act. It is a case where share capital has been received by the company from the person who do not have much income. In the absence of substantial income, AO was justified in drawing adverse inference against the assessee. He also invited attention to page 6 of the assessment order which is a tabulated sheet. In this sheet, the AO has given complete trail of the money which has flown to the assessee company by way of share capital. It was submitted that the conclusions arrived at by the AO were justified.

5. In reply, it was submitted by the learned AR that the AO has gone wrong in drawing adverse inference against the assessee. It was contended that it is a case where the assessee company has received share capital from Group Company/ directors. It is not a case of an accommodation entries. It is a case where there is no adverse material, no statement of any entry operator. The assessee company has given complete details of the money received by it. It has not only provided the source of the creditor but also the source of source of the

creditor as is evident from the documents on record. It was submitted that tabulated sheet at page 6 of the assessment order in fact establishes that the assessee company has given complete trail of the money. There is no cash transaction. The credit in the bank statement of each of the shareholders have been explained with evidences. Not only that supporting document in respect of the person or company from whom such credit has come in the bank account of the shareholder has also been provided.

6. As regards the sum of Rs. 65,00,000/- received from its Director Mr Jitendra Yadav, the learned AR invited attention to PB. Pg. 216 which is an ITR of its director Mr. Jitendra Yadav showing income of Rs. 56,17,881/- and payment of tax of Rs. 17,64,196/-. It was submitted that the assessee company has received Rs. 65,00,000/- from Mr. Jitendra Yadav. The source of the money has been duly explained with the bank statement as well as credit in the said bank statement. Mr. Jitendra Yadav has received Rs. 60,00,000/- from M/s Bhumiputra (India) Ltd. The bank statement of Bhumiputra (India) Ltd. was also filed placed at PB. Pg. 243 with Bank of Maharashtra, Yamuna Vihar Branch, having account no. 60038534806. There is no cash deposit in the bank account of this company as is evident from the

bank statement of Bhumi Putra (India) Ltd. This company is being assessed to tax as per the ITR placed on PB. Pg. 232. The assessee company has also filed the balance sheet of this Bhumi Putra (India) Ltd. which shows a net worth of 10.99 crore. The statement of Mr. Jitendra Yadav was also recorded by the AO during the course of assessment placed at PB. Pg. 223-227, where Mr. Jitendra Yadav has confirmed of having given the above said amount to the assessee company. Thus, there was a direct confirmation by the shareholder / Director before the AO along with the source of source. Further, assessment of Mr. Jitendra Yadav of the year under consideration has been completed under Section 143(3) vide order dated 28th march 2013 placed at PB. Pg. 219-221 and no adverse inference has been drawn in respect of the investment made by Mr. Jitendra Yadav in the assessee company.

7. In respect of sum of Rs. 1,50,00,000/- from Anjaney Steels Pvt. Ltd. for which addition has been made in the hands of the assessee company, it was submitted that this is a group company. This company has contributed Rs. 9,22,31,000/- to the assessee company as is evident from page 106 of the Paper Book. The total investment by this company in the assessee company was of Rs. 11,44,31,000/-. This

investment has been shown by this company in its balance sheet as is appearing at PB. Pg. 118. The amount has been paid through the bank account which is at page 123. The credit in the bank account of this company has come from another group company namely Anjani Steels Ltd. The bank statement of this company is at page 143-147 where the money has been paid by this company to Anjaney Steels Pvt. Ltd. Anjani Steels Ltd. has filed its return for the year under consideration showing income of Rs. 17,24,07,574/- as is evident from the ITR at PB. Pg. 128.

8. As regards the share capital of Rs. 2,00,00,000/- received from another group company namely AJ Power Pvt. Ltd., it was submitted that this company is having a net worth of Rs. 6 crore. The investment in the company has been shown in the Balance Sheet as is evident from PB. Pg. 155. The bank account of the shareholder company at PB. Pg. 168-171 clearly shows the payment made to the assessee company. The credit in this bank account has also been explained which has come from another group company i.e. Iskcon Infotech Pvt. Ltd. The bank account of the Iskcon Infotech Pvt. Ltd. is placed at PB. Pg. 186-189 which shows the payment made by this company to AJ Power Pvt. Ltd. The Balance Sheet of this company has also been placed at PB. Pg.

