

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'F': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1707/Del/2017
(Assessment Year: 2013-14)**

M/s Ram Dev International Ltd., Karnal.	Vs.	ACIT, Circle, Karnal.
PAN No: AACCR7125A		
APPELLANT		RESPONDENT

Assessee by : None
Revenue by : Shri Surender Pal, Sr. DR

ORDER

PER ANADEE NATH MISSHRA, AM

[A] This appeal has been filed by the Assessee against the impugned appellate order dated 16.01.2017 passed by Learned Commissioner of Income Tax (Appeals) Karnal, [in short, "Ld.CIT(A)"] pertaining to Assessment Year 2013-14. The Assessee has raised following grounds of appeal:-

- "1. On the facts and in the circumstances of the case as well as in the law the Ld. Commissioner of Income Tax Appeals grossly erred in upholding addition of Rs. 7,00,00,000 /- made U/s 68 of the Income Tax Act, 1961.*
- 2. On the facts and in the circumstances of the case as well as in the law the Ld. Commissioner of Income Tax Appeals grossly erred in upholding the action of Ld. Assessing Officer that the share capital & share premium is genuine and shareholders does not exist.*
- 3. The appellant crave leave to add/delete/alter or modify any or all grounds of appeal*

These actions of Ld. Income Tax Authorities below, being arbitrary, unjust and invalid in the law liable to be quashed and it is prayed to Your honor that they please be quashed and/ or any other relief just deem fit and proper please be directed.

Appellant pray accordingly."

[B] Vide Assessment Order dated 08.03.2016 passed under Section 143(3) / 144 of the Income Tax Act, 1961 (in short "the I.T. Act"). The relevant portion of the Assessment Order dated 08.03.2016 is reproduced as under:-

2. The assessee company is engaged in the business of manufacturing of rice and its by-products by husking of paddy as well as purchase & sale rice. During the year under assessment, the assessee company has received share application money to the tune of Rs.7 Crores from M/s Acer foods Pvt. Ltd., A-4/156, Sec-17, Rohini, New Delhi (PAN- AALCA3572C). To verify the genuineness of transaction and creditworthiness of the payer company summons u/s 131 dated 02.12.2015 has been issued to the company and service of the same has been effected one by post and the other by deputing the Inspector of this office. The summon issued by post has been received back with the postal remarks, "No such firm" and the other summon has also returned back by the Inspector of this office, reporting that on the given address no such company exists and further reported that this was a residence-cum-shop premise where Sh. Radhey Shyam was living with his family and running his businesses under the name and styles Radhey Properties and Radhey Shyam distributors. The Inspector further reported that the company in question is just a paper company and not doing any business at the given place during the year 2012-13. At the time of visit of the Inspector Sh. Radhey Shyam was available and on asking about the company in question, he has stated that he is the owner of this premise and further confirmed that no such company was run from this premise during the year 2012-13 relevant to A.Y. 2013-14. Again signatory of the company i.e. Sh. Anil Kumar, Director, has been issued summon u/ s 131 dated 08.12.2015 on the address of the PAN details and service of the same was tried with the help of the Notice Server of this office, who has reported that no such person was available on that address, however, the residents of that address has stated that the persons may be known to Mr. Tarun Batra, C.A. and the Notice Service went to the office of Sh. Tarun Batra, C.A. and asked about the identity/availability of the authorized signatory of the company but that person was also not found there and the C.A. has received the summon through his staff. Further, Manager Corporation Bank has been asked to provide bank statement, copy of account opening form and KYC details of the account holder company i.e. M/s Acer Foods Pvt. Ltd.. On receipt of KYC details from bank, summons u/s 131 dated 16.12.2015 have been issued to the said company and its Directors and tried to service of the through the Notice Server of this office, who has

reported that the company in question or the Directors of the company were not found at the given address, however, he has served the summons to the C.A.'s office. But in compliance to the summons issued, neither anybody has attended the proceedings nor any written request for adjournment received, on the fixed date of hearing.

3. Further, it has been noticed that the assessee company has furnished a bank statement of Corporation Bank relating to M/s Acer Foods Pvt.Ltd., where entries starting from 02.01.2013, has been mentioned. This statement has been provided by the assessee company to prove the genuineness of the transactions made with M/ Acer Foods Pvt. Ltd., with respect to investment in shares by this company with the assessee company. The Manager Corporation Bank has been asked u/s 133(6) to provide a bank statement and KYC details of M/s Acer Foods Pvt. Ltd. and the banker has provided the bank statement and KYC details of this concern where entries have been made with effect from 08.03.2013. To verify the genuineness of bank statement and the transactions entered therein, statement of the bank manager have been recorded on oath and in his statement he has denied the bank statement from its bank and further stated that the account of M/s Acer Foods Pvt. Ltd. has been opened on 08.03.2013 and denied the entries before that date. Thus, in view of above the creditworthiness of the company, identity of the company and genuineness of the transactions, remained unexplained during assessment proceedings. In view of amended provisions of section 68 of the Income Tax Act, if the amount credited in the books of an assessee company remained unexplained during assessment proceedings, is to be treated the income of the assessee company from undisclosed sources, the relevant provision of the Act are reproduced as under:-

“Cash Credits.

68 ⁹¹ *Where any sum is found credited in the books⁹² of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the ⁹³[Assessing] Officer, satisfactory, the sum so credited may be charged to income tax as the income of the assessee of that previous year:* For Ram Dev Internat

⁹⁴[*Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consist of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-*

(a) *The person, being a resident in whose name such credit is recorded in the books of such company also offers as explanation about the nature and source of such sum so credited; and*

(b) *Such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:*

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund ore a venture capital company as referred to in clause (23FB) of section 10J."

In view of above description and intention of the statute, detailed show cause notices dated 16.12.2015 and 23.12.2015 have been issued and duly served upon the assessee company, fixing the case for 23.12.2015 & 31.12.2015 respectively and both these letters have been reproduced below:-

"F.No.ACIT/KNL/2015-16/

*Office of the
Asstt. Commissioner of Income tax,
Circle, Karnal
Dated : 16.12.2015*

To

*M/s Ram Dev International Pvt. Ltd.,
Village Daha, Karnal*

D/Sir(s),

Sub: Pending assessment proceedings u/s 143(2) in your case for the A. Y. 2013-14 – Show cause notice - Regarding-

