

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'A', New Delhi**

**Before : Shri Bhavnes Saini, Judicial Member And
Shri L.P. Sahu, Accountant Member**

**ITA No. 5120/Del/2016
Assessment Year: 2012-13**

Income-tax Officer, Ward 5(1), New Delhi. (Appellant)	vs.	Blisswood Green Infrastructure and Developers Pvt. Ltd., 289-Chhatarpur Pahari Road, New Delhi. PAN – AADCB 2384A (Respondent)
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Appellant by	Sh. Amit Katoch, Sr. DR
Respondent by	S/Sh. D.C. Agarwal, R.N. Poonia, AR Sh. Sudesh Garg, Advocate

Date of Hearing	04.02.2019
Date of Pronouncement	15.02.2019

ORDER

Per L.P. Sahu, A.M.:

This appeal by the Revenue is directed against the order of Id. CIT(A)-2, New Delhi dated 24.06.2016 for the assessment year 2012-13 on the following grounds :

“1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,30,00,000/- made u/s. 68 of the I.T. Act, on account of unexplained credits in the form of share capital/share premium during the year.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the assessee had discharged the onus of

proving the identity and creditworthiness of the share subscribers and the genuineness of the subscription.”

2. Briefly stated, some primary facts of the case are that the assessee company, incorporated on 14.02.2006, was engaged in the business of real estate agents, dealers in land, plots, buildings etc. and also in generation of power through wind mill and agricultural activity. The return of income was filed on 28.09.2012 at an income of Rs, 66,95,817/- and after setting off of brought forward losses, the income was taken as NIL. In the assessment proceedings, the Assessing Officer noticed that the assessee had claimed to have received share capital/premium amounting to Rs.2,69,00,000/- as follows :

(i). From two Directors - 190000 shares @ Rs.10 each	Rs.19,00,000
(ii).From company having common directors 150000 shares @Rs.10 each	Rs.1,50,00,000
(iii).From unrelated corporate Entities- 100000 shares of Rs.10 each at a premium of Rs.90/- per share, total Rs.100/-Per share	Rs.1,00,00,000
	Rs.2,69,00,000

3. The Assessing Officer, after scrutiny of details, however, made an addition of Rs. 1,30,00,000 u/s 68 as bogus share capital and after setting off of brought forward losses, the assessment was completed at an income of Rs.83,06,310/-. The addition of Rs.1,30,00,000/- comprised of Rs.1,00,00,000/- in respect of share capital raised from 10 unrelated entities and of Rs. 30,00,000/-in respect of share capital raised from a group company, Hi-Fi Infotech Pvt. Ltd. The

details of the companies in respect to whom the impugned addition was made by the Assessing Officer are as under :

S. No.	Name & Address of investors	Amount (in Rs.)
1.	Geemad promoters Pvt. Ltd. F-6, Vijay Chowk, Laxmi Nagar, New Delhi-110092	5,00,000
2.	Hari Realtech Pvt. Ltd. F-6, Vijay Chowk, Laxmi Nagar, New Delhi-110092	5,00,000
3.	Edward Impex Pvt. Ltd. F-6, Vijay Chowk, Laxmi Nagar, New Delhi-110092	15,00,000
4.	Sara Fun and Show Biz Pvt. Ltd. F-6, Vijay Chowk, Laxmi Nagar, New Delhi-110092	5,00,000
5.	Dwarka Fabrics Pvt. Ltd. F-6, Vijay Chowk, Laxmi Nagar, New Delhi-110092	15,00,000
6.	Hightech Valuation Consultants Pvt. Ltd. C-62, Basement South Extn. Part-1, New Delhi	10,00,000
7.	Rudra Avtar Steel Pvt. Ltd. 31/10, Bhikam Singh Colony, Vishwas Nagar, Shahdara, New	15,00,000
8.	New Age Infra builders Pvt. Ltd.	10,00,000
9.	Wizard Developers Pvt. Ltd.	10,00,000
10.	Across Marketing Services Pvt. Ltd.	10,00,000
11.	Hi-Fi Infotech Pvt. Ltd.	30,00,000
	TOTAL:	1,30,00,000

The reasons assigned by the Assessing Officer for holding the investment in shares by former 10 unrelated companies as bogus are summarized as under :

- (i). Non-compliance/part compliance to or non-service of notice u/s. 133(6) on the subscribers' companies.
- (ii). Inspector's spot enquiry report regarding non-existence of subscribers companies at the given address.
- (iii). Non-establishment of physical identity of investors and Non production of directors of the subscribing companies.
- (iv). Absence of profit making apparatus of subscribing companies.