183 and the investment schedule of this Balance Sheet at page 185 shows a total investment of Rs. 5.49 crore in the shareholder company i.e. AJ Power Pvt. Ltd. All these transactions being related party transactions have also been disclosed in the balance sheet of shareholder company at PB. Pg. 162-163 and in the case of Iskcon Infotech Pvt. Ltd. at Page 194. On the basis of above it was contended that the assessee has fully discharged its onus about the identity, creditworthiness and genuineness of the share capital received. The AO has made the addition by indulging into surmises. The assessee company has provided complete trail not only of source but source of source. There is no cash transaction. There is no adverse material. In fact, there is no adverse allegation from any quarter. It was submitted that the case of the assessee company is different from the other cases of share capital where there are allegation by the entry operators of having provided accommodation entries in lieu of cash. It is a case of a normal assessment not a case of a reopening of assessment consequent to receipt of any adverse report.

9. The learned AR further submitted that the assessee company, in fact has not only provided the source but also source of source with documentary evidences despite the fact that the assessee is not

required to prove source of source. Reliance was placed on the recent judgment of ITAT Delhi in the case of Craftpac Containers P Ltd Vs ITO ITA No. 547/Del/2017 dated 28.8.2017 where in it has been held that :

“The addition cannot be made in the hands of the assessee for not proving the source of source of investment and the assessee is not required to prove that the sub creditor had the creditworthiness of making the investment.

10. *In the case of Nemi Chand Kothari Vs. CIT 264 ITR 254, the Hon'ble High Court held as under:-*

“Keeping in view the above position of law, when we turn to the factual matrix of the present case, we find that so far as the appellant is concerned, he has established the identity of the creditors, namely, Nemichand Nahata and Sons (HUF) and Pawan Kumar Agarwalla. The appellant had also shown, in accordance with the burden, which rested on him under section 106 of the Evidence Act, that the said amounts had been received by him by way of cheques from the creditors aforementioned. In fact, the fact that the assessee had received the said amounts by way of cheques was not in dispute. Once the assessee had established that he had received the said amounts from the creditors aforementioned by way of cheques, the assessee must be taken to have proved that the creditor had the creditworthiness to advance the loans.

Thereafter the burden had shifted to the Assessing Officer to prove the contrary. On mere failure on the part of the creditors to show that their sub-creditors had creditworthiness to advance the said loan amounts to the assessee, such failure, as a corollary, could not have been and ought not to have been, under the law, treated as the income from the undisclosed sources of the assessee himself, when there was neither direct nor circumstantial evidence on record that the said loan amounts actually belonged to, or were owned by, the assessee. Viewed from this angle, we have no hesitation in holding that in the case at hand, the Assessing Officer had failed to show that the amounts, which had come to the hands of the creditors from the hands of the sub-creditors, had actually been received by the sub-creditors from the assessee. In the absence of any such evidence on record, the Assessing Officer could not have treated the said amounts as income derived by the appellant from undisclosed sources. The learned Tribunal seriously fell into error in treating the said amounts as income derived by the appellant from undisclosed sources merely on the failure of the sub-creditors to prove their creditworthiness”.

11. In the case of Sarogi Credit Corporation Vs. CIT 103 ITR 344 (Patna), the Hon'ble' High Court observed as under:- “Once the identity of the third party is established before the Income Tax Officer and such other evidence are prima facie placed before him pointing to the fact that the entry is not fictitious, the initial burden lying on the assessee can be said to have been duly discharged by him. It will not, therefore, be for the assessee to

explain further as to how or in what circumstances the third party obtained the money or how or why he came to make advance of the money as a loan to the assessee. Once such identity is established and the creditors, as in the present case, have pledged their oath that they have advanced the amounts in question to the assessee, the burden immediately shifts on the department to show as to why the assessee's case could not be accepted and as to why it must be held that the entry, though purporting to be in the name of the third party, still represented the income of the assessee from a suppressed source. And, in order to arrive at such a conclusion, even the department has to be in possession of sufficient and adequate materials. The Income Tax Officer's rejection, not of the explanation of the assessee, but of the explanation regarding the source of income of the depositors, could not by itself lead to any inference regarding the non-genuine or fictitious character of the entries in the assessee's book of account".