In connection with the assessment proceedings pending before the undersigned for the A.Y.2013-14, you are required to furnish your explanation on the following points/issues:-

i) *As claimed by you during the assessment proceedings for the A.Y.2013-14 that during the year under assessment, M/s Acer Foods Pvt. Ltd., A-4/156, Sector-17, Rohini, New Delhi(PAN-AALCA3572C) has invested Rs.7 Crores in your company for purchase of shares on premium. To verify the genuineness of the said transactions and creditworthiness of the said company, summon u/s 131 dated 02.12.2015 has been issued and sent to the said company one by post and one through the inspector of this office. The summon sent by post has been received back with the remarks 'No such firm'. The other summon sent through Inspector of this office has also returned un-served with the remarks that 'A-4/156, Sector-17, Rohini, New Delhi was the residence-cum-shop premises of Sh. Radheyskyam who is running his business under the name & style of Radhey Properties and Radheyskyam Distributors and he himself was present at this premise on the date of visit of inspector of this office. He told to the inspector that no office/business relating to M/s Acer Foods Pvt. Ltd. run from this premise. Furthermore, a summon dated 08.12.2015 has been issued to Sh. Anil Kumar S/o Sh. Nanak Chand, Director of this company, at his Karnal address i.e. C/o M/s Anirudh Jindal & Co., Opp. Civil Lane Police Station, Near Ambedkar Chowk, G.T. Road, Karnal through Notice Server of this office, who has reported that there was no such person available on that address, however, this was the office of a Chartered Accountant and Advocate and they told that this might be a person available in the office of Sh. Tarun Batra, CA. The Notice Server again went to the office of Sh. Tarun Batra, CA where also this person was not available, however, on the instance of the CA this summon was served upon Ms. Rakhi, the staff of the CA. This summon was issued for 14.12.2015 but on the fixed date of hearing, neither Sh. Anil Kumar, Director of the said company, has attended the proceedings personally nor any written communication has been received with respect to adjournment or reply on the points mentioned in the summon. In view of above description, genuineness of the transaction of Rs.7 Crores, invested in shares with you, as well as creditworthiness of the said company, remained unexplained as no such company actually exists on ground.*

2. *In view of above discussion, the concern in question is a paper company and not actually exists on ground. Thus, the source of share investment of Rs.7.00 Crores, remained unexplained. Accordingly, you are hereby asked to show cause as to why the unexplained investment in shares to the tune of Rs.7.00 Crores may not be treated your income from undisclosed sources and the same is proposed to be added in your taxable income. Reliance is placed on the following judgments of different Hon'ble High Courts wherein it has been held that if any amount is credited in the books of the assessee and during assessment proceedings, it has failed to prove the identity and creditworthiness of the person(s)/investors/loanee(s) and genuineness of the transactions, then the Assessing Officer may treat such investment/loan as assessee's undisclosed income and make addition of the ~~same~~ amount to the taxable income of the assessee:-*

- a) **VIJAY TEXTILES vs. COMMISSIONER OF INCOME TAX**
*IT Ref. No. 197 of 1983, 18th April, 2002 (2002) 70 CCH 0302 Del HC (2002)
176 CTR 0035 : (2002) 122 TAXMAN 0726*
- b) **COMMISSIONER OF INCOME TAX vs. MIHIR KANTI HAZRA**
*HIGH COURT OF CALCUTTA, GIRISH CHANDRA GUPTA & ARINDAM
SINHA, JJ. G.A.No.905, 904 of 2015 & ITAT 46 OF 2015 28th April, 2015 (2015)
93 CCH 0053 Kol HC*
- c) **ASHOK MAHINDRU & SONS (HUF) vs. COMMISSIONER OF INCOME TAX**
*HIGH COURT OF DELHI Madan B. Lokur & Manmohan Singh, JJ. IT Appeal
No. 596 of 2008 6th May, 2008 (2008) 76 CCH 0631 Del HC (2008) 9 DTR 0222
: (2008) 173 TAXMAN 0178*
- d) **COMMISSIONER OF INCOME TAX vs. NAVODAYA CASTLES PVT LTD.**
*HIGH COURT OF DELHI SANJIV KHANNA & V. KAMESWAR RAO, JJ
ITA No. 320/2012 25th August, 2014 (2014) 90 CCH 0039 Del HC (2014) 109
DTR 0109 (Del) : (2014) 367 ITR 0306*

3. *Your case is again fixed for hearing on 23.12.2015 at 11:00AM. Please note that if you have to put forward any explanation with respect to the credit of above amounts in your books and identity, creditworthiness and genuineness of the said amount, furnish the same with supporting documentary evidences and also produce the directors of the company for recording their statements to prove the genuineness of the transaction and their identity & creditworthiness. As the amount of Rs.7.00 Crores has been credited in your books and onus to prove the source of this amount lies upon you. In case of failure, the amount of Rs.7.00 Crores credited in your books shall be treated as your undisclosed income and addition of the same amount shall be made accordingly as per proviso to section 68 made effective w.e.f. A.Y.2013-14 onwards.*

Sd/-
(Gireesh Kumar Kohli)
Asstt. Commissioner of Income-tax
Circle, Karnal

and

F.No.ACIT/KNL/2015-16/

Office of the
Asstt. Commissioner of Income tax,
Circle, Karnal
Dated : 23.12.2015

To

M/s Ram Dev International Pvt. Ltd.,
Village Daha, Karnal

D/Sir(s),

Sub: Pending assessment proceedings u/s 143(2) in your case for the
A.Y. 2013-14 – Show cause notice - Regarding-

In connection with the assessment proceedings pending before the undersigned for the A.Y.2013-14 and in continuation to this office letter dated 16.12.2015 duly served upon you, you are further required to furnish your explanation on the following points/issues:-

i) As per reply dated 23.11.2015 submitted by you during the assessment proceedings for the year under assessment, you have submitted the copy of ITR and bank statement of M/s Acer Foods Pvt. Ltd. for the period 01.04.2012 to 31.03.2013 in respect of its bank account No.CBCA/01/000272. To verify the transaction in this account, copy of bank statement of this account has been obtained from Corporation Bank, according to this statement, this account was opened on 08.03.2013 but you have claimed transactions in this account from 02.01.2013 which is impossible as no transactions can be made in a bank account before the date of its opening. Further, the statement submitted by you during assessment proceedings have also been shown to the bank Manager of Corporation Bank who have denied such statement from the bank. In view of above, it is clear that you have forged the documents and further mis-pleaded the facts before the undersigned during assessment proceedings, please show cause as to why action as per provisions of the Income Tax Act, 1961 and other laws of land may not be taken against you for forging the documents and further mis-pleading the facts during assessment proceedings.

ii) Further, as the source of credits in the bank account of M/s Acer Foods Pvt. Ltd. which has further invested these amounts with your company for purchase of shares, not proved genuine in the assessment proceedings. Therefore, you are asked to show cause as to why the amount invested by M/s Acer Foods Pvt. Ltd. may not be treated your undisclosed income as per provisions of section 68 of the Income Tax Act, 1961 and may not be added to your taxable income.