(v). No business activities of investors companies, having low income showing their lack of creditworthiness.

(vii). Rotation of money in bank accounts of investors.

(viii). No justification for charging high premium by assessee and for investment by unknown entities at such a huge amount of shares.

In order to support the aforesaid conclusion for addition u/s. 68, the Assessing Officer relied on various decisions, as incorporated in the assessment order. The assessee carried the matter in appeal before the Id. CIT(A), who after considering the submissions of the assessee, attending facts of the case, and various case laws, allowed the appeal of the assessee and deleted the impugned addition vide impugned order. Aggrieved, the Revenue is in appeal before the Tribunal.

4. We have heard the submissions of both the parties on the issue involved in this appeal and have gone through the entire material available including the orders of the authorities below and various case laws relied by both the parties and relevant provisions of law. Both the parties have filed their written synopsis, which are also considered and placed on record.

5. In the factual matrix of the present case, as narrated above and arguments of both the parties, we find that the only dispute which needs adjudication is whether the Id. CIT(A) was justified to delete the addition made u/s. 68 of the Act on merits thereof.

6. Before we proceed to adjudicate upon the issue on merits, we feel it appropriate to mention that as per section 68 of the Act, where any sum is found credited in the books of the assessee maintained for any previous year, and the assessee offers no explanation about the nature and source of the same or the

explanation offered by him is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged to income tax as the income of the assessee of that previous year. A bare perusal of above section makes it clear that the basic precondition for invocation of section 68 is that there should be absence of explanation of assessee as to the source and nature of credit and the dissatisfaction of the Assessing Officer as to the credibility of assessee's explanation, if furnished by him. The factual matrix of the present case, if examined on the anvil of above section, we find that the assessee, in order to discharge the onus cast upon him by this section, has furnished detailed explanation before the Assessing Officer as to the nature and source of credits, being share application money received from different companies, whose details were also filed before the Assessing Officer. In support of his explanation, the assessee admittedly filed following documentary evidences:

- (i). Photocopy of share applications forms dully filled in.
- (ii). Confirmed statement of account from shareholder.
- (iii). Copies of ITRs of the share subscribers.
- (iv). Copies of their bank statements
- (v). Certificates of incorporation, Memorandum and Aricle of association of the investor companies.
- (vi). Balance sheets of the investors.
- (vii). Copies of share certificates issued to the investors which have been duly stamped before the competent authority.

7. The contention of the ld. AR has been that the Assessing Officer has miserably failed to point out any defects in these documents so as to doubt the explanations of the assessee regarding three ingredients of section 68 nor is there reference of any enquiry conducted by the Assessing Officer as to the authenticity of these documents. The contention of the ld. DR has been that the

assessee has failed to meet out the objections of the Assessing Officer while holding the impugned share capital as bogus. In our considered opinion, once, all the above documentary evidences are produced, the assessee had discharged the onus cast upon him. Thereafter, it was for the Assessing Officer to examine the same and to probe the matter, if he nurtures any doubt on the veracity/authenticity of these documents, which is completely lacking in the instant case. In our opinion, in order to disbelieve the documents produced by the assessee, there should be some inquiry and cogent material on record, which too is lacking in the instant case. Hon'ble Gujrat High Court in a recent decision of PCIT vs. D&H Enterprises, (2016) 72 taxmann.com 91 (Gujrat) on such issue held as under :

“7. Thus, from the facts noted hereinabove, it is evident that the assessee had produced all relevant details in its possession, namely, names, permanent account numbers, income tax returns, and bank statements of all the investors. The amounts in question had been received by way of account payee cheques. Having regard to the fact that the permanent account numbers and the income tax returns of all the investors had been furnished by the assessee, the Assessing Officer could have easily verified the same. He, however, placed reliance upon the fact that the summons issued to the parties under section 131 of the Act could not be served and hence, did not accept the genuineness of the transactions. In the opinion of this court, taking into account the concurrent findings of fact recorded by the Commissioner (Appeals) and the Tribunal, it cannot be said that the conclusion arrived at by the Tribunal is, in any manner, contrary to the record or that the same suffers from any legal infirmity so as to give rise to any question of law, much less a substantial question of law warranting interference.”