12. In view of the above judicial pronouncements, the grounds raised by the appellant company are allowed."

10. The learned AR, further placed reliance on the following judgements in support of its contention:

- i. CIT vs. Shiv Dhooti Pearls & Investments Ltd. (ITA No. 429/2003 dated 21.12.2015)
- ii. CIT vs. Real Time Marketing (P) Ltd. 306 ITR 35 (Del.)

iii. Commissioner of Income-tax Versus Diamond Products Ltd. 2008 (9) TMI 943 - DELHI HIGH COURT

iv. Addl. CIT Bihar vs Hanuman Agarwal (1985) 151 ITR 151 (Patna High Court)

v. Jalan Timber vs CIT (1997) 223 ITR 11 (Gauhati H.C.)

11. It was submitted that in view of the above facts the AO was not justified in making sweeping observations such as fabricated and prepared documents as a made-up affair. It was further submitted that the AO was not justified in drawing adverse inference against the assessee on account of non-appearance of the companies of source of source in response to summon issued under Section 131 when the assessee has led all the evidences including bank statement etc. The learned AO has gone wrong in drawing adverse inference on the basis of excel sheet which in fact support the case of the assessee. The AO has further gone wrong in drawing adverse inference in respect of amount received from its director which in turn has received the amount from Bhumiputra (India) Ltd. The Director having appeared and having confirmed the amount being paid to the company and the assessment of the Director being made under Section 143(3), there was no reason for drawing adverse inference in the hands of the assessee

company. It was further contended that AO was wrong in drawing adverse inference merely because of rotation of money from one Group Company to another Group Company. The AO cannot sit into the judgment of the assessee Group Company about rotation of the funds so long the sources of the funds are explained. In this case as is evident from the facts and the Paper Book, the funds have moved from Group Companies. The two leading companies i.e. the assessee company and M/s Anjani Steels Ltd. are flagship companies and rotation of funds through its investment companies was a normal business decision and AO has gone wrong to name these as sham transactions. It was submitted that the various case laws cited by the AO in the assessment order on share capital are not applicable to the facts of the present case as in all these cases there was allegation of accommodation entry. There was statement recorded by the Investigation Wing to the effect that the share capital received is not genuine. In the present case there is no such allegation nor any finding.

12. The assessee having discharged its onus fully, the AO has made the addition merely on the basis of surmises and doubts. It is a settled law that suspicion howsoever strong cannot take part of legal proof.

Similar view has been laid down by the *Hon'ble Supreme Court in the case of Umacharan Shaw & Bros. v. CIT [1959] 37 ITR 271 (SC)*, wherein it has held as under:

“Taking into consideration the entire circumstances of the case, we are satisfied that there was no material on which the ITO could come to the conclusion that the firm was not genuine.

There were many surmises and conjectures, and the conclusion was the result of suspicion which could not take the place of proof in these matters.

The result was that the order of the Tribunal was reversed.”

13. The learned AR further placed reliance on the following judgments:

“1. Pr. CIT vs. Rakam Money Matter Pvt. Ltd. in ITA No. 778/2015 dated 13.10.2015 - Delhi HC

“13. It is not in dispute that extensive material was produced by the Assessee in the present case to prove the identity, genuineness and creditworthiness of the companies who had subscribed to its shares. Among the materials produced were the Income Tax Returns and the PAN card details of the eight companies. Even if the Directors of these companies did not respond to the summons issued by the AO, it was not impossible for the AO to make proper enquiries to ascertain

the genuineness of these entities and satisfy himself of their creditworthiness. As pointed out by the CIT(A), the AO failed to make any effort in that direction. He did not take to the logical end the half-hearted attempt at getting the Directors to appear before him. He did not even seek the assistance of the AOs of the concerned companies whose ITRs and PAN card copies had been produced.