2. In view of above discussion, the concern in question is a paper company and not actually exists on ground. Thus, the source of share investment of Rs.7.00 Crores, remained unexplained. Accordingly, you are hereby asked to show cause as to why the unexplained investment in shares to the tune of Rs.7.00 Crores may not be treated your income from undisclosed sources and the same is proposed to be added in your taxable income. Reliance is placed on the following judgments of different Hon'ble High Courts wherein it has been held that if any amount is credited in the books of the assessee and during assessment proceedings, it has failed to prove the identity and creditworthiness of the person(s)/investors/loanee(s) and genuineness of the transactions, then the Assessing Officer may treat such investment/loan as assessee's undisclosed income and make addition of the same amount to the taxable income of the assessee:-

a) **VIJAY TEXTILES vs. COMMISSIONER OF INCOME TAX**
IT Ref. No. 197 of 1983, 18th April, 2002 (2002) 70 CCH 0302 Del HC (2002)
176 CTR 0035 : (2002) 122 TAXMAN 0726

b) **COMMISSIONER OF INCOME TAX vs. MIHIR KANTI HAZRA**

HIGH COURT OF CALCUTTA, GIRISH CHANDRA GUPTA & ARINDAM
SINHA, JJ. G.A.No.905, 904 of 2015 & ITAT 46 OF 2015 28th April, 2015
(2015) 93 CCH 0053 Kol HC

c) **ASHOK MAHINDRU & SONS (HUF) vs. COMMISSIONER OF INCOME
TAX**
HIGH COURT OF DELHI Madan B. Lokur & Manmohan Singh, JJ. IT Appeal
No. 596 of 2008 6th May, 2008 (2008) 76 CCH 0631 Del HC (2008) 9 DTR 0222
: (2008) 173 TAXMAN 0178

d) **COMMISSIONER OF INCOME TAX vs. NAVODAYA CASTLES PVT
LTD.**
HIGH COURT OF DELHI SANJIV KHANNA & V. KAMESWAR RAO, JJ
ITA No. 320/2012 25th August, 2014 (2014) 90 CCH 0039 Del HC (2014) 109
DTR 0109 (Del) : (2014) 367 ITR 0306

3. Your case is again fixed for hearing on **31.12.2015 at 11:00AM**. Please note that if you have to put forward any explanation with respect to the credit of above amounts in your books and identity, creditworthiness and genuineness of the said amount, furnish the same with supporting documentary evidences. As the amount of Rs.7.00 Crores has been credited in your books and onus to prove the source of this amount lies upon you. In case of failure, the amount of Rs.7.00 Crores credited in your books shall be treated as your undisclosed income and addition of the same amount shall be made accordingly as per proviso to section 68 made effective w.e.f. A.Y.2013-14 onwards.

Sd/-
(Gireesh Kumar Kohli)
Asstt. Commissioner of Income-tax
Circle, Karnal"

Both the above show cause notices have been issued to the assessee company, specifically asking it as to why the sum credited in its books of accounts at Rs.7 Crores from M/s Acer Foods Pvt. Ltd. with respect to purchase of shares may not be treated its undisclosed income for the year 2012-13 relevant to A.Y. 2013-14 as during assessment proceedings it has failed to prove the identity, creditworthiness and genuineness of the investor company. Reliance was also placed on the following judgments of Hon'ble High Courts wherein it was held that if an assessee company has failed to prove the identity, creditworthiness and genuineness of the investor company, the amount so credited in its books of accounts is to be treated as undisclosed income of the assessee company:-

- a) **VIJAY TEXTILES vs. COMMISSIONER OF INCOME TAX**
IT Ref. No. 197 of 1983, 18th April, 2002 (2002) 70 CCH 0302 Del HC (2002) 176 CTR 0035 : (2002) 122 TAXMAN 0726
- b) **COMMISSIONER OF INCOME TAX vs. MIHIR KANTI HAZRA**
HIGH COURT OF CALCUTTA, GIRISH CHANDRA GUPTA & ARINDAM SINHA, JJ. G.A.No.905, 904 of 2015 & ITAT 46 OF 2015 28th April, 2015 (2015) 93 CCH 0053 Kol HC
- c) **ASHOK MAHINDRU & SONS (HUF) vs. COMMISSIONER OF INCOME TAX**
HIGH COURT OF DELHI Madan B. Lokur & Manmohan Singh, JJ. IT Appeal No. 596 of 2008 6th May, 2008 (2008) 76 CCH 0631 Del HC (2008) 9 DTR 0222 : (2008) 173 TAXMAN 0178
- d) **COMMISSIONER OF INCOME TAX vs. NAVODAYA CASTLES PVT LTD.**
HIGH COURT OF DELHI SANJIV KHANNA & V. KAMESWAR RAO, JJ
ITA No. 320/2012 25th August, 2014 (2014) 90 CCH 0039 Del HC (2014) 109 DTR 0109 (Del) : (2014) 367 ITR 0306

In response to the above show cause letters, Sh. Tarun Batra, C.A. has attended the assessment proceedings and furnished written reply dated 31.12.2015 on behalf of the assessee company, contents of the same with respect to share investment with the assessee company are reproduced below:-

"We can produce both the directors to prove the genuineness of the company and for recording their statements.

In regard to bank statement of the shareholder M/s Acer Foods Private Limited, we would like to submit that the money in our bank cash credit account number 110002 is received from shareholder account number CBCA/01/000272. The copy of our bank statement is enclosed for your reference. The same may be verified from Corporation Bank and the entries in the bank account can also be verified as received from the shareholder. The allegation of forging the documents is also not justified. We have produced the bank statement as supplied by the shareholder. The important factor in the transaction is genuineness of the bank transaction not the authenticity of the bank statement paper. You can verify the bank transaction in our bank account and the same may be verified from the Corporation Bank. We are providing our original bank

statement for your verification. You are requested to please drop the show cause notice issued on this point."

While submitting the above reply, the assessee company has failed to produce the books of account as well as directors of the Investor company M/s Acer Foods Pvt. Ltd. However, the authorized representative of the assessee company has requested for some more time to produce the books of account as well as directors of the said investor company. Accordingly, on request of the Ld. Counsel of the assessee company, the case was adjourned for 04.01.2016 and again he was specifically asked to produce complete books of account of the said investor company alongwith its directors for recording their statement to prove the genuineness of the transactions made with the assessee company. But on the fixed date of hearing i.e. 04.01.2016, neither anybody has attended the proceedings nor any written reply received.