In such view of the matter, in our considered opinion, the dissatisfaction of the Assessing Officer cannot be sustained only on the basis of suspicion.

8. The Assessing Officer has laid much emphasis on the non-service/non compliance of notices u/s. 133(6) of the Act. The contention of the assessee has been that the Assessing Officer ignored that the notices were returned due to change in addresses of the company, which were subsequently complied with. It was also submitted that 8 companies out of 11 responded to the notice and submitted relevant documents of their respective investment in the assessee company. It was also submitted that three parties to whom notices were not directly served filed the relevant documents at the request of the assessee. The learned DR submitted that the notices sent on changed address of some of the companies were not served/complied with, but the documents were filed by the assessee. Having considered the submissions of both the parties and going through the assessment order, we find that all the relevant documents are available on the record of Assessing Officer as is evident from para 3.11 and 4.1 to 4.11 of the assessment order. Moreover, the Assessing Officer is vested with ample powers to enforce and compel the appearance of the creditors. Therefore, in our opinion, even if on the efforts of the assessee, the share holders had filed all the required evidences and details pertaining the impugned share capital, it cannot be said that it was own money of the assessee which routed through the share applicants, when the Assessing Officer has failed to bring any cogent material on record to justify bogus nature of share capital on record. In presence of these facts on record, in our considered opinion, the dissatisfaction of Assessing Officer on this count has rightly been discarded by the Id. CIT(A).

09. It is not disputed that all the share applicants are companies registered under the Companies Act, they are income-tax assesseees and have reflected the

impugned share investments in their respective balance sheets. It is also an undisputed fact that the share application money was obtained through account payee cheques of the investing companies and were credited to the bank account of assessee. The Assessing Officer observed from the bank statements that parallel entries of deposits before issue of cheques were found. However, in our opinion, without making any enquiry in respect thereof, it is hard to state that the credit entries in the bank accounts of the investor companies, were routed through the coffers of assessee and such a presumption cannot be sustained at all, particularly, when the share subscribers have declared their investments in their respective balance sheets.

10. The next objection of the Assessing Officer regarding non-existence of investor companies is based on the Inspector's report who on spot enquiry reported about non-existence of the investor companies. The contention of the ld. AR has been that the building where the inspector visited is a big commercial complex having several offices and shops; that he enquired from unknown persons and not from the office of M/s. Ashok Tyagi and Company, a CA firm who and his relatives were directors in these companies; that enquiry done from unknown persons lacks credibility as one cannot be sure as to the extent, numbers, names of the concerns, which were working in that premises; that no Assessing Officer of any investor company was approached to enquire the existence of such companies, particularly when their certificates of incorporation prove the existence of directors and their DIN issued by Ministry of Corporate Affairs and the their assessments being made by Revenue authorities. Neither ld. DR nor the Assessing Officer could be able to controvert the aforesaid documentary evidences submitted by the assessee so as to prove

the existence of investor companies, especially when the inquiry report of the inspector has been challenged by the assessee as not conducted in right direction and thus, incredible. Thus, based on the impugned Inspector's report, it can hardly be said that the investor companies, in the present situation, were the paper companies. It is nowhere the case of the Revenue authorities that the investor companies were being controlled by any one persons or that the impugned investments were made on the dictates of any such person.

11. A perusal of the assessment order reveals that one of the grave objections of the Assessing Officer has been that the investor companies have shown very low income to justify the investment, showing lack of their creditworthiness. In this context, we are convinced with the contention of the assessee that mere low profit/income declared by the investor companies, would not be a reasonable basis to treat the credit entries as fictitious or accommodation entries. In fact, some nexus must be established between the deposits in the bank accounts of investor companies and the income of the assessee and no such nexus having been established, the additions made on this count have rightly been deleted by the Id. CIT(A). In this context, we are in agreement with the contention of the assessee that income/losses declared by the investor companies is not a sole criterion to examine the creditworthiness of the shareholders. We have gone through the paper book filed by the assessee and found that in most of the cases, the investor companies had sufficient internal and external funds, so as to cover the investments made with the assessee company and the AO has failed to enquire into such facts before doubting the creditworthiness of the share holders. For this view, we stand fortified by recent decision of Hon'ble

jurisdictional High Court in the case of CIT v. Vrindavan Farms (P) Ltd., in ITA No. 71 of 2015 dated dated 12 August 2015, relied by the ld. AR, where, the Hon'ble court has held as under :