14. The view taken by the CIT(A) that the AO failed to come up with the material to disprove what had been produced by the Assessee is certainly a plausible view in the facts and circumstances of the case. Likewise, the view taken by the ITAT concurring with the CIT(A) on facts cannot be said to be perverse.”

2. CIT vs. Fair Finvest Ltd. (2013) 357 ITR 146(Del)

“Where assessee adduces evidence in support of share application monies, it is open to Assessing Officer to examine it and reject it on tenable grounds. In case he wishes to rely on report of investigation authorities, some meaningful enquiry ought to be conducted by him to establish a link between assessee and alleged hawala operators.

Where assessee had filed documents including certified copies issued by Registrar of Companies in relation to share application, affidavits of directors, Form 2 filed with

Registrar of Companies by such applicants, confirmations by applicants for company's shares, certificates by auditors, etc., Assessing Officer was not justified in making addition under section 68 on account of share application money merely on general inference to be drawn from the reading of the investigation report. The least that Assessing Officer ought to have done was to enquire into matter by, if necessary, invoking his powers under section 131 summoning the share applicants or directors”.

3. Commissioner of Income Tax-9 Versus Vrindavan Farms(P) limited (ITA No. 71,72,85/D/2015) order dated 12.8.2015

4. The Court is of the view that the Assessee by produced sufficient documentation discharged its initial onus of showing the genuineness and creditworthiness of the share applicants. It was incumbent to the AO to have undertaken some inquiry and investigation before coming to a conclusion on the issue of creditworthiness. In para 39 of the decision in Nova Promoters (supra), the Court has taken note of a situation where the complete particulars of the share applicants are furnished to the AO and the AO fails to conduct an inquiry. The Court has observed that in that event no addition can be made in the hands of the Assessee under Section 68 of the Act and it will be open to the Revenue to move against the share applicants in accordance with law.

5. In the facts and circumstances of the present appeals, the Court is satisfied that no substantial question of law arises. The appeals are dismissed.

4. ITAT Delhi in the case of ITO v. Softline Creations (P.) Ltd. in ITA No. 744/Del/2012 dated 10.02.2015, which has been further upheld by the Hon'ble Jurisdictional High Court in ITA No. 504/2016 dated 31.08.2016

5. CIT vs. Gangeshwari Metal (P) Ltd. (2014) 361 ITR 10 (Del)

6. M/s Best Infrastructure (India) Pvt. Ltd. in ITA No. 1705/Del/2014 dated 31.05.2016

7. Prabhatam Investment Pvt. Ltd. v. ACIT in ITA No. 2525/Del/2015 dated 17.04.2017.

8. DCIT vs. G.S. Controls (P) Ltd. in ITA No. 1560/Del/2010 - Delhi ITAT

14. It was contended that the CIT(A) has thoroughly examined the issue. Starting from Page 3 para 4 to Page 25 the CIT(A) has quoted the submission of the assessee company. In Para 4.2 on Page 26 the CIT(A) has given a finding of facts that it is not a case of funds from outside unknown parties and all the parties concerned are related to each other. In Para 4.3 he has further recorded a finding that the addition has been made by the AO on the basis of doubt despite appellants

company filing various documents to establish the three parameters set out under Section 68. In Para 4.4 the CIT(A) on Page 27 has held that the assessee company has established identity, genuineness and credit worthiness. In para 4.4.1 the CIT(A) has addressed the observations of the AO in respect of each of the companies has held that income earned in a particular year is not a criteria to judge the credit worthiness of an entity. On Page 29 and 30 the CIT(A) has also addressed the issue of source of source and thereafter has deleted the addition. It was contended by the leaned AR that the order passed by the CIT(A) is a reasoned order and there being nothing perverse, the same need to be sustained.