4. Further, in view of above observations and non-cooperative attitude of assessee company with respect to produce the books of account of the investor company who has invested a substantial amount of Rs.7 Crores with the assessee company to purchase its shares, to verify the genuineness of this transaction but in-spite of providing sufficient opportunities to the assessee company, it has failed to produce the complete books of account of the investor company as well as its directors. But before concluding the matter and to be fair and in the interest of justice, the assessee company vide this office letter/show cause notice dated 03.02.2016, reproduced below, has again been asked to produce the directors of the investor company alongwith complete books of account of the investor company, for recording the statement of directors and to verify the genuineness of transaction with respect to investment made by the investor company for purchase of shares of the assessee company:-

"F.No.ACIT/KNL/2015-16/

*Office of the
Asstt. Commissioner of Income tax,
Circle, Karnal
Dated : 03.02.2016*

To

M/s Ram Dev International Pvt. Ltd.,

Village Daha, Karnal

D/Sir(s),

Sub: Pending assessment proceedings u/s 143(2) in your case for the A.Y. 2013-14 – Show cause notice - Regarding-

In connection with the assessment proceedings pending before the undersigned for the A.Y.2013-14 and in continuation to this office letter dated 16.11.2015 and 23.12.2015, duly served upon you but on the fixed adjournments sought. Vide order sheet entry dated 31.12.2015, duly signed by your Ld. Counsel Sh. Tarun Batra, CA, it was asked to produce the directors of M/s Acer Foods (P) Ltd., the investor company, for recording of their statement. It was also asked to produce complete books of a/c of this concern to verify the genuineness of investment made with you in purchase of shares on premium and the next date of hearing was fixed for 4.1.2016. Your Ld. A.R. was clearly told that in case of failure to produce the directors as well as complete books of a/c of the investor company, adverse inference shall be drawn. On the fixed date of hearing i.e. 4.1.2016, neither anybody has attended the assessment proceedings nor any written request for further adjournment was received. In view of above discussion, sufficient opportunities have been afforded to the assessee company to produce the directors as well its books of accounts of the investor company but neither the directors nor the books of a/c of the investor company have been produced for verification and genuineness of transaction made with respect to purchase of shares of the assessee company by the above investor company. Accordingly, adverse inference is drawn and the following additions are hereby proposed on the following observations:-

- i) *As per reply dated 23.11.2015 submitted by you during the assessment proceedings for the year under assessment, you have submitted the copy of ITR and bank statement of M/s Acer Foods Pvt. Ltd. for the period 01.04.2012 to 31.03.2013 in respect of its bank account No.CBCA/01/000272. To verify the transaction in this account, copy of bank statement of this account has been obtained from Corporation Bank, according to this statement, this account was opened on 08.03.2013 but you have claimed transactions in this account from 02.01.2013 which is impossible as no transactions can be made in a bank account before the date of its opening. Further, the statement submitted by you during assessment proceedings have also been shown to the bank Manager of Corporation Bank who have denied such statement from the bank. In view of above, it is clear that you have forged the documents and further mis-pleaded the facts before the undersigned during assessment proceedings, please show caused*

as to why action as per provisions of the Income Tax Act, 1961 and other laws of land may not be taken against you for forging the documents and further mis-pleading the facts during assessment proceedings.

ii) Further, as the source of credits in the bank account of M/s Acer Foods Pvt. Ltd. which has further invested these amounts with your company for purchase of shares, not proved genuine in the assessment proceedings. Therefore, you are asked to show cause as to why the amount invested by M/s Acer Foods Pvt. Ltd. may not be treated your undisclosed income as per provisions of section 68 of the Income Tax Act, 1961 and may not be added to your taxable income.

2. *In view of above discussion, the concern in question is a paper company and not actually exists on ground. Thus, the source of share investment of Rs.7.00 Crores, remained unexplained. Accordingly, you are hereby asked to show cause as to why the unexplained investment in shares to the tune of Rs.7.00 Crores may not be treated your income from undisclosed sources and the same is proposed to be added in your taxable income. Reliance is placed on the following judgments of different Hon'ble High Courts wherein it has been held that if any amount is credited in the books of the assessee and during assessment proceedings, it has failed to prove the identity and creditworthiness of the person(s)/investors/loanee(s) and genuineness of the transactions, then the Assessing Officer may treat such investment/loan as assessee's undisclosed income and make addition of the same amount to the taxable income of the assessee:-*

- a) **VIJAY TEXTILES vs. COMMISSIONER OF INCOME TAX**
IT Ref. No. 197 of 1983, 18th April, 2002 (2002) 70 CCH 0302 Del HC (2002) 176 CTR 0035 : (2002) 122 TAXMAN 0726
- b) **COMMISSIONER OF INCOME TAX vs. MIHIR KANTI HAZRA**
HIGH COURT OF CALCUTTA, GIRISH CHANDRA GUPTA & ARINDAM SINHA, JJ. G.A.No.905, 904 of 2015 & ITAT 46 OF 2015 28th April, 2015 (2015) 93 CCH 0053 Kol HC
- c) **ASHOK MAHINDRU & SONS (HUF) vs. COMMISSIONER OF INCOME TAX**
HIGH COURT OF DELHI Madan B. Lokur & Manmohan Singh, JJ. IT Appeal No. 596 of 2008 6th May, 2008 (2008) 76 CCH 0631 Del HC (2008) 9 DTR 0222 : (2008) 173 TAXMAN 0178
- d) **COMMISSIONER OF INCOME TAX vs. NAVODAYA CASTLES PVT LTD.**
HIGH COURT OF DELHI SANJIV KHANNA & V. KAMESWAR RAO, JJ

*ITA No. 320/2012 25th August, 2014 (2014) 90 CCH 0039 Del HC (2014)
109 DTR 0109 (Del) : (2014) 367 ITR 0306*

3. *As per your reply dated 31.12.2015, you have submitted that you can produce both the directors of the investor company to prove the genuineness of the investor company and for recording their statement but on the next date of hearing i.e. 4.1.2016, you have failed to produce the directors of the investor company with their books of account. Therefore, in the light of the fact that you have failed to prove your contention, addition of Rs.7.00 crores as discussed above, is proposed. Your case is again fixed for hearing on 8.2.2016 at 11:00AM. Please note that if you have failed to put forward any explanation with respect to the creditworthiness of the above said investor company, its identity and genuineness of the said amount of Rs.7.00 Crores, credited in your books in the shape of share application money and share premium, shall be treated as your undisclosed income and addition of the same amount shall be made accordingly as per proviso to section 68 made effective w.e.f. A.Y.2013-14 onwards.*

*Sd/-
(Gireesh Kumar Kohli)
Asstt. Commissioner of Income-tax
Circle, Karnal"*

Vide the above referred show cause notice, the case of the assessee company was fixed for hearing for 08.02.2016 and duly served upon the assessee company but again the result was same and neither anybody has attended the assessment proceedings on behalf of the assessee company nor produce the directors as well as books of account of the investor company to verify the genuineness of the transaction as well as creditworthiness of the investor company.