“3. The ITAT has in the impugned order noticed that in the present case the Revenue has not doubted the identity of the share applicant. The sole basis for the Revenue to doubt their creditworthiness was the low income as reflected in their Income Tax Returns. The entire details of the share applicants were made available to the AO by the assessee. This included their PAN numbers, confirmations, their bank statements, their balance sheets and profit and loss accounts and the certificate of incorporation etc. It was observed by the ITAT that the AO had not undertaken any investigation of the veracity of the above documents submitted to him. It has been rightly commented by the ITAT that without doubting the documents, the AO completed the assessment only on the presumption that low return of income was sufficient to doubt the creditworthiness of the share holders.”

Similar view has been taken by Hon'ble jurisdictional High Court in another decision in the case of PCIT vs. M/s. Goodview Trading Pvt. Ltd. dated 21 November, 2016 reported in 2016 (12) TMI 617 – Delhi High Court, observing as under :

8. It is quite evident from the CIT(A)'s reasoning in paragraph 4.3, that the materials clearly pointed to the share applicants' possessing substantial means to invest in the assessee's company. The AO seized certain material to say that minimal or insubstantial amounts was paid as tax by such share applicants and did not carry out a deeper analysis or rather chose to ignore it. In these circumstances, the inferences drawn by the CIT(A) are not only factual but facially accurate.”

12. The ld. counsel for the assessee has also relied on the decision of Hon'ble Delhi High court in CIT vs. Value Capital Services (P) Ltd. (2008) 307 ITR 334 (Del) and of ITAT Delhi Bench in Prabhatam Investment (P) Ltd. vs. ACIT (ITA

No. 2523 to 2425/Del/2015 dated 17.04.2017, which go to support the contentions of the assessee and negate the objections of the Assessing Officer.

13. The satisfaction of the Assessing Officer as to the credibility of explanation of assessee is the basis of invocation of provisions of section 68. However, such satisfaction must not be illusory or imaginary but must have been derived from relevant facts and evidences and on the basis of proper enquiry and material before him. In view of aforesaid facts and plethora of evidences submitted by the assessee, on which no reasonable doubts have been created by the AO, the onus that lay on the assessee under section 68, stands completely discharged on the part of the assessee. The identity of the investing companies is discernible from the evidences submitted by assessee. They are filing their returns with IT Department as well as before ROC, being properly registered with ROC. Once no instance of any cash deposit in the bank accounts of investing company was pointed out and the investment has been made through banking channel and therefore, for want of any corroborative evidences, the ld. Assessing Officer was not justified to doubt the creditworthiness of the investing companies merely because they have shown low income. We, therefore, observe that the ingredients of section 68 stand satisfied on the part of the assessee.

14. The ld. counsel for the assessee in support of its contentions has also relied on the following decisions :

- (i) CIT v. Lovely Exports (P.) Ltd. [2008] 216 CTR 195 (SC)
- (ii) ACIT v. Shyam Indus Power Solutions (P.) Ltd. [2018] 90 taxmann.com 424 (Delhi - Trib.)
- (iii) CIT v. Kamdhenu Steel & Alloys Ltd. [2014] 361 ITR 220/19 taxmann.com 26 (Delhi)