15. We have considered the rival submissions. We have also perused the order passed by the AO and the CIT(A) and also the relevant material placed on record. The only issue in this appeal is the addition of Share Capital of Rs. 4.15 crore received by the assessee company from the following three entities:

1. Anjaney Steels Pvt. Ltd.	Rs. 1,50,00,000/-
2. AJ Power Pvt. Ltd.	Rs. 2,00,00,000/-
3. Jitendra Kumar Yadav	Rs. 65,00,000/-

16. The AO has made the addition holding that the transactions are sham and the assessee company has failed to prove the creditworthiness of the shareholders. The CIT(A) has deleted the same holding that the assessee has established not only the identity but also the creditworthiness and genuineness of the share capital received by it. Thus, the issue is whether the assessee has discharged its onus. And also whether the allegation of the AO is justified considering the evidences on record. In order to decide these issues it will be relevant to examine the evidences placed on record in respect of each of the three creditors.

17. The first case is that of Anjaney Steels Pvt. Ltd. The AO has made an addition of Rs. 1,50,00,000/- on this account. Ongoing through the documents it is noticed that the assessee company has received not only Rs. 1,50,00,000/- but Rs. 9,22,31,000/- from this company during the year. The AO has raised doubt about Rs. 1.50 crore only. These payments have been made by this shareholder company to the assessee company from its bank account no. 504018 maintained with Punjab National Bank. Ongoing through bank statement placed at PB. Pg. 122-123, and the ledger account at page 124-127 of the Paper book, it is noticed that this money has been paid by the shareholder company to

the assessee company out of the money received by it from Anjani Steels Ltd. M/s Anjani Steels Ltd. is being assessed to Income tax and as per the ITR placed at PB. Pg. 128, it has declared an income for the year under consideration of Rs. 17,24,07,574/-. As per the Balance Sheet of the Anjani Steels Ltd. it has a turnover of 284.73 crore during the year. The bank account of this Anjani Steels Ltd. has also been placed at PB. Pg. 123-147 from where this payment has been made to the shareholder company. The Balance Sheet of the shareholder company also shows investment in the assessee company. All these are part of the record. We are of the view that with these documents on record there can't be any doubt about the credibility and the genuineness of the transactions. The important point to be noted is that both M/s Anjani Steels Ltd. and M/s Anjaney Steels Pvt. Ltd. are Group Companies and money from Anjani Steels Ltd. has flown to assessee company through Anjaney Steels Pvt. Ltd. Thus, no adverse inference can be drawn on routing of the funds through Anjaney Steels Pvt. Ltd.

18. The second case is that of AJ Power Pvt. Ltd. another Group Company, from whom the assessee company has received share capital of Rs. 2,00,00,000/-. This amount has been paid by AJ Power Pvt. Ltd.

from its bank account with HSBC, account no 166-173484001 at PB. Pg. 168-171. This AJ Power Pvt. Ltd. in turn has received funds from another Group Company of the assessee namely Iskcon Infotech Pvt. Ltd. The source of credit in the bank account of the shareholder company with HSBC also clearly show the name of Iskcon Infotech Pvt. Ltd. Iskcon Infotech is being assessed to Income tax and has filed its return for the A.Y. under consideration, declaring an income of Rs. 257866/- as per PB. Pg. 174. The appellant company has also filed the Balance Sheet and ITR of the AJ Power Pvt. Ltd. where this investment in the assessee company has also been reflected as per PB. Pg. 155. Further, under the notes to the accounts appended to the Balance Sheets, transaction with related parties also shows investment by this company in the assessee company as per PB. Pg. 162. Not only that, the assessee company has also filed the audited balance sheet of Iskcon Infotech Pvt. Ltd. This company has net worth of more than 6 crore and investment schedule at PB. Pg. 185 shows the major investment in the shareholder company i.e. AJ Power Pvt. Ltd. Further under the notes to accounts, this company Iskcon Infotech Pvt. Ltd. has also disclosed above transaction as related party transaction. The assessee company has also filed the bank statement of Iskcon Infotech Pvt. Ltd. so as to demonstrate the source of source also. In view of the

above facts and evidences on record we are of the view that the assessee has fully discharged its onus for establishing the identity, creditworthiness and genuineness of the transactions. It is a case where assessee has led enough evidences to dispel any doubt about the transaction entered into by it. These transactions are within the group company and merely the rotation of the fund within the Group Company cannot be a ground to declare such transactions as bogus.