On the basis of above observations as well as non-cooperative attitude of the assessee company, the credit in the books of account of the assessee company in the shape of share application money, is remained unexplained in view of the following observations:-

(i) Identity of the investor company is not proved as the summons issued to it and its authorized signatories could not be served neither by post nor through the Inspector of this office who was deputed for the specific purpose.

(ii) Although the summons received by the C.A. in his office on behalf of the authorized signatories of the investor company but the same remained un-complied, as the authorized signatories failed to comply with the summons in persons and further failed to provide the requisite information. Thus, the creditworthiness of the company remain in doubts.

(iii) The assessee company has rotated its own money through various channels. Firstly, the assessee company has transferred Rs.3.5 Crores and Rs.3.5 Crores totaling Rs.7 Crores on 19.03.2013 from its bank A/c No. CC110002, in the account of M/s Kali Ram Suresh Kumar A/c No.CBCA/01/000046. Secondly, M/s Kali Ram Suresh Kumar has transferred Rs.3.5 Crores and Rs.3.5 Crores totaling Rs.7 Crores on 19.03.2013, from its A/c No.CBCA/01/000046 to the account of M/s Acer Foods Pvt. Ltd. A/c No. CBCA/01/000272. Finally, M/s Acer Foods Pvt. Ltd. has transferred this amount of Rs.7 Crores on 19.03.2013, from its bank A/c No. CBCA/01/000272 in the account of M/s Ram Dev International to purchase shares of this company. In view of above it is clear that the assessee company rotated its own money using the bank accounts some other paper concern companies.

(iv) The investor company has forged its bank statement of Corporation Bank by showing entries in it before the date of opening of bank account no.CBCA/01/000272 to prove the source of investment with the assessee company and the said entries do not exist in the bank records of Corporation Bank, the scanned copies of this bank account as per provided company during assessment proceedings alongwith letter of the Ld. Counsel, to prove the genuineness of source of investment with the assessee company and copy of bank statement provided by the Corporation bank in response to summons u/s 131, are attached herewith and forms part of this order.

[A Premier Public Sector Bank]
MEHRA BUILDING, OPP. OLD TEHSIL, G.T. ROAD, BARNALI-132001(148)

CORPORATION BANK

2/2013	RAM KUMAR SURENDER K	TRF	50000.00	3655000.00 CR
2/2013	RAKAM SINGH TARUN KU	TRF	200000.00	3455000.00 CR
2/2013	CHHOKER TRADING CO	TRF	100000.00	3355000.00 CR
2/2013	CHHOKER TRADING CO	TRF	50000.00	3305000.00 CR
2/2013	DULI CHAND RAM NIWAS	TRF	50000.00	3255000.00 CR
2/2013	KAPTAN TRADING CO	TRF	50000.00	3205000.00 CR
2/2013	GHANGAS TRADING COMP	TRF	200000.00	3005000.00 CR
2/2013	KRISHNA ENTERPRISES	TRF	550000.00	2455000.00 CR
2013	NAULTHA TRADING COMP	TRF	5000.00	2450000.00 CR
2013	LEKHU RAM	CLG	20000.00	2430000.00 CR
2013	RAMESHWAR	CLG	50000.00	2380000.00 CR
2013	P K TRADERS	CLG	70000.00	2310000.00 CR
2013	GARG INTERNATIONAL	CLG	100000.00	2210000.00 CR
2013	LEKHU RAM	CLG	50000.00	2160000.00 CR
2013	LEKHU RAM	CLG	30000.00	2130000.00 CR
2013	BAIJNATH BHANDAR	CLG	10000.00	2120000.00 CR
2013	GULAB	CLG	50000.00	2070000.00 CR
2013	BASHESHAR	CLG	100000.00	1970000.00 CR
2013	KRISHAN	CLG	15000.00	1955000.00 CR
2013	DEEP	CLG	100000.00	1855000.00 CR
2013	INDERAJ	CLG	100000.00	1755000.00 CR
2013	SUNDER	CLG	50000.00	1705000.00 CR
2/2013	FOJI	CLG	50000.00	1655000.00 CR
2/2013	RISHI	CLG	50000.00	1605000.00 CR
2/2013	MANN	CLG	50000.00	1555000.00 CR
2/2013	DEVI	CLG	50000.00	1505000.00 CR
2/2013	SATPAL	CLG	50000.00	1455000.00 CR
2/2013	RAJ	CLG	10000.00	1445000.00 CR
2/2013	PRABUDAYAL	CLG	50000.00	1395000.00 CR
2/2013	LILU	CLG	50000.00	1345000.00 CR
2/2013	ISHAM	CLG	40000.00	1305000.00 CR
2/2013	BALBIR	CLG	50000.00	1255000.00 CR
2/2013	RAM	CLG	50000.00	1205000.00 CR
2/2013	SHASHI	CLG	45000.00	1160000.00 CR
2/2013	RAJ	CLG	13000.00	1147000.00 CR
2/2013	MUKESH	CLG	50000.00	1097000.00 CR
2/2013	DHAWAN	CLG	50000.00	1047000.00 CR
2/2013	KARTAR	CLG	7000.00	1040000.00 CR
2/2013	RAVI	CLG	10000.00	1030000.00 CR
2/2013	GHEFR	CLG	10000.00	1020000.00 CR
2/2013	S R	CLG	50000.00	1070000.00 CR
2/2013	MADAN	CLG	50000.00	1020000.00 CR



For Ram Dev International Ltd.



[A Premier Public Sector Bank]

MEHTA BUILDING, OPP. OLD TEHSIL, G.T.ROAD, KARNAL 132001(948)