- (iv) CIT v. Winstral Petrochemicals (P.) Ltd. [2011] 10 taxmann.com 137 (Delhi)
- (v) CIT vs. Gangour Investment Ltd. (2009) 18 DTR (Del) 242: (2009) 179 Taxman 1 (Del)
- (vi) CIT v. Kamna Medical Centre (P.) Ltd. [2013] 35 taxmann.com 470 (Allahabad)
- (vii) CIT v. Miq Steels (P.) Ltd. [2013] 36 taxmann.com 422 (Allahabad)
- (viii) CIT v. Gagandeep Infrastructure (P.) Ltd. [2017] 80 taxmann.com 272 (Bombay)
- (ix) DCIT v. RCP Infratech (P.) Ltd. [2018] 95 taxmann.com 163 (Raipur - Trib.)
- (x) ACIT v. Venkateshwar Ispat (P.) Ltd. [2009] 319 ITR 393 (Chhattisgarh)
- (xi) CIT v. Misra Preservers (P.) Ltd. [2013] 31 taxmann.com 214 (Allahabad)
- (xii) Agrawal Coal Corporation (P.) Ltd. v. Addl. CIT [2012] 19 taxmann.com 209 (Indore)
- (xiii) ACIT v. AMR Hospitality Services Ltd [2013] 40 taxmann.com 96 (Hyderabad - Trib.)
- (xiv) CIT v. Peoples General Hospital Ltd. [2013] 35 taxmann.com 444 (Madhya Pradesh)
- (xv) CIT v. Peoples General Hospital Ltd. [2013] 35 taxmann.com 444 (Madhya Pradesh)
- (xvi) CIT vs Down Town Hospitals (P) Ltd. (2004) 267 ITR 439 (Gau)
- (xvii) CIT vs Creative World Telefilms Ltd. (2011) 333 ITR 100 (Bom.)

15. As far as the contention of the Assessing Officer, which have been supported by ld. DR, regarding non-production of directors is concerned, we find substantial force in the contention of the assessee on this score that the assessee could at the most request the directors of investor companies to appear before the Assessing Officer, but has no power to compel them to do so. Thus, it was for the department to enforce their attendance and on failure to take action against them as per law. Thus, in our opinion, this cannot be a valid ground for holding the investment made by the investors as non-genuine in view of the decision of Hon'ble Bombay High court in CIT vs. Orchid Industries (P) Ltd. (2017) 88 taxmann.com 502, where the assessee had produced on record documents to establish genuineness of party such as PAN of all creditors along with confirmation, their bank statements showing payment of share application money, only because those persons had not appeared before the Assessing Officer would not negate the claim of assessee.

16. The ld. DR has also relied plethora of judgments in its written synopsis as under :

- (i). CIT vs. Navodaya Castle Pvt. Ltd. (2014) 367 ITR 306 (Del)(SLP dismissed by Hon'ble Supreme Court)
- (ii). DRB Exports (P) Ltd. vs. CIT(2018) 93 taxmann.com 490 (Cal.)
- (iii). CIT vs. Nipun Builders & Developers (P) Ltd., 30 taxmann.com 292.
- (iv). CIT vs. Nova Promoters & Finlease(P) Ltd., 18 taxmann.com 217.
- (v). CIT vs. Ultra Modern Exports (P) Ltd., 40 taxmann.com 458.
- (vi). CIT vs. Frostair (P) Ltd. 26 taxmann.com 11
- (vii). CIT vs. NR Portfolio Pvt. Ltd., 42 taxamann.com 339
- (viii). CIT vs. Empire Builtech (P) Ltd., 366 ITR 110.
- (ix). CIT v. Focus Exports (P) Ltd. 51 taxmann.com 46 (Del.)
- (x). PCIT v. Bikram Singh (ITA No. 55/2017)(Delhi)
- (xi). PCIT vs. NDR Promoters Pvt. Ltd. (ITA No. 49/2018)(Delhi)

On going through the same, we find that in the peculiar facts and circumstances attending to the present case, as narrated above, the said decisions relied by the ld. DR are not applicable, being based on different set of facts. Most of the decisions relied by the ld. DR have also been relied by the Assessing Officer in the assessment order and the assessee in his written synopsis has given their distinguishing features as under, which stand un-rebutted on behalf of the Revenue before us :

S. No	Citation	Facts of the case law cited	Why not applicable to the appellant
1	A Govindrajula Mudaliar v. CIT [1958] 34 ITR 807 (SC)	In this case assessee stated that certain amount, was gifted to him by his father and secondly, the profits earned in a partnership concern which carried on business in arrack, in which T was only a benamidar for him. Both the facts were found incorrect	Facts are not even remotely similar in the present case.

2	CIT v. Durga Prasad More [1971] 82 ITR 540 (SC)	In this case the assessee was receiving some income. He says that it is not his income but his wife's income. His wife is supposed to have had two lakhs of rupees neither deposited in banks nor advanced to others but safely kept in her father's safe. Assessee is unable to say from what source she built up that amount. Held that the Income Tax authorities were entitled to look into the surrounding circumstances to find out the reality of the recitals made in those documents.	Facts are not even remotely similar in the present case.
3	CIT v. Daulat Ram Rawatmull [1973] 87 ITR 349 (SC)	In this case assessee firm obtained overdraft upon security of fixed deposit receipt issued in name of son of partner. Held that when department could not prove that respondent was owner of amount, despite fact that receipt was in name of son of partner, amount in question could not be treated as concealed income of respondent-firm.	Facts are not . even remotely similar in the present case.
4	CIT v. Nova promoters & Finlease (P.) Ltd. [2012] 342 ITR 169/206 Taxman 207/18 taxmann.co	Assessing Officer issued summons two persons and the AO also issued summons to some other companies. There was no response to those summons, which were served and many of them had been returned unserved.	In the present case, there does not exist any enquiry made by the Ld. Assessing Officer by issue of summons under section 131 of the income tax act, either to the assessee or to the any of the Directors of investing companies. The Ld.
5	CIT v. Nipun Builders & Developers (P.) Ltd. [2013] 350 ITR 407/214 taxman429 (Delhi)	The assessing officer issued summons to the subscriber companies which were returned unserved with remark that no such company exist. The inspectors were also sent for verification of the address of the above companies who also confirmed the same.	No inquiry into the investing companies. In the present case there is no enquiry made by the Ld. Assessing officer by issue summons under section 131 of the Income Tax Act or issuing enquiry letter under section 133 (6) of the Income Tax Act to the

6	CIT v. N.R. Portfolio (P.) Ltd. [2014] 222 Taxmann 157/42 m 339 (Delhi)	In this case the subscribers belonged to a group of entry operators, which included 51 companies/persons, who were operating more than 100 bank accounts in different banks/branches. Their modus operandi was to provide accommodation entries to different persons/beneficiaries.	In the present case no such facts are put on record that investor companies belong to a group, or that any kind of accommodation entry was provided. Further, summons on directors of 8 companies were served and all the 11 companies had
7	CIT v. Focus Exports Pvt. Ltd. [2014] 51 taxmann.co m 46 (Delhi)	In this case address and PAN were not provided for all parties whereas in case of some of share applicants, there were transactions of deposits and immediate withdrawals of money.	In the present case Id. AO accepts that the details about address and PAN were provided. Further there is no finding that there was immediate
8	Sumati Dayal v. CIT 214 ITR 801 (Cal.)	In this case explanation furnished by the assessee is considered practically improbable to happen like purchasing three winning tickets consequently for earning jackpot	No such improbable circumstances or happening is pointed by Ld. AO
9	CIT v. L.N. Dalmia 207 ITR 89 (Cal.)	In this case assessee having acquired controlling interest in a company, sold shares of that company at lower rate to a company formed by himself - Transaction of sale was made on credit and there was no positive proof that purchasing company had sufficient funds to acquire said shares - For money borrowed for acquisition of shares, assessee was paying huge interest without any earning therefrom and asset itself would be disposed of without getting any payment for alleged sale of shares from purchasing company was held that it was merely a paper transfer	Facts are not even remotely similar in the present case.
10	Sunil Siddharthbhai v. CIT [1985] 156 ITR 507/23 Taxman 14W (SC)	In this case it was held that on partner's bringing in his capital asset into partnership as capital contribution, no consideration is received by partner within meaning of section 48, nor does any profit or gain accrue to him in commercial sense, and, therefore, no capital gain chargeable under section 45 arises	Facts are not even remotely similar in the present case.

11	Mittal Belting and Machinery Stores v. CIT 253 ITR 341 (P&H)	In this case assessee purchased a truck in relevant assessment year for Rs. 2 lakhs. Within a week of purchasing, amount of Rs. 2 lakhs had come back to assessee and after some time truck was also transferred to brother of seller. It was held that there is no genuine transaction between parties and there is a pure paper transaction only, depreciation in respect of such asset would not be allowed.	Facts are not even remotely similar in the present case.
12	Me Dowell & Co. 154 ITR 148 (SC)	In this case sales tax was paid by appellant to sales tax authorities on basis of turnover which excluded excise duty. It was held that excise duty which was payable by appellant but had been paid by buyer was actually a part of turnover of appellant and was, therefore, liable to be so included for determining liability to sales tax.	Facts are not even remotely similar in the present case.
13	CIT v. Biju Patnaik 160 ITR 674 (SC)	In this case ITO held that shares purchased by certain persons in a company of assessee's group actually belonged to assessee as they were his benamidars. Trust was alleged to have been created through donation but there was no evidence as to who were donors. Tribunal deleted additions made by ITO. It was held that a question of law arose.	Facts are not even remotely similar in the present case.
14	ITO v. K. Jayaramam [1987] 168 ITR 757 (Mad.)	In this case it was held that where an assessee or a party before the ITO or other authorities under the Act relies in support of his claim on a will or for that matter on any other document, it is not obligatory on the authorities to accept these documents without any inquiry. The authorities are bound to go into the question as to whether they should open the document produced before them. This would necessarily imply an inquiry into the genuineness or otherwise of the document, if necessary.	Facts are not even remotely similar in the present case.

15	CIT v. Neelkanth Ispat Udyog Pvt. Ltd. ITA No. 427/2012 (Delhi)	In this case the amounts were given by Mukesh Gupta and his Associates, a group of entry operators. These notices were either not complied with or returned with the remark "left". Mukesh Gupta, Ranjan Jassal etc stated that they were accommodation entry providers. The amount is deposited in cash and then routed through the multiple accounts.	Facts are different, there is no evidence of any entry operator in the present case. All the summons and notices have been complied and replies submitted. No cash is deposited in the account of investors. The case law is not applicable.
16	Bisakha Sales (P.) Ltd. v. CIT [2014] 52 taxmann.com 305 (Kolkata Trib.)	In this case assessee-company received share application money with huge share premium from corporate entities, merely because said amount was received through banking channel, Assessing Officer was not justified in accepting said transactions as genuine without making proper enquiries and, therefore, impugned revisional order passed by Commissioner setting aside assessment was to be upheld.	This was a case of directing AO to enquire into investing companies and not a case where addition was upheld. The Ld. AO could not find anything substantive against the assessee.

In view of aforesaid discussion, the addition made u/s. 68 in respect of 10 unrelated investor companies, as noted above, is not found justified at all.

17. Regarding the investment made by Hi-Fi Infotech, the ld. AR has contented that it is a group company having three companies as share holders, namely Geemad Promoters Pvt. Ltd., Hightech Valuation Consultant and M/s. Wizard Developers Pvt. Ltd. and the fund received as share capital from these three companies by Hi Fi Infotech was invested into assessee company. The investment made in M/s. Hi-Fi Infotech has been accepted by the Assessing Officer of that company and therefore, there is no valid reason to doubt the investment made by M/s. Hi-Fi Infotech into the assessee company. The ld. AR of the assessee has produced copy of order passed u/s. 143(3) in the case of this investor company, which was also stated to have been submitted before the

Assessing Officer. In presence of these facts, once the investment in the said company stands accepted by the Revenue authorities, it is not justified to doubt the investment made by the same company into the assessee company on the basis of suspicion and presumption of bogus share capital. The contentions of the assessee could not be controverted on behalf of the Revenue. We, therefore, are of the opinion, that the Id.CIT(A) has rightly deleted the addition made u/s. 68 with respect to this company.

18. In view of the above discussion, we, therefore, do not find any justification to interfere with the order of the Id. CIT(A) while deleting the impugned addition. Accordingly, the appeal of the revenue deserves to be dismissed.

19. In the result, the appeal is dismissed.

Order pronounced in the open court on 15.02.2019.

Sd/-

(Bhavnes Saini)
Judicial member

Dated: 15.02.2019

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Copy of order forwarded to:

(1) *The appellant*
(3) *Commissioner*
(5) *Departmental Representative*

Sd/-

(L.P. Sahu)
Accountant Member

(2) *The respondent*
(4) *CIT(A)*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi

		Date	
1.	Draft dictated (Directly on computer)	08.02.19	PS
2.	Draft placed before author	12.02.19	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Order Uploaded on		PS/Sr PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		