The third case is that of Rs. 65,00,000/- received by the appellant company from its Director Mr. Jitendra Yadav. The assessee company has filed the confirmation, the bank account, the ITR, the assessment order passed under Section 143(3) of Mr. Jitendra Yadav. It has also filed the bank account of the company namely Bhumi Putra (India) Ltd. from where the director has received the funds. Further, it has filed the audited Balance Sheet of Bhumi Putra (India) Ltd. Mr. Jitendra Yadav has appeared before the AO in response to summon issued under Section 131 and has confirmed the above transactions. The assessment of Mr. Jitendra Yadav of this very assessment year has been completed at an income of Rs. 56,17,881/- as per the order passed under Section 143(3). Considering the above facts we are of the view that the assessee has discharged its onus under Section 68 and AO was not justified in drawing adverse inference against the assessee.

19. We are of the view that the AO in this case got carried away on account of the fact that assessee company has received Share Capital during the year and there are rotation of cheques from one company to another company, ignoring the fact that these were transactions within the Group Companies and assessee has not only explained the immediate source but also source of source. As rightly contended by the learned AR, this is not a case of accommodation entries. There is no adverse material or statement by anyone about these transactions. The learned DR during the course of the hearing was fair enough to admit that there is no adverse material or statement by any person alleging accommodation entries. There is no adverse material about any of these Group Companies. As regard the allegation of the AO that these companies do not have much income, we are of the view that under Section 68, assessee is required to explain the source of the funds so as to establish the creditworthiness. This source of fund need not necessarily flow from the income of the creditors and that too income earned during that year. Our this view is supported by the judgment of the Hon'ble Jurisdictional Delhi High Court in the case of Commissioner of Income Tax - IX erstwhile CIT-VI vs Vrindavan Farms Pvt. Ltd. (Supra) where the Hon'be court has held that the lower return of income is not sufficient to doubt the creditworthiness of the

shareholder. Similar view has been taken by the Hon'ble Delhi High Court Principal Commissioner of Income Tax (Central) vs M/s Goodview Trading Pvt. Ltd.(Supra) where the court has held that the AO was not justified in drawing adverse inference in respect of minimal or insubstantial of amount paid as tax ignoring the net worth of the companies that had invested in the Share Capital of the assessee company.

20. In view of the above facts, we hold that the AO was not justified in making sweeping observations such as fabricated and prepared documents as a made-up affair and AO was not justified in drawing adverse inference against the assessee when the assessee company has led all the evidences including bank statement etc. The learned AO has further gone wrong in drawing adverse inference on the basis of excel sheet which in fact support the case of the assessee. The AO was not justified in drawing adverse inference in respect of amount received from its director. The Director having appeared himself and having confirmed the amount being paid to the company and the assessment of the Director being made under Section 143(3), there was no reason for AO to make addition in the hands of the appellant company. The AO went wrong in drawing adverse inference on account of rotation of

money from one Group Company to another Group Company. The AO cannot sit into the judgment of the assessee Group Company about rotation of the funds so long the sources of the funds are explained. The various case laws cited by the AO in the assessment order on share capital are not applicable to the facts of the present case as in all these cases there was allegation of accommodation entry. In these case laws there was statement recorded by the Investigation Wing to the effect that the share capital received is not genuine but accommodation entries. In the present case there is no such allegation nor any finding. The assessee having discharged its onus fully, the Assessing Officer has made the addition merely on the basis of surmises and doubts. The CIT(A) has also examined each of the issue raised by the AO in detail and has come to the right conclusion. In view of the above facts and our analysis, we do not find any infirmity in the order passed by the CIT(A) and accordingly, the same is upheld.

21. In the result, the appeal of the Revenue is dismissed.

The order is pronounced in the open court on 20.11.2017.

**Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER**

**Sd/-
[B.P. JAIN]
ACCOUNTANT MEMBER**

Dated: 20th November, 2017

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
New Delhi