CORPORATION BANK

4/2/2013	RAM KUMAR SURENDER K	TRF	50000.00	3655000.00 CR
6/2/2013	RAKAM SINGH TARUN KU	TRF	200000.00	3455000.00 CR
6/2/2013	CHHOKER TRADING CO	TRF	100000.00	3355000.00 CR
7/2/2013	CHHOKER TRADING CO	TRF	50000.00	3305000.00 CR
8/2/2013	DULI CHAND RAM NIWAS	TRF	50000.00	3255000.00 CR
9/2/2013	KAPTAN TRADING CO	TRF	50000.00	3205000.00 CR
9/2/2013	GHANGAS TRADING COMP	TRF	200000.00	3005000.00 CR
11/2/2013	KRISHNA ENTERPRISES	TRF	550000.00	2455000.00 CR
13/2/2013	NAULTHA TRADING COMP	TRF	5000.00	2450000.00 CR
14/2/2013	LEKHU RAM	CLG	20000.00	2430000.00 CR
14/2/2013	RAMESHWAR	CLG	50000.00	2380000.00 CR
15/2/2013	P K TRADERS	CLG	70000.00	2310000.00 CR
15/2/2013	GARG INTERNATIONAL	CLG	100000.00	2210000.00 CR
18/2/2013	LEKHU RAM	CLG	50000.00	2160000.00 CR
18/2/2013	LEKHU RAM	CLG	30000.00	2130000.00 CR
20/2/2013	BAIJNATH BHANDAR	CLG	10000.00	2120000.00 CR
21/2/2013	GULAB	CLG	50000.00	2070000.00 CR
22/2/2013	BASHESHAR	CLG	100000.00	1970000.00 CR
23/2/2013	KRISHAN	CLG	15000.00	1955000.00 CR
23/2/2013	DEEP	CLG	100000.00	1855000.00 CR
24/2/2013	INDERAJ	CLG	100000.00	1755000.00 CR
28/2/2013	SUNDER	CLG	50000.00	1705000.00 CR
1/3/2013	FOJI	CLG	50000.00	1655000.00 CR
1/3/2013	RISHI	CLG	50000.00	1605000.00 CR
1/3/2013	MANN	CLG	50000.00	1555000.00 CR
2/3/2013	DEVI	CLG	50000.00	1505000.00 CR
2/3/2013	SATPAL	CLG	50000.00	1455000.00 CR
4/3/2013	RAJ	CLG	10000.00	1445000.00 CR
5/3/2013	PRABUDAYAL	CLG	50000.00	1395000.00 CR
5/3/2013	LILU	CLG	50000.00	1345000.00 CR
5/3/2013	ISHAM	CLG	40000.00	1305000.00 CR
5/3/2013	BALBIR	CLG	50000.00	1255000.00 CR
6/3/2013	RAM	CLG	50000.00	1205000.00 CR
6/3/2013	SHASHI	CLG	45000.00	1160000.00 CR
6/3/2013	RAJ	CLG	13000.00	1147000.00 CR
6/3/2013	MUKESH	CLG	50000.00	1097000.00 CR
8/3/2013	DHAWAN	CLG	50000.00	1047000.00 CR
8/3/2013	KARTAR	CLG	7000.00	1040000.00 CR
6/3/2013	RAVI	CLG	10000.00	1030000.00 CR
9/3/2013	GHEFR	CLG	10000.00	1020000.00 CR
9/3/2013	S R	CLG	50000.00	970000.00 CR
9/3/2013	MADAN	CLG	50000.00	920000.00 CR

		CORPORATION BANK		
11/3/2013	M R	CLG	50000.00	870000.00 CR
11/3/2013	RAM	CLG	50000.00	820000.00 CR
11/3/2013	GURDITTA	CLG	50000.00	770000.00 CR
15/3/2013	BALA	CLG	9000.00	761000.00 CR
17/3/2013	WASWANT	CLG	100000.00	661000.00 CR
18/3/2013	GAJE	CLG	91000.00	570000.00 CR
18/3/2013	SURENDER	CLG	40000.00	530000.00 CR
18/3/2013	BAGICHA	CLG	50000.00	480000.00 CR
18/3/2013	DAYA	CLG	5000.00	475000.00 CR
18/3/2013	DAYA	CLG	5000.00	470000.00 CR
18/3/2013	ANAND	CLG	50000.00	420000.00 CR
18/3/2013	DARSHAN LAL	CLG	50000.00	370000.00 CR
18/3/2013	RAM	CLG	10000.00	360000.00 CR
14/3/2013	BALKRISHAN	CLG	100000.00	260000.00 CR
14/3/2013	RTGS- BHARAT RICE MILLS	TRF		1500000.00
24/3/2013	RTGS- BHARAT RICE MILLS	TRF		1760000.00 CR
19/3/2013	RTGS- GAJRI SHAKANR RICE	TRF		2000000.00
19/3/2013	RTGS- GAJRI SHAKANR RICE	TRF		3760000.00 CR
15/3/2013	RTGS- MODERN AGRO PROC	TRF		1500000.00
15/3/2013	RTGS- MODERN AGRO PROC	TRF		5260000.00 CR
15/3/2013	RTGS- RAJAN GOYAL & BRO	TRF		5000000.00
15/3/2013	RTGS- RAJAN GOYAL & BRO	TRF		10260000.00 CR
15/3/2013	RTGS- GOYAL RICE TRADERS	TRF		1400000.00
15/3/2013	RTGS- GOYAL RICE TRADERS	TRF		11660000.00 CR
15/3/2013	RTGS- V K TRADING CO.	TRF		5600000.00
15/3/2013	RTGS- V K TRADING CO.	TRF		17260000.00 CR
16/3/2013	RTGS- SURESH KUMAR & SQ	TRF		4800000.00
16/3/2013	RTGS- SURESH KUMAR & SQ	TRF		21760000.00 CR
16/3/2013	RTGS- RAVINDER KUMAR &	TRF		3500000.00
16/3/2013	RTGS- RAVINDER KUMAR &	TRF		25260000.00 CR
16/3/2013	RTGS- RAVINDER KUMAR &	TRF		6000000.00
16/3/2013	RTGS- RAVINDER KUMAR &	TRF		31260000.00 CR
16/3/2013	RTGS- GARG TRADING CO.	TRF		7500000.00
16/3/2013	RTGS- GARG TRADING CO.	TRF		38760000.00 CR
16/3/2013	RTGS- VARDHMAN RICE TR	TRF		8500000.00
16/3/2013	RTGS- VARDHMAN RICE TR	TRF		47260000.00 CR
16/3/2013	RTGS- RAJINDER KUMAR LAI	TRF		4000000.00
16/3/2013	RTGS- RAJINDER KUMAR LAI	TRF		51260000.00 CR
16/3/2013	RTGS- SANTOSHI RICE MILLS	TRF		6000000.00
16/3/2013	RTGS- SANTOSHI RICE MILLS	TRF		57260000.00 CR
16/3/2013	RTGS- RAJAN GOYAL & BRO	TRF		309750.00
16/3/2013	RTGS- RAJAN GOYAL & BRO	TRF		57569750.00 CR
16/3/2013	RTGS- GOEL BROTHERS	TRF		2500000.00
16/3/2013	RTGS- GOEL BROTHERS	TRF		160069750.00 CR
18/03/2013	RTGS- MODERN RICE MILLS	TRF		4515750.00
18/03/2013	RTGS- MODERN RICE MILLS	TRF		64585500.00 CR
18/03/2013	RTGS- GARG TRADING CO.	TRF		2461758.00
18/03/2013	RTGS- GARG TRADING CO.	TRF		67047258.00 CR
18/03/2013	RTGS- SURESH KUMAR & SQ	TRF		3685000.00
18/03/2013	RTGS- SURESH KUMAR & SQ	TRF		70732258.00 CR
18/3/2013	RTGS- RAM DEV RICE PRIVA	TRF	35000000.00	35792258.00 CR
18/3/2013	RTGS- RAM DEV RICE PRIVA	TRF	35000000.00	732258.00 CR
18/03/2013	Closing Balance			732258.00 CR
	Account Total		77380000.00	77972258.00
	Branch Total		77380000.00	77972258.00
	Grand Total		77380000.00	77972258.00

TARUN BATRA & CO
Chartered Accountant

1085, Sector - 6,
Urban Estate, Karnal
batratarun@gmail.com

November 23, 2015

The Asstt. Commissioner of Income Tax,
Circle, Karnal

Re : M/s Ram Dev International Limited
AY 2013-14
Your notice u/s 142(1) dated 08.05.2015
Sub : Submission of Information
PAN : AACCR-7125-A

Respected Sir,

This refers to above subject and your notice and questionnaire dated 08.05.2015; we are hereby submitting the following detail as required by your Honour:

1. Details of expenses debited to manufacturing / trading and P & L account along with comparative figure of these expenses from Last Year's along with their ledgers are enclosed.
2. As regarding unsecured loans taken during the year under consideration, we are hereby enclosing their ledgers, Confirmation, Pan Card copy and copy of their Income Tax return.
3. As regarding increase in capital during the year under consideration the company issued 350030 fresh equity shares @ Rs. 200 Per Share (i.e. face value Rs.10 per share and premium of Rs. 190 per share).

The details of shares allotted are:

Acer Foods Private Limited	350000 shares
Rajender Kumar	10 shares
Ajay Kumar Singla	10 shares
Amit Singla	10 shares
Total	<u>350030 shares</u>

Share Application Form, Self Attested PAN Card Copy, Confirmations, ITR's, Bank statements, ROC Forms along with Challans, Resolutions along with list of allotment, CA Certificate and calculation sheet of Book value per share is attached for your kind verification. Please find the above in order and oblige.

Thanking you
Yours faithfully,
For Ram Dev International Limited

Counsel

the tune of Rs.7 crores in the shape of share application money received from M/s Acer Foods Pvt. Ltd., which have been proved just a paper company and not found to be doing its business on the addresses given by it, as reported by the Postal Department, Notice Server of this office and Inspector of this office. Therefore, it is beyond doubts that the assessee company has credited Rs. 7 Crores in its books of accounts in the shape of share application money by rotating its own funds by using the name of M/s Acer Foods Pvt. Ltd.. Accordingly in view of above discussion and amended provisions of section 68, the money credited in the books of account of the assessee company to the tune of Rs. 7 Crores remained un-explained as the assessee company has failed to discharge its onus to prove the identity and creditworthiness of the person/company in whose names it has credited Rs.7 Crores in its books of account in the shape of share application money. Reliance is also placed on the following recent judicial pronouncements of the Hon'ble Delhi High Court which have been delivered in favour of the revenue on the issue of unexplained credit in the books of assessee:-

- i) CIT Vs N. Tarika Investment (P) Ltd., ITA No.2080/2010
- ii) CIT-II Vs. MAF Academy (P) Ltd., ITA No.341/2012
- iii) CIT Vs. Nova Promoters & Finlease (P) Ltd., ITA No.342/2011
- iv) CIT Vs. N.R. Portfolia (P) Ltd., ITA No.1018 & 1019/2011
- v) CIT Vs. Jansampark & Marketing (P) Ltd., ITA No.525/2014
- vi) CIT Vs. Focus Exports (P) Ltd., ITA No.218/2012
- vii) CIT Vs. Navodaya Castles Pvt. Ltd., ITA No.320/2012

Keeping in view the above observations, non-cooperative attitude of assessee company with respect to discharge its onus to prove the identity and creditworthiness of the investor company and failed to prove the transaction genuine with respect to credit of Rs.7 Crores in its books of account in the shape of share application money in respect of the investor company(Acer Foods Pvt. Ltd.) which has un-doubtedly proved a paper company and not found in existence during enquiries made by the department during assessment proceedings. Hence, Rs.7 Crores credited in the books of account of the assessee company in the shape of share application money, is treated as un-disclosed income of the assessee company and added back to the taxable income of the assessee company u/s 68 of the Income Tax Act, 1961. I am satisfied that the assessee company

has furnished inaccurate particulars of its income by crediting share application money of Rs.7 Crores from a paper company of which no existence was found during inquiries made by this office during assessment proceedings of the assessee company and the identity, creditworthiness and genuineness of transactions of the investor company remained in doubts, therefore, penalty proceedings u/s 271(1)(c) read with section 274 of the Income Tax Act, 1961, are initiated separately. (Addition Rs.7,00,00,000/-)

The case has been discussed with the Ld. Counsel of the assessee company and assessment is completed accordingly with the above observations. The income of the assessee company is computed as under:-

Income Returned	= Rs. 7,02,97,990/-
Add: i) as discussed in para 2 & 3 above	=Rs .7,00,00,000/-
Total taxable Income	=Rs. 14,02,97,990 /-

Assessed at income of Rs.14,02,97,990/-. Charge interest u/s 234B of the I.T. Act. Issue penalty notice u/s 274 read with section 271(1)(c) of the Income Tax Act, 1961 on the issue as discussed above. Issue requisite documents. "

[C] The Assessee filed appeal before the Ld. CIT(A). Vide impugned appellate order dated 16.01.2017, the Ld. CIT(A) dismissed the assessee's appeal. The relevant portion of the order dated 16.01.2017 of the Ld. CIT(A) is reproduced as under:

"

3.3 Findings :-

After going through the facts and submissions and various judicial pronouncements on the issue, these Grounds are being finalized after making the following observations :-

- a) On going through the assessment order, the AO has clearly highlighted that the share application money of Rs. 7 Crores received from M/s Acer Foods Pvt. Ltd. could not be verified to be genuine since the summons issued at the address provided was returned by the postal Department by stating that no such firm was in existence. In fact, there another residence cum shop premise run by Sh. Radhe Shyam who confirmed that no such firm explained company existed at this address. This report was obtained by the Inspector of the Department. Further, summons were issued to Sh. Anil Kumar, Director and at the given address the summons could also not be served on the Directors.
- b) The AO has further enquired from the Manager of Corporation Bank, through which the amount had been by the assessee and in Para 3 of the assessment order, the AO has highlighted that the copy of bank statement provided by the assessee did not appear to be genuine, since the entries shown in the bank were with effect from 08.03.2013 whereas the copy of the account provided by the assessee was from 02.01.2013. This clearly indicated that even the copy of the statement was not authentic.

- c) The AO has provided several show cause notices on 16.12.2015 and 23.12.2015, where with reference to various judicial pronouncements, the assessee has been asked to explain the identity, creditworthiness and genuineness of the transactions relating to share application money of Rs. 7 Crores received by the assessee during the year. Despite these opportunities, the assessee was not in a position to discharge its onus with regard to these unexplained credit entries.
- d) The AO has therefore come to the conclusion that based on facts discussed in detail, there was adequate justification to add Rs. 7 Crores in the hands of the assessee in view of the following judicial pronouncements
- i) Noa Promoters & Finleas Pvt. Ltd. ITA No. 342/2011 (Delhi).
 - ii) N.R. Portfolio ITA No. 1018 & 1019/ 2011 (Delhi).
 - iii) Focus Promoters Pvt. Ltd. ITA No. 218/2012 (Delhi).
- And some others as discussed in the assessment order.
- e) The AR of the appellant has primarily emphasized that since all the supporting documents relating to PAN, bank details, copy of income tax returns filed, details of allotment of shares in ROC etc. have been filed, the appellant has discharged its onus of establishing the identity, genuineness and credit worthiness of the transaction of Rs. 7 Crores. However, the AR of the appellant has not been able to justified that despite summons u/s 131 and enquiry by the Inspector of the Department. M/s Acer Foods Ltd. or its Directors could not be located at the designated address.

- f) The AR of the appellant further submitted that Sh. Suresh Kumar is a Director of M/s Acer Foods Pvt. Ltd. and also Prop. Of M/s Kali Ram's Suresh Kumar who is a major supplier of paddy to the appellant. The AR submitted that this transaction could not be doubted by the AO and the conclusion of the AO that this amount was assessee's own fund routed through M/s Acer Foods is also not justified. The AR further submitted that the assessment of the share applicant had been completed u/s 143(3) of the I.T. Act and expenses have also been disallowed u/s 14A w.r.t the investment of Rs. 7 crores in the shares of the appellant.
- e) After carefully considering the arguments of the AR, it is clear that there was no material or argument brought on record by the AR of the appellant to controvert findings of the AO that the genuineness and creditworthiness of M/s Acer Foods from whom Rs. 7 crores had been taken as share application money, had been discharged by the assessee. The fact that there was no such company in existence at the given address and even the Directors could not be located despite efforts by the AO clearly established the facts that M/s Acer Foods Pvt. Ltd. is only in the nature of a shell company.

Further, on going through the details submitted, it could not be ascertained as to what was the nature of activity conducted by M/s Acer Foods Pvt. Ltd. Copy of the income tax returns of Acer Foods Pvt. Ltd. as provided by the AR of the appellant on Page 33 of the paper book is reproduced as under :-

(33)

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT
 (Where the date of the Return of Income is Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-5 (SUGAM), ITR-6, ITR-7 transmitted electronically with digital signature)
DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

Assessment Year
2013-14

Name ACEF FOODS PRIVATE LIMITED		PAN AALCA3572D	
Flat/Dir./Block No. A-1/1/6	Name Of Premises/Building/Village		Form No. which has been electronically transmitted ITE-6
House/Street/Past Office SECTOR - 17	Area/Locality ROHINI		
Town/City/District NEW DELHI	State DELHI	Pin 110085	Status Pvt Company
Designation of AO (Ward/Office) WARD 30/31		Original or Revised ORIGINAL	
E-filing Acknowledgement Number 556177113.0315		Date (DD/MM/YYYY) 31-03-2015	
1 Gross total income		1	15544
2 Deductions under Chapter-VIA		2	0
3 Total Income		3	15544
3a Current Year loss, if any		3a	0
4 Net tax payable		4	4882
5 Interest payable		5	003
6 Total tax and interest payable		6	5065
7 Taxes Paid	a Advance Tax	7a	0
	b TDS	7b	0
	c TCS	7c	0
	d Self Assessment Tax	7d	5540
	e Total Taxes Paid (7a+7b+7c+7d)	7e	5540
8 Tax Payable (6-7e)		8	0
9 Refund (7e-6)		9	2870

This return has been digitally signed by **ANIL KUMAR** In the capacity of **DIRECTOR** having PAN **BYT10K157614** from IP Address **117.241.197.154** on **31-03-2015** at **KARNAL**
 The Sign & Issue: **101C1240355793000CN=5060805 of the CA for KARNAL on 2 2014. CA:Sub CA, O:RDY Technology Limited, C-IN**

(Handwritten signature)

On going through the copy of the income tax acknowledgement, it is clear that the assessee had a gross total income of only Rs. 15,544/-. No

further details regarding assets or nature of business activity was provided by the appellant. This information regarding the income tax return for A.Y. 213-14 also establishes clearly that the party did not have the creditworthiness to purchase shares worth Rs. 7 crores from the appellant company and that also at a premium of Rs. 190/- per share without any justification.

Keeping in view the various details and facts analyzed above, I have no hesitation in upholding the addition of Rs. 7 crores as made by the AO. Accordingly, These Grounds of the appellant are **dismissed**.

[D] This present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 16.01.2017 of the Ld. CIT(A). At the time of hearing, Revenue was represented by Shri Surender Pal, the learned Senior Departmental Representative ("Ld. Sr. DR", for short). However, none was present from the assessee's side. In the absence of any representation from assessee's side, at the time of hearing before us, we heard the Ld. Sr. DR; who relied upon the order dated 08.03.2016 of the Assessing Officer and the aforesaid impugned order dated 16.01.2017 of the Ld. CIT(A). After perusal of the materials on record, including the order of the AO and the aforesaid impugned order dated 16.01.2017 of the Ld. CIT(A), we find that the Ld. CIT(A) has passed speaking order on merits. Relevant portion of the impugned order of the Ld. CIT(A) has already been reproduced in foregoing paragraph **[C]** of this order. We find that the Ld. CIT(A) has given detailed reasons for his decision on merits in the aforesaid impugned appellate order dated 16.01.2017 of Ld. CIT(A). During appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short) no material has been brought for our consideration to persuade us to take a view different from the view taken by the Ld. CIT(A) in the impugned order on merit. After hearing the Ld. Sr. DR and after perusal of

materials on record, and further, in view of the foregoing discussion, we decline to interfere with the aforesaid impugned appellate order dated 16.01.2017 of Ld. CIT(A), and accordingly, this appeal is dismissed.

[E] Before we part; we explicitly clarify that the assessee will be at liberty to approach ITAT for restoration of the appeal in accordance with Proviso to Rule 24 of Income Tax (Appellate Tribunal), Rules, 1963. If the assessee does approach ITAT for restoration of the appeals in ITAT, the matter will be considered in accordance with law having regard to the facts and circumstances.

[F] In the result, appeal filed by Assessee is dismissed.

Order pronounced in the open court on 16/12/2019

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 16/12/2019

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI