

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK
'SMC' BENCH, CUTTACK**

BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER

ITA No.85/CTK/2017
Assessment Year : 2010-2011

Makeway Consultancy Pvt Ltd., Plot No.232, Saheed Nagar, Bhubaneswar.	Vs.	DCIT, Circle 1(1), Bhubaneswar
PAN/GIR No. AAECM 3298 C		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, AR
Revenue by : Shri D.K.Pradhan , DR

Date of Hearing : 02/08/ 2017
Date of Pronouncement : 09/08/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar, dated 8.11.2016 for the assessment year 2010-2011.

2. The sole issue in this appeal is that the CIT(A) erred in confirming the addition of Rs.44,00,000/- under section 68 of the Act.

3. The brief facts of the case are that during the year under consideration, the assessee received share application money of Rs.44,00,000/- in cash from the following persons:

"Maeway Consultancy Private Limited

Details of Share Capital Introduced during Financial Year 2009-10

SL	NAME OF THE SHARE HOLDER	ADDRESS OF THE SHARE HOLDER	AMOUNT OF SHARE INTRODUCED	DATE	MODE OF PAYMENT
1	MANDAN MOHANTY	3/O-KHITINDRA KUMAR MOHANTY PLOT No. 899, JHARAPADA, NEAR BDA COLONY, BHUBANESWAR	750,000.00	During F.Y- 2009- 10	Cash
2	SONALIRAJ MOHANTY	W/O-NANDAN MOHANTY PLOT No. 899, JHARAPADA, NEAR BDA COLONY, BHUBANESWAR	325,000.00	During F.Y- 2009- 10	Cash
3	ALEKHA KU. MOHAPATRA	CHANDRAMANI MOHAPATRA AT - TENTULISIAN PO/VIA - KAMAKHYANAGAR DIST - DHENKANAL	35,000.00	During F/Y 2009- 10	Cash
4	ASHOK PRADHAN	LATE - PRAVAKAR PRADHAN AT - SASANGA /VIA - CHARBATIA PO - KUMARPUR, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
5	ATUL KU DAS	LATE - JACOB DAS AT - MANDAPADA PO - DOULATABAD, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
6	AVIRAM BEHERA	PURNA CHANDRA BEHERA AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
7	BABAJI BEHERA(A)	LATE - NALU BEHERA AT - IMMAMNAGAR, PO - BHAIRPUR, PS - JAGATPUR, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
8	BABAJI BEHERA(B)	HATAKESHAR BEHERA AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
9	BALARAM DAS	BHIMSEN DAS AT - NUAPATNA, PO - KAY ALP ADA VIA - CHASAPADA. DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
10	BANSIDHAR SAHOO	BANAMALI SAHOO AT - HURISAH, PO - MAHAL VIA - DANPUR, DIST - KENDRAPADA	35,000.00	During F/Y 2009- 10	Cash
11	BASANT PRADHAN	BIMBADHAR PRADHAN AT/PO-TALABASTA, VIA - DAMP ADA, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
12	BASANTA KU. MOHARANA	JAIRAM MOHARANA AT - KUMBHEI, PO -SALAGAON VIA - JAGATPUR, PS - JAGATPUR DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
13	BHAJAY KUMAR PAL	ISWAR CHANDRA PAL AT - DEKANI, PO- PATALIPANKA VIA - KUJANGA, DIST -	35,000.00	During F/Y 2009- 10	Cash
14	BIBHUTI BEHERA	BAISHNAB BEHERA AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
15	BICHITRANANDA SWAIN	BAURIBANDHU SWAIN AT - ANDEISAHI, PO - BHOIRIPUR PS- JAGATPUR, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash

SL	NAME OF THE SHARE HOLDER	ADDRESS OF THE SHARE HOLDER	AMOUNT OF SHARE INDTRODU	DATE	MODE OF PAYMENT
16	3IDYADHAR BISWAL	LATE - GOPAL BISWAL AT/PO - BALI, VIA - ATHAGARH DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
17	BIJAY MOHANTY	LATE - KALI CHARAN MOHANTY AT - MAHULIAGARH (BASUDEVPUR) PO - KADUA /VIA - JAGANNATHPRASAD DIST - GANJAM	35,000.00	During F/Y 2009-10	Cash
18	BIRANJAN BIHARI	SAMSEN BIHARI AT - PARBATIA, PO - CHHAGAON VIA - CHARBATIA, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
19	DAMODAR GHADEI	LATE - GOPI GHADEI AT - KAPURSINGH, PO - ORANDA VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
20	DHIRENDRA KU. SAHOO	BRAJABANDHU SAHOO AT - BHOIRIPUR, PO - SALAGAON VIA - JAGATPUR, DIST CUTTACK	35,000.00	During F/Y 2009-	Cash
21	DILLIP KU.SAMAL	DAMBARUDHAR SAMAL AT - KAPURSINGH, PO - ORANDA VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
22	GANDHARBA SAHOO	DAMADOR SAHOO AT/PO - BALI, VIA - ATHAGARH, PS- GURUJIJHATIA, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
23	GANGARAM BALMUKHI	BALI BALMUKHI AT - MASUDIA, PO - RADHAKISHORPUR VIA - ATHAGARH,	35,000.00	During F/Y 2009-	Cash
24	GOURANGA SETHA	JOGENDRA SETHA AT - PURUSOTTAMPUR PO - RADHAKISHORPUR VIA - ATHAGARH, DIST- CUTTACK	35,000.00	During F/Y 2009-10	Cash
25	HRUSIKESA OJA	RAM CHANDRA OJHA AT/PO - PURUNA BAZAR, DIST - BHADRAK	35,000.00	During F/Y 2009-	Cash
26	KAILASH CH. NAYAK	LATE - SHYAMSUNDAR NAYAK AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
27	KARTIK KODAM SINGH	LATE - RAMA CHANDRA KODAM SINGH AT - BEHENDA, PO - GADAMATIAPUR, VIA - KANAS, DIST	35,000.00	During F/Y 2009-10	Cash
28	KESAB SETHI	KAILASH SETHI AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
29	LAXMIDHAR BEURA	HARIHARA BEURA AT - DIHASAHI, PO -KAYLA PADA VIA - CHHASAPADA, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
30	LAXMIDHAR BISWAL	LATE - SAURI BISWAL AT - GANESHSWAR PUR, PO - GOPINATHPUR, VIA - BAHUGRAM, DIST - CUTTACK	35,000.00	During F/Y 2009-10	Cash

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31	LAXMIDHAR MOHANTY	FAKIR CH. MOHANTY AT/PO - TARADINGI, VIA - ATHAGARH, DIST- CUTTACK	35,000.00	During F/Y 2009-	Cash
32	MAHESWAR ROUT	3AIDHAR ROUT AT - BISHNUPUR, PO - KAKHADI, VIA - CHHASAPADA, DIST - CUTTACK	35,000.00	During F/Y 2009-	Dash
33	MOHAN HEMBRUM	RUPEI HEMBRUM AT - LAXMIPRIYA PUR, PO- SAHIDA, VIA - PALLAHADA, DIST.- ANGUL	35,000.00	During F/Y 2009-	Cash
34	MRS JASMA GAGARAI	IATIA GAGARAI AT - BRAHMANBASTA, PO - KAKHADI,	35,000.00	During F/Y 2009-	Cash
35	PARSURAM BEURA	LATE - MADHAB BEURA AT - KAPURSINGH, PO - ORANDA, VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
36	PITAMBAR BEHERA	DAITARI BEHERA AT/PO - HARIPUR, PS - KHAIRA, DIST - BALESHWAR	35,000.00	During F/Y 2009-	Cash
37	PRAMOD KUMAR BEHERA	MADHAV BEHERA AT- BELDA, PO - RADHAKISHORPUR, ATHAGARH CUTTACK	35,000.00	During F/Y 2009-	Cash
38	PRAMOD KUMAR DASH	NIRANJAN DASH AT - KEDARESWAR, PO - CHARBATIA, VIA - CHOUDWAR, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
39	PRASANTA SWAIN	LATE - JADUMANI SWAIN AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
40	PRATAP KU. SAHOO	JAYADEV SAHOO AT - SARKOLI, PO - BALI, PS - GURUDIJHATIA, DIST -	35,000.00	During F/Y 2009-	Cash
41	RADHANATH BISWAL	RATNAKAR BISWAL AT/PO - BALI, VIA - ATHAGARH, PS - GURUDIJHATIA, DIST -	35,000.00	During F/Y 2009-	Cash
42	RAJ KISHORE BEHERA	GHANASYAM BEHERA AT - SITARAMPUR, PO - ORANDA, VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
43	RAJAT KUMAR SAMAL	GOLEKHA BIHARI SAMAL AT/PO - ORANDA, VIA - ATHAGARH PS - GURUDIJHATIA, DIST -	35,000.00	During F/Y 2009-	Cash
44	RAMA CHANDRA MUDULI	LATE - RAJU MUDULI AT/PO - BHATAPARA, VIA- BAHUGRAM, PS - SALIPUR, DIST -	35,000.00	During F/Y 2009-	Cash
45	SANKARMAJHI	HURIMAJHI AT/PO - RADHAKISHOR PUR VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
46	SANTOSH KU. SAHOO	GOURANGA SAHOO AT - GADASAHU, PO - ATHAGARH, VLA/PS - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash

47	SARAT CH. DAS	PAHALI DAS AT - BISHNUPUR, PO - KAKHADI, VIA - CHHASADA, DIST - CUTTACK	35,000.00	During F/Y 2009- 10	Cash
48	SEKHAR SAHOO	ARJUN SAHOO AT - PURUSOTTAM PUR, PO - RADHAKISHORPUR, VIA - ATHAGARH, DIST CUTTACK	35,000.00	During F/Y 2009- 10	Cash

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49	SHYAM SUNDAR MOHANTY	LATE - KHALI CH. MOHANTY AT- BASUDEVPUR, PO - KADUA , VIA - JAGANNATHPRASAD, DIST - CANIAM	35,000.00	During F/Y 2009- 10	Cash
50	SUBASH BEHERA	DAITARI BEHERA AT/PO - RADHAKISHORPUR, VIA - ATHAGARH, DIST CUTTACK	35,000.00	During F/Y 2009-	Cash
51	SUDARSAN SAHOO	DUSASHAN SAHOO AT - BRAHMANBASTA, PO - KAKHADI,	35,000.00	During F/Y 2009-	Cash
52	SUDHAKAR SAHOO	LATE -UCHHAB SAHOO AT/PO - BALI, VIA - ATHAGARH, PS - GURUDIJHATIA, DIST -	35,000.00	During F/Y 2009-	Cash
53	SUKANTA KU. PARIDA	LATE - KHETRABASI PARIDA AT/PO - RADHAKISHORPUR, VIA - ATHAGARH, DIST CUTTACK	35,000.00	During F/Y 2009-	Cash
54	SURESH SETHI	SATYANANDA SETHI AT/PO - RADHAKISHORPUR, VIA - ATHAGARH, DIST CUTTACK	35,000.00	During F/Y 2009-	Cash
55	TAP AN KU. MALLA	KARUNAKAR MALLA AT/PO- SIKHARPUR, PS - CHAULIAGANJA, DIST -	35,000.00	During F/Y 2009-	Cash
56	YUDHISTIR SAMAL	HADIBANDHU SAMAL AT - KAPURSINGH, PO - ORANDA, VIA - ATHAGARH, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
57	ANT ARY AMI SARGHARIA	BRUNDABAN SARGHARIA AT-TADAKI, PO. CHANDRAPUR, VIA- DIKLIRA, DIST MAYURBHANI	35,000.00	During F/Y 2009-	Cash
58	ARUNDAS	SANKARSAN DAS PLOT NO.3657, PRACH VIHAR, PALASUNI, BHUBANESWAR-25,	35,000.00	During F/Y 2009-	Cash
59	BANSIDHARA NAG	BHUBAN NAG AT-SURESHMAL, PO. DUNGUIGUDA, VIA-CHAHARBAL, KALAHANDI,	35,000.00	During F/Y 2009-	Cash
60	BASANTA SWAIN	ANAM CHARAN SWAIN AT-OSANGARA, PO-JIGARANA, VIA-JARIA, DIST-KENRAPADA,	35,000.00	During F/Y 2009-	Cash
61	BIBEKANANDA SAHOO	KISHORE CHANDRA SAHOO PLOT NO.245, JAYDEV VIHAR, BHUBANESWAR-13, ODISHA	35,000.00	During F/Y 2009-	Cash

62	HEMANTA KU SAMAL	BANAMBAR SAMAL AT/PO. ALATI BHARATAPUR, VIA- THAKURPATNA DIST. JAIPUR	35,000.00	During F/Y 2009-	Cash
63	JANAKI BISOI	SIBA BISOI TARINI BARTI, NEAR SATYA NAGAR OVER BRIDGE, BHUBANESWAR.	35,000.00	During F/Y 2009-	Cash
64	MAD AN MOHAN SAHOO	PABITRA MOHAN SAHOO AT/PO-SANKHAMUR PS-KHAMAR, ANGUL, ODISHA	35,000.00	During F/Y 2009-	Cash
65	MOHAN SAHOO	GOPINATH SAHOO AT-CHATILO, PO-HARIANTA, VIA- CHOUDWAR, DIST-CUTTACK, ODISHA	35,000.00	During F/Y 2009- 10	Cash

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66 T	4rs. KUMUDINI SAHOO	3ATYABRATA MOHAPATRA VT-NIALISAHU, PO. NIALI, DIST-CUTTACK, ODISHA	35,000.00	During F/Y '009-10	Cash
67	MURALIDHAR PANIGRAHI	3HYAMSUNDAR PANIGRAHI VT- 'KHAIRAJALA, PO- ALASU, VIA- JAGANNATHPRASAD, GANJAM	35,000.00	During F/Y 2009- 10	Cash
68	HIRUSINGHA CH. SAMAL	APRATI SAMAL AT/PO-PIRBAZAR, JAGATPUR, CUTTACK, ODISHA	35,000.00	During F/Y 2009-	Cash
69	PRAMOD KUMAR PANDA	LALMOHAN PANDA AT- SUNARIBUGUDA, PO - MADHUPALLI VIA - PALSURA, DIST-	35,000.00	During F/Y 2009-	Cash
70	PRAVAT KUMAR JENA	KHETRABASI JENA AT/PO. BAGADA, VIA- SRIBALADEVJEW. DIST-	35,000.00	During F/Y 2009-	Cash
71	RINIMAHAPATRA	MANAS KUMAR PRUSTY AT-NAYAPALLI, NUASAHU, PLOT NO.495, BHUBANESWAR,	35,000.00	During F/Y 2009-	Cash
72	SANDHYARANI SWAIN	RAM CHANDRA SWAIN AT/PO. SAILO JHARPADA, VIA-SAILO GOBINDPUR, DIST-CUTTACK, ODISHA	35,000.00	During F/Y 2009- 10	Cash
73	SOURAV SATPATHY	SATYANARAYAN SATPATHY AT/PO. KHANDAPADA, MADHUBAN SAHI, DIST-NAYAGARH	35,000.00	During F/Y 2009-	Cash
74	SUJATA PATNAIK	HARA NARAYAN PATNAIK AT/PO- HAZIPUR, VIA-TIRAN, DIST- JAGATSIGHPUR, ODISHA	35,000.00	During F/Y 2009-	Cash
75	ASHOK KU. BEHERA	LATE - BABAJI BEHERA AT/PO - GURUDIJHATIA, PS - GURUDIJHATIA, DIST- CUTTACK	35,000.00	During F/Y 2009-	Cash
76	ASHOK KUMAR ROUT	KRUSHNA CHANDRA ROUT AT - BALICHATURI, PO - CHASAPADA. DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash

77	BASUDEV P ARID A	RAJ AN PARIDA KANAKATURU, PO - SANKURU, VIA/PS - BUGUDA, DIST - GANJAM	35,000.00	During F/Y 2009- 10	Cash
78	BHIKARIPRADHAN (DRVR)	GHANASHYAM PRADHAN AT - ANGASINGHA, PO - SARANKUL, DIST-NAYAGARH	35,000.00	During F/Y 2009- 10	Cash
79	BHIMSEN SAMAL	BIPRABAR SAMAL AT/PO - BEDAPADA, VIA- HINDOL ROAD, PS - RASOL , DIST -	35,000.00	During F/Y 2009- 10	Cash
80	BIBHUDATTA SAMAL	SURENDRA KU. SAMAL C/O - P. SAHOO QR NO - L/327, BARAMUNDA, H.B COLONY, BHUBANESWAR- 751	35,000.00	During F/Y 2009- 10	Cash
81	BI J AY JENA "B"	LAMBODAR JENA AT/PO - CHHAGAON, VIA - ATHAGARH, PS - GURUDIJHATIA,	35,000.00	During F/Y 2009- 10	Cash

SL	NAME OF THE SHARE HOLDER	ADDRESS OF THE SHARE HOLDER	AMOUNT OF SHARE INDTRODU CED	DATE	MODE OF PAYMEN T
82	DHIRENDRA KISHORE SAMA	LATE - KULAMANI SAMAL AT/PO - SATYABHAMAPUR, VIA - BAHUGRAM, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
83	GOBARDHAN SAHOO	LATE - BAISHNAB CHARAN SAHOO AT - PARIPADA, PO - PARIPADA VIA - MANGALPUR, DIST - JAIPUR.	35,000.00	During F/Y 2009-	Cash
84	HARIHARA PRADHAN	GOPI PRADHAN AT/PO- TARATUA, DIST- KHORDHA, ODISHA	35,000.00	During F/Y 2009-	Cash
85	KAMAL MOHANTY	LATE - ANATABANDHU MOHANTY AT/PO - TAMANDO, KHANDAGIRI, KHURDA.	35,000.00	During F/Y 2009- 10	Cash
86	KEDARESWAR DAS	LATE- BASUDEV DAS AT - NUAPATNA, PO - KAY ALP AD A, VIA - CHHASAPADA, DIST -	35,000.00	During F/Y 2009-	Cash
87	MANOJ KU. MUDULI	RAM CHANDRA MUDULI AT/PO- BHATAPARA, VIA- BAHUGRAM, PS - SALIPUR, DIST - CUTTACK.	35,000.00	During F/Y 2009- 10	Cash
88	NARENDRA ROUT(B)	GHANASHYAM ROUT AT - PITHAKHIA, PO - GURUDIJHATIA,	35,000.00	During F/Y 2009-	Cash
89	NIRMALKU. JENA	LATE - BANCHHANIDHI JENA AT/PO - RADHAKISHORPUR, PS - KHUNTUNI, VIA - ATHAGARH, DIST CUTTACK	35,000.00	During F/Y 2009- 10	Cash
90	NRUSINGHA CH. NAYAK	LATE - MAHESWAR NAYAK AT - KUNDI, PO - KUMUDA JAIPUR, DIST - CUTTACK.	35,000.00	During F/Y 2009-	Cash
91	PRABIR KUMAR SWAIN	LATE - PIT ABASH SWAIN AT/PO - SISILO, VIA - BALAKATI, PS - DIST - KHURDA- 752100	35,000.00	During F/Y 2009-	Cash

92	PRADEEP KU. PATTNAYAK(I	LATE - MINAKETAN PATTNAIK AT - ORAMI, PO - HADAPADA, VIA - NARANGADA, DIST- KHURDA	35,000.00	During F/Y 2009-	Cash
93	PRADEEP SAMAL	DHIRENDRA KISHORE SAMAL AT/PO - SATYABHAMAPUR, VIA - BAHUGRAM, DIST - CUTTACK	35,000.00	During F/Y 2009-	Cash
94	PRASANTA KU. ROUT	PACHANAN ROUT AT - BALI SASAN, PO - BALI, VAI - ATHAGARH, DIST - CUTTACK.	35,000.00	During F/Y 2009-	Cash
95	PRASNTA KU BEHERA	PRAVAKAR BEHERA AT -DADHISINGA, PO - MAHIMAGADI, DIST - DHENKANAL	35,000.00	During F/Y 2009-	Cash
96	RAMA KISHORE SINGH	LATE - RAMRUP SINGH AT - DHARMAPIPARA, PO- KOKILA, VIA /PS - JAGDISHPUR, BIHAR.	35,000.00	During F/Y 2009-	Cash
97	SATYAJEET SINGH	BARID BARAN BARAL AT - BIRAKISHOR PUR, PO - ATHAGARH, DIST - CUTTACK.	35,000.00	During F/Y 2009-	Cash
			44,00,000/-		

During the course of assessment proceedings, the Assessing Officer required the assessee to produce the following 10 persons alongwith their proof of identity, their genuineness, creditworthiness and their sources:

<u>Sl. No.</u>	<i>Name of the person and address</i>
01.	Nandan Mohanty, Jharapada ,BDA Colony,Bhubaneswar.
02.	Sonaliraj Mohanty,Jharapada ,BDA Colony, Bhubaneswar.
03.	Basanta Swain,Osangara, Jigarana, Kendrapara.
04.	Banambar SamaLAlati Bharatpur.
05'	Muralidhar Panigrahi, Khairajala.PO-Alasu.
06.	Pramod Kumar Panda, Sunaribuguda,Madhupali.
07.	BibhudattaSamai.Baramunda.H.B.Colony, Bhubaneswar. 03..
08.	Manoj Kumar Muduli. Bnatapara.Salipur.
09.	Prabir Kumar Swaina ,Ssilo,Balakati.
10.	Bichitrananda Swain,Andeisahi.Jagatpur.Cuttack.

4. The assessee was required to produce the details of mode of receipt of share application money, documentary evidence and confirmation of

each party from whom such share application money amounting to Rs.44,00,000/- was obtained. Ld A.R. of the assessee appeared and filed copy of income tax returns of Shri Nandan Mohanty and Sanoliraj Mohanty for assessment year 2010-2011 from whom share application money of Rs.7,50,000/- and Rs.3,25,000/- was received in cash and submitted that they were also the directors of the company. The Assessing Officer observed that almost all the transactions except two are in a round figure of Rs.35,000/- each, and has been received in cash during financial year 2009-2010. Therefore, he added the same u/s.68 of the Act as unexplained income and thereby made addition of Rs.44,00,000/-.

5. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

6. Before me, Id A.R. of the assessee filed list of 97 persons from whom share application money was received by the assessee during the impugned assessment year. He submitted that out of 97 persons, two persons namely Shri Nandan Mohanty and Sonali Raj Mohanty are directors of the company, who have contributed Rs.7,50,000/- and Rs.3,25,000/- respectively towards share application money. In support of the identity and source, Id A.R. filed before me copy of income tax returns of Nandan Mohanty and Sonali Raj Mohanty wherefrom it was pointed out that they had filed return of income showing income of Rs.6,99,710/- and Rs.2,50,000/- respectively. He submitted that both

these directors are income tax assessee and are filing income tax returns regularly showing similar amount of income. Hence, it was his submission that the share application money given in cash was out of taxed income. It was submitted that the identity and creditworthiness of these two share applicants is proved from the copies of income tax returns filed and their PAN. He further argued that out of balance 95 shareholders from whom Rs.35,000/- each was received during the year as share money, the Assessing Officer had called eight persons for verification. With regards to 87 shareholders, no enquiry whatsoever was made by the Assessing Officer and, therefore, the Assessing Officer was not justified in making addition of Rs.33,25,000/- u/s.68 of the Act. Regarding balance 8 persons from whom share application money of Rs.2,80,000/- was received, he submitted that they have contributed meagre amount of Rs.35,000/- towards share application money and it cannot be said that those persons could not have this meagre amount contributed towards share application money. He further submitted that in the subsequent assessment year 2011-12, the assessee company has allowed shares to the share applicants and filed the required returns with the Registrar of Companies and that they are still shareholders of the assessee company. In support of the same, he filed copy of audited account as on 31.3.2011 and 31.3.2010 and submitted that share application money shown as on 31.3.2010 was transferred to share

capital account. Hence, he prayed addition of Rs.44 lakhs made by the Assessing officer should be deleted.

7. On the other hand, Id D.R. vehemently opposed the submissions of Id A.R. of the assessee and submitted that it was highly improbable that the assessee would receive share application money from 95 share applicants in identical amount of Rs.35,000/- each and that too in cash. He submitted that the identity, genuineness and creditworthiness has not been proved and, therefore, the addition was rightly made by the Assessing Officer and confirmed by the CIT(A).

8. I have heard the rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, the assessee company has claimed to have received Rs.44,00,000/- as share application money during the year under consideration. The said amount was claimed to have received from Shri Nandan Mohanty of Rs.7,50,000/- and Sonali Raj Mohanty of Rs.3,25,000/- and balance amount of Rs.33,25,000/- from 95 persons of Rs.35,000/- each. During the course of assessment proceedings, the Assessing Officer in order to verify the genuineness of share application claimed to have received by the assessee required the assessee to produce the following persons and file documents in support of share application money:

<u>Sl. No.</u>	<i>Name of the person and address</i>
01.	Nandan Mohanty, Jharapada ,BDA Colony,Bhubaneswar.
02.	Sonaliraj Mohanty,Jharapada ,BDA Colony, Bhubaneswar.
03.	Basanta Swain,Osangara, Jigarana, Kendrapara.
04.	Banambar SamaLAlati Bharatpur.
05'	Muralidhar Panigrahi, Khairajala.PO-Alasu.
06.	Pramod Kumar Panda, Sunaribuguda,Madhupali.
07.	BibhudattaSamai.Baramunda.H.B.Colony, Bhubaneswar. 03..
08.	Manoj Kumar Muduli. Bnatapara.Salipur.
09.	Prabir Kumar Swaina ,Ssilo,Balakati.
10.	Bichitrananda Swain,Andeisahi.Jagatpur.Cuttack.

9. In response thereto, the assessee filed income tax return of Shri Nandan Mohanty and Sonali Raj Mohanty. The assessee also submitted PAN of said two persons and pointed out that their income for the assessment year 2010-2011 was Rs.6,99,710/- and Rs.2,50,000/-, respectively and similar amount of income was also shown by them in their earlier years' return of income. Thereafter, the Assessing Officer added the entire amount of Rs.44,00,000/- to the income of the assessee by treating the share applications as bogus.

10. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

11. I find that in respect of receipt of Rs.7,50,000/- from Shri Nandan Mohanty and Rs.3,25,000/- from Sonali Raj Mohanty, the assessee has not only filed their PAN but established their identity and also filed copy of return of income to establish their creditworthiness. It is observed that both of them are directors of the assessee company and have confirmed the above transaction of share application by signing the audited accounts of the assessee. Thus, in my considered view, the initial onus which was

on the assessee under law in respect of transaction in question was duly discharged by the assessee company. I find that no material has been brought on record by the Assessing Officer to show that above transaction of share application was bogus. Therefore, in my considered view addition of Rs.7,50,000/- and Rs.3,25,000/- cannot be sustained.

12. Further, in respect of share application of Rs.35,000/- each received from 8 persons aggregating to Rs.2,80,000/-, I find that the assessee could not file any documentary evidence in support of above claim of receipt of share application money inspite of the fact that it was called upon by the Assessing Officer to do so. The sole argument of the assessee is that in the subsequent assessment year, shares were duly allotted to the persons. In my considered view, merely from the above fact it cannot be held that the onus which was on the assessee to prove the genuineness of share application money was discharged by it. Therefore, I do not find any good reason to interfere with the orders of lower authorities to the extent of addition of Rs.2,80,000/- pertaining to the said 8 persons.

13. In respect of balance share application money of Rs.30,45,000/- relating to 87 persons, I find that the assessee has duly furnished their name and address to the Assessing Officer during the course of assessment proceedings. Thereafter the Assessing Officer not made any enquiry in respect of said 87 persons. The Assessing Officer also not required the assessee to furnish any further material in respect of share

application money received from said 87 persons. In my considered view, the addition of Rs.30,45,000/- relating to 87 persons could not have been made by the Assessing Officer without making any further enquiry. Therefore, addition of Rs.30,45,000/- is not sustained. Thus, out of Rs.44,00,000/-, addition of Rs.41,20,000/- is hereby deleted and addition of Rs.2,80,000/- is confirmed.

14. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 09/08/2017.

Sd/-

(N.S Saini)

ACCOUNTANT MEMBER

Cuttack; Dated 09/08/2017

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant : Makeway Consultancy Pvt Ltd., Plot No.232, Saheed Nagar, Bhubaneswar
2. The respondent: DCIT, Circle 1(1), Bhubaneswar
3. The CIT(A) -1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack