

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No.283/DEL/2015 & 284/DEL/2015
Assessment Years: 2011-12 & 2012-2013

Dy. Commissioner of Income Tax, Central Circle-31, New Delhi.	vs.	M/s. Jaguar Buildcon Pvt. Ltd., 30, Community Centre, Saket, New Delhi.
TAN/PAN: AACCCJ2199J (Appellant)		(Respondent)

Appellant by:	Ms. Sunita Singh, CIT-DR.		
Respondent by:	Shri Rakesh Joshi, CA		
Date of hearing:	23	06	2021
Date of pronouncement:	31	08	2021

ORDER

PER AMIT SHUKLA, JM:

The aforesaid appeals have been filed by the Revenue against separate impugned orders of even date, 29.9.2014, passed by Ld. CIT (Appeals)-XXXIII, New Delhi for the quantum of assessment passed u/s. 153A for the Assessment Year 2012-13. Since common issues are involved in both the appeals arising out of almost identical set of facts, therefore, same were heard together and are being disposed of by way of this consolidated order. In the Assessment Year 2011-12, the Revenue has challenged the deletion of addition of Rs.103,80,00,000/- made u/s. 68 on account of unexplained share capital and premium; and in the Assessment Year

2012-13, the Revenue has challenged the deletion of addition of Rs.23 crore made u/s. 68 on account of unexplained share capital and premium.

2. The brief facts and background of the case are that the assessee is engaged in the business of share trading, future option, commodities, consultancy services, and hotel industry. The assessee-company is under construction of hotels at Mumbai at Senapati Bapat Marg, Mahalaxmi Mumbai. For the Assessment Year 2011-12, the assessee had filed its return of income u/s. 139(1) on 26.09.2011 declaring income of Rs.53,21,14,645/- which were duly assessed u/s. 143(1) vide order dated 27.1.2012. On 22.11.2011, the Investigation Wing of the Income Tax Department Conducted Search & Seizure operations u/s 132 of the Income Tax Act, 1961 on different concerns and persons of Gurinder Jit Singh Group. In the said search operations, the case of the appellant company was also covered under search u/s. 132 of the Act. The jurisdiction over the case before the search action was with assessing officer in the charge of CIT, Delhi-II, New Delhi. Consequent upon search operations, the case of the appellant was transferred and centralized with the Dy. CIT, Central Circle-23, New Delhi on 03.12.2012 by the CIT, Delhi-II, New Delhi u/s 127 of the Act. The Dy. CIT, Central Circle-23, New Delhi initiated assessment proceedings u/s 153A in respect of 6 assessment years including the assessment year under consideration. Accordingly, the return of income in response to notice u/s. 153A was filed by the

assessee with the ACIT, Circle-23, New Delhi on 17.07.2013 declaring income of Rs.53,21,14,645/-. Thereafter, the CIT (Central)-111, New Delhi assigned this case to the ACIT, Central Circle-19, New Delhi vide his order u/s 127 of the Act dated 12.11.2013. The assessments in the case of the appellant company have been finally completed by the ACIT, Central Circle-19, New Delhi.

3. The Assessing Officer on perusal of the balance-sheet as on 31.3.2011 noticed that assessee's subscribed share capital has increased to Rs.9,69,00,000/-. During the year under consideration, the assessee has issued Rs.44,90,000/- equity shares at face value of Rs.10/- and has further issued Rs. 51,90,000/- 1% Cumulative Redeemable Preference shares at face value of Rs.10/- per share and further premium of Rs.190/- per share. Thus, the share capital was raised by Rs.108,29,00,000/- which was received from various parties. The details of which has been incorporated in the assessment order, which for the sake of ready reference is reproduced hereunder:-

	Name of Investor	No of Share Allotted	Face Value	Premium	Total
1	Godsend Bio Tech Ltd.	20,95,000	2,09,50,000	39,80,50,000	41,90,00,000
2	TVH Trading Co. Pvt. Ltd.	13,20,000	1,32,00,000	25,08,00,000	26,40,00,000
3	Topgrain Mercantile Pvt. Ltd.	17,75,000	1,77,50,000	33,72,50,000	35,50,00,000
4	Ganesh Buildcon Pvt. Ltd.	17,96,000	1,79,60,000		1,79,60,000

5	Feelgood Creations Pvt. Ltd.	13,47,000	1,34,70,000		1,34,70,000
6	Beyond Management Pvt	13,47,000	1,34,70,000		1,34,70,000
	Total	96,80,000	9,68,00,000	98,61,00,000	108,29,00,00

4. The Ld. Assessing Officer observed that company was incorporated only on 26.8.2009 and had shown receipt of premium in the month of September/October, 2010 and all the share applicants, i.e., investors are private limited companies out of which two were Kolkata based companies. As per the assessment order, notices u/s. 133(6) was issued to three companies from whom the receipt of share premium was shown. However, as per him no reply was received on the date specified by him. The assessee-company was also required to submit all the requisite details like copies of their audited reports, audited financial accounts, i.e., balance sheet, profit and loss account and source of investment made in the assessee-company, details of business activities and reason for investing in assessee's company with huge premium along with copy of bank account. In response, the assessee had submitted all the requisite details as asked by him along with return of income of the parties. The Assessing Officer noticed following details of investments shown by these companies as on 31.3.2010 and 31.3.2011.

<i>Name of Company</i>	<i>Investment shown 31/03/2010</i>	<i>Investment shown 31/03/2011</i>	<i>Difference</i>
<i>M/s. TVH Trading Company (P) Ltd.</i>	<i>48,52,00,000</i>	<i>48,52,02,000</i>	<i>2000</i>
<i>M/s. Topgrain Mercantile P. Ltd.</i>	<i>47,04,00,000</i>	<i>47,04,09,000</i>	<i>900</i>

<i>M/s. Godsend Biotech Limited</i>	41,88,50,000	46,15,22,000	4,26,72,000
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5. Thus, Assessing Officer deduced that these companies did not have substantial increase in the investment as compared to the preceding year and also it is not verifiable whether these companies have made investment in the assessee-company. He further noticed that in the case of M/s. Topgrain Mercantile (P) Ltd., the payment have not been made by the said companies but it has been received by the assessee from the bank account of M/s. Bridge & Building Construction Co. Pvt. Ltd. He also sent notices u/s. 133(6) to banks of the investor companies to ascertain the source of fund given to the assessee by these three private limited companies. From the perusal of the bank statements, he observed that the bank statements reflect that these companies have been receiving funds from various private limited companies which are again transferred to other companies and routing of trail of 3/4 layers, the funds have ultimately reached to the assessee. In response to the show cause notice, the assessee filed his detailed reply, the relevant part of which has been incorporated in the assessment order in paragraph 4.6. The Assessing Officer in his order has noted that the assessee attended the proceedings with Shri Govind Agarwal, ex-director of M/s. TVH Trading Co. Pvt. Ltd., M/s. Topgrain Mercantile P. Ltd. for personal examination, whose statement was also recorded. However, the Assessing Officer held that he did not had letter of the authority and he was

asked to give the details of shareholding pattern and source of investment made by these two companies. In response to which, he sought time for three weeks to submit the details as the details were maintained in Kolkata and Mumbai office for which he said he needs time to collect the same. In the case of M/s. Godsend Biotech Ltd, Advocate, Mr. Pravin Nail representing the said company had appeared who too requested for more time for filing the documents asked for. Thereafter, he has given his observations and findings regarding all three companies. In case of one of the company, M/s. Bridge & Building Construction Co. P. Ltd. who has made the payment on behalf of M/s. Topgrain Mercantile Private Limited he observed that it is not well substantiated and came to the conclusion that the transaction of share capital and share premium is not genuine.

6. The Assessing Officer's observations and his allegation in the assessment order and assessee's counter on such observation shall be discussed in detail in succeeding paragraph. Finally, the Assessing Officer held that the amount of Rs.103,80,00,000/- appearing in the books of the assessee in the form of share capital and premium against M/s. Topgrain Mercantile Pvt. Ltd., M/s. Godsend Bio Tech and M/s. TVH Trading Pvt. Ltd. is an unexplained credit. Accordingly, he made the addition u/s.68 of the Income Tax Act.

7. Before the CIT(A), the assessee has filed detailed submission and submitted that all the requisite details and information along with supporting documents were filed before the Assessing Officer. In sums and substance, the assessee's arguments have been incorporated by the CIT (A) in the following manner:-

i) During the assessment proceedings, the appellant has filed following documents to Assessing Officer establish the genuineness of share transactions and identity & creditworthiness of these impugned share holders:

- a) Photocopy of share application forms, duly filled in, as submitted by the investing companies to the assessee company, while applying for shares.*
- b) Certified true copy of Board resolutions passed by Board of Directors of the respective companies in respect of investment to be made in the shares of the assessee company.*
- c) Photocopies of PAN Cards of all the investing companies as issued by the Income Tax Department, Govt. of India.*
- d) Audit reports alongwith photocopies of final accounts i.e. Balance sheets, Profit & Loss accounts, complete with the schedules of the investing companies.*
- e) Photocopies of Memorandum and Articles of Association of the said companies, with certificates of incorporation.*
- f) Bank account statements of the investing companies for the relevant period.*
- g) Allotment Advice issued by the assessee company, giving details of the allotment of shares against the share application money received, indicating Folio No. Certificate*

Number, number of shares allotted, complete with distinctive numbers and amount received against such share allocation.

h) Photocopy of acknowledgment portion of Income tax returns (ITRs) alongwith statement of income of the investing companies.

i) Fresh addresses (wherever applicable) of the investing companies for facilitating direct correspondence with them on independent level by the Department.

j) Copies of Equity Share Certificates issued to the investors.

k) Copy of return of allotments (of shares) filed by the assessee company with the ROC in Form 2 (Pursuant to section 75(1) of the Companies Act, 1956).

l) Copies of MCA21: Company Master Details and company/LLP Master Data of all the investing companies as obtained from the site of Ministry of Company Affairs.

Ld. AR argued that the current address of these share holders were provided to the assessing officer as reproduced by the assessing officer in para (3) of the assessment order in response to the assessing officers requirement during assessment proceedings. By producing all the details the appellant has discharged its onus cast upon it u/s 68 of I.T. Act, 1961.

ii) As per the assessment order, notice u/s 133(6) was issued to these investing companies. The only observation of the assessing officer is that these investing companies have not submitted these information in time. it means the required information were submitted in response to notice "u/s 133(6) by the investing companies. Therefore, even after independent verification, there was no adverse finding against the documentary evidence even then, Ld. assessing asked the

appellant to produce the directors of these share holder companies. The directors and these companies are stationed at Kolkata & Mumbai. Therefore, the directors of these share holder companies could not be produced. The appellant has tried its best to produce the authorized representative of few companies as accepted by the Ld. assessing officer also. The Ld. assessing officer has not issued any summons / commissions to these directors, though specifically requested by the appellant. Further, the assessing officer has requested to produce the directors with adequate evidences. The assessing officer while giving the opportunity to produce the directors has not mentioned what documents are required by him to establish the transactions in addition to what was already submitted.

iii) On the enquiry made by Kolkata investigation directorate about none existence of M/s BBCCPL Ld. AR has made written submission as under:-

a) In para 5.1 at page 7 of the order, the Assessing Officer has referred to his efforts through Investigation Wing, Kolkata to get the business activities of M/s BBCCPL, Kolkata verified. He has also referred to the Wing's report to the effect the said concern does not exist at the given address. From this report, Ld. AO presumed that M/s BBCCPL was "a mere paper entity".

It is submitted that the said BBCCPL, Kolkata is the short name of M/s Bridge & Building Construction Company Pvt. Ltd., which is actually one of the 7 companies, which paid a part of share application money to the appellant company on behalf of and at the direction of M/s Topgrain Mercantile Private Ltd. (i.e. the actual investing company).

As per the information available in our records, the said company exists at Kolkata at the address 90-B, Shyama Prasad Mukherjee Road, Kolkata-700 026. The investing company M/s Topgrain Mercantile Private Ltd. has furnished to the AO, a certified copy of ledger account of the said party. Perusal of the said ledger account shows that the investing company had sold to it shares, against which M/s Bridge & Building Construction Company Pvt. Ltd. transferred the sale consideration thereof amounting to ' 57.30 crores to the appellant company through RTGS at the direction of M/s Topgrain Mercantile Private Ltd. As an evidence of the said RTGS transfer, the investing company has also sent to the AO a copy of bank account statement of A/c No. 253010200002103 of M/s BBCCPL, Kolkata in Axis Bank. The said bank account statement shows that Customer No. of M/s BBCCPL, Kolkata is 2530026 73 and its address is 90-B, Shyama Prasad Mukherjee Road, Kolkata, West Bengal-700026. The investing company has also filed with the AO, a copy of OD limit account No. 01052320005783 of M/s BBCCPL, Kolkata in some other bank (name is not legible in the photocopy), its branch being at U.N. Brahamchari Street, Conslantta Building II, Dr. U.N. Brahamchari Street, Kolkata-700017(Phone No. 2210 3838). This OD limit account statement shows that Customer ID of M/s Bridge & Building Construction Company Pvt. Ltd. is 33816018 and that its address is 90-B, Shyama Prasad Mukherjee Road, Kolkata, West Bengal-700026.

The above evidence proves in adequate measure that M/s BBCCPL, Kolkata does exist and is very much a genuine entity. It further proves that there is nothing abnormal about the impugned transaction between the investing company and M/s

BBCCPL, Kolkata. It is not known as to at which defunct/discarded/old address of the said party, the Investigation Wing people were searching for the said BBCCPL, Kolkata, which was existing well before their eyes!

In view of the above facts, it is submitted that there is no substance in the assertion of the AO that M/s Bridge & Building Construction Company Pvt. Ltd. is a non-existent company. Above all, the AO is not legally correct in taking cognizance of any report of the Investigation Wing without confronting the same to the assessee, and without seeking its explanation thereon. This report was never confronted to us. Deciding any issue on the basis of an un-confronted report/evidence would be against all canons of natural justice.

iv) Ld. AR argued that the assessing officer has wrongly relied on the bank enquiry to prove that the alleged share holder has received fund from various company which in turn received money from layers of concerns and concluded on that basis that all these layers of transfer of fund that these accommodation entries in nature & not a genuine transaction. Ld. AR argued that all the transactions were through banking channels, i.e. through cheques. Therefore, the fund flow is precisely traceable. The assessing officer nowhere has found that there is cash deposit in bank accounts in any alleged layer of transfer of fund. If there would have been cash deposit in any bank accounts in any layer that could have suspected the plough back of unaccounted money of the appellant. The appellant in his reply in response to letter of the assessing officer dt. 10.03.2014 has made submission that the entire transaction are through banking channel in form of cheques. In absence of such cash deposit in any bank account in any layer bank enquiry proves

that all the transaction are through traceable bank accounts of identified & genuine concerns. All these concerns are taxable identity. There is no statement or evidence that even these concerns are bogus or fictitious which explains the source of the capital introduced in multiple back layers. Therefore, these bank enquiries do not in any way go against the appellant & the conclusion on the basis of these bank enquiries are merely hypothesis of the assessing officer that these concerns are used for accommodation entries.

v) Ld. assessing officer has held that these investment companies accounts have very meager profit accounts & has concluded on this basis that the such meager income cannot explain such share investment in appellant companies. Ld. AR argued that the share investment in appellant company is duly disclosed in the balance sheet of share investment companies, which explains the source of these investments. The assessing officer himself has made bank enquiry of these investment companies. The source of source upto fourth layer has been found through banking channel & all those entities are disclosing these entries in the balance sheet filed with income tax department. Further, Ld. AR argued that it is normal practice in finance business that it borrows fund & advances to others. Therefore, necessarily the investment is not out of income declared but also from its borrowed fund or its own fund. Declaring low profit cannot be the basis for concluding that there entries in the balance sheet filed with the Income Tax Department re fictitious. Hence Ld.AR argued that the entire bank enquiries & analysis of income by the assessing officer is no way proves that these are fictitious entries.

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7. The Ld. CIT (A) after considering the facts and material brought on record and observed that, the main ground taken by the Assessing Officer for making the addition is in the following manner:

a) There is hardly any change in investment in the balance sheet of M/s TVH Trading Co. Pvt. Ltd., Topgrain Mercantile Pvt. Ltd. & Godsend Bio Tech Ltd. as on 31.03.2010 & 31.03.2011, Whereas, during the financial year 2010-11, there companies have made major investment in appellant company.

b) The assessing officer has relied on the enquiry conducted by the investigation wing of Kolkata that M/s BBCCPL is not any existing company, which has paid the share capital & share premium on behalf of M/s. Topgarain Mercantile Pvt. Ltd.

c) Therefore, concluded that these share capital introduced are nothing but. In support of this contention Ld. assessing officer has further tabulated the income as per profit & loss accounts of these share holders which are very meager compared to the share investment made.

d) The appellant has failed to produce the directors of these share holders company and applied judicial pronouncements of various courts including the case of N.R. Portfolio Pvt. Ltd. cited supra & other decision where it has been held that the assessee being a Pvt. Ltd. company & share are issued to known person & not through public offer, the controlling person of such share holders are within the arm's length of the assessee and the assessee has to produce such controlling person to discharge the onus u/s 68 of I.T. Act.

8. Thereafter, he has summarized the arguments of the assessee in the following manner:

a) *The appellant has submitted during the assessment proceedings complete S documentary evidences inform of share application, Audit report of these shareholders, photocopy of share application form, Board's resolution to investment in appellant's company, copy of income tax return, copy of return of allotment of shares, copy of bank statement etc. to establish the genuineness of share transaction.*

b) *During the assessment proceedings, the appellant has filed current address of all these shareholder companies. Ld. assessing officer has stated that notice u/s 133(6) issued. Ld.AO has only remarked that the reply was not received intime. It means, that the investors have replied in response to notice u/s 133(6)*

c) *Ld. AO has referred enquiry conducted by the investigation wing about the none existence of the company M/s BBCCPL, Kolkata Ld. AR argued that the current addresses of M/s BBCCPL (Bridge & Building Construction Co. Pvt. Ltd) was 90B, Shyama Prasad Mukherjee Road, Kolkata as mentioned in bank account No. 253010200002103 in Axis Bank. This address was communicated to the assessing officer. This proves that the company existed at the said address. During the assessment proceeding the contents of report was not confronted to the appellant.*

d) *Ld. AR argued that enquiry of bank account of investing companies & their trail of fund relied by the assessing officer in no way proves that the capital introduced by the share holder companies are bogus. In the entire analysis of fund transfer the*

assessing officer has not found any cash deposit in any bank accounts. Therefore, there is no possibility of introducing appellant's own cash to convert into share capital.

The Ld. assessing officer's reliance that these investing companies have declared very meager profit also in no way prove that the transaction are in genuine as all the fund in these investing companies are properly reflected in the balance sheet filed with Income Tax Department. It is normal practice in finance business to borrow the fund & invests the same two other.

e) Ld. AR argued that the appellant has discharged its onus by submitting all documentary any evidences in support of genuineness of transaction & identity of shareholders & their capacity to invest. The appellant has provided current address of the investing companies and all these investing companies have submitted all the evidences required by the assessing officer independently in response to notice u/s 133(6) in the office of the assessing officer. The Ld. assessing officer has made no enquiry to disprove the evidence filed independently by these companies at the new addresses. Therefore, the assessing officer has not found any error in the submission made by the appellant. In that case, the onus to disprove the details filed by the appellant lied with the assessing officer. In that circumstance, onus was not on the assessee to produce the director of these share applicant companies. The directors & the investing companies are stationed outside Delhi namely in Kolkata & Mumbai. The assessing officer has not issued such commission to enforce attendance. Under these circumstances reliance of the assessing officer to discharge onus to produce directors u/s 68 as per various judgment such as N.R. Portfolio Pvt. Ltd. cited supra &

other decision are misplaced. In those cases, the assessing officer has given adverse finding on the initial evidences produced by the appellant, then onus shifted back to the assessee.

f) Ld AR argued that total investing shown in the balance sheet in alleged share holder companies as on 31.03.2010 in alleged share holder companies as on 31.03.2011 are in same level as claimed by the assessing officer in the assessment order does not affect the genuineness of investment in appellant company as these share holder companies might have changed its investment from one form to another. This analysis of is of no consequence, till the balance sheet of the share holder companies contain investment in appellant companies. I agree with these arguments of Ld. AR.

Ld. AR relied on various judicial pronouncements such as stellar finance & other decision cited supra in support of his argument that the appellant has discharged its onus cast upon it u/s.68.

9. After considering the submissions and explanation filed by the assessee, he deleted the additions on the ground that during the course of assessment proceedings, the assessee had submitted all the evidences to prove the identity, genuineness and creditworthiness of three parties and regarding other observations of the AO his findings are as under:

“The assessing officer has issued notices u/s 133(6) to these share holder companies and apparently received the reply on the

assessing officer as he has only said that the reply was not received in time. It means the reply might have been received late. At least there is not finding that the reply was not received. Ld. assessing officer has relied on the report of the report of the investigation wing Kolkata on the finding that M/s. BBCCPL is not existing. The appellant was not given an opportunity to rebut the same. The investigation wing report is not part of the assessment order. It is not clear what evidence or statements were gathered by the investigation wing, Kolkata. In absence of such details, I do not think that this comments prove the non existence of M/s. BBCCPL. Secondly, in appellant company, the investor is M/s. Topgrain Mercantile Pvt. Ltd. The payment is made by M/s. BBCCPL to the appellant company on behalf of M/s. Topgrain Mercantile Pvt. Ltd. on account of certain sale of investment in M/s Topgrain Mercantile Pvt. Ltd. The appellant has given all documentary evidences in support of genuineness of M/s. Topgrain Mercantile Pvt. Ltd.

Reliance on the bank enquiry & cash trail by the assessing officer that these share capital introduced is an accommodation entry is also not convincing as in the said enquiry, no where cash deposit in any bank account has been found apparently in any layer of the fund circulation. All the transfer of fund is through bank transfer from separate entities i.e. identifiable entities & no person has been examined to get any adverse inference. In that case transfer of fund at various layers does not prove that these transfer of fund amounts to accommodation entries. Similarly, declaration of small profit by the share holding companies relied by the Assessing Officer to prove non genuineness of the transaction is also not convincing as these

share investments are reflected in the balance sheet which explains the source, & these balance sheet have been filed with the Income Tax Department.

The appellant has filed all relevant documentary evidence in support genuineness of share capital and creditworthiness of share holders. The assessing officer as per his version has issued notice u/s 133(6) to investor. The assessing officer only says that reply is not received in time. There is no adverse finding even after the issuance of notice u/s 133(6) i.e. either these notices are returned back or not replied. Therefore, without disproving these evidences filed by appellant onus will not shift back to the appellant. Under these circumstances, even the decision of Hon'able High Court of Delhi in the case of N.R. Portfolio Pvt. Ltd., will not help the case, as in that case, the assessing officer has made enquiry to disprove apparently the evidences filed by the assessee, then the decision was given that the onus was shifted back on the assessee to produce directors.

In present facts & circumstances of the case, the decision relied by the Ld. AR namely the decision of hon'ble Supreme Court in the case of Steller Finance Ltd. and decision of jurisdictional High Court in the case of Nipuan Auto (P) Ltd cited Supra appears to be more applicable that the appellant has discharged onus cast upon it u/s 68 to prove the share capital. Considering entire facts & circumstances of the case, in my view the appellant has discharged its onus to prove the share capital introduced. Accordingly, I delete the addition made u/s 68 in respect of share capital added for both the assessment years. These grounds of appeal are allowed.”

10. We have heard rival submissions made by both the parties as well as relevant material placed on record and material referred to before us at the time of hearing. The Ld. CIT-DR referred to the various observations made by the Assessing Officer and pointed out that he has not only conducted detailed enquiry but also has countered each and every explanation of the assessee and after examining the persons called upon by him has reached to the conclusion that assessee's explanation could not be substantiated having regard to the nature and source of the credit appearing in the account of the assessee. In his written submission also, he has reiterated the observations made by the AO and the enquiries conducted by him.

11. On the other hand, learned counsel for the assessee submitted that the assessee- company has filed various evidences to prove the identity, genuineness and creditworthiness of the investors/ subscribers to the share capital which were as under:

- a) Photocopy of share application forms, duly filled in, as submitted by the investing companies to the assessee company, while applying for shares.
- b) Certified true copy of Board resolutions passed by Board of Directors of the respective companies in respect of investment to be made in the shares of the assessee company.
- c) Photocopies of PAN Cards of all the investing companies as issued by the Income Tax Department, Govt. of India.

- d) Audit reports alongwith photocopies of final accounts i.e. Balance sheets, Profit & Loss accounts, complete with the schedules of the investing companies.
- e) Photocopies of Memorandum and Articles of Association of the said companies, with certificates of incorporation.
- f) Bank account statements of the investing companies for the relevant period.
- g) Allotment Advice issued by the assessee company, giving details of the allotment of shares against the share application money received, indicating Folio No. Certificate Number, number of shares allotted, complete with distinctive numbers and amount received against such share allocation.
- h) Photocopy of acknowledgment portion of Income tax returns (ITRs) alongwith statement of income of the investing companies.
- i) Fresh addresses (wherever applicable) of the investing companies for facilitating direct correspondence with them on independent level by the Department.
- j) Copies of Equity Share Certificates issued to the investors,
- k) Copy of return of allotments (of shares) filed by the assessee company with the ROC in Form 2 (Pursuant to section 75(1) of the Companies Act, 1956).
- l) Copies of MCA21: Company Master Details and company/LLP Master Data of all the investing companies as obtained from the site of Ministry of Company Affairs.

These documents have also been placed in the paper book before us.

12. Ld. Counsel, further submitted that the Assessing Officer has completely ignored these documentary evidences all together and there is no whisper of discussion by him nor the same has been rejected or any adverse view has been taken. The section 68 cast onus upon the assessee to establish identity, creditworthiness of the share applicants and genuineness of the transaction which was duly complied with and the onus was discharged. He has also given his rebuttal to the various observations of the Assessing Officer which are very relevant are summarized hereunder:

- “Reply to notice issued U/s 133(6) was not received on time.

The Ld. AO on page 3 para 4 stated that notice U/s 133(6) dated 27/01/2014 was issued to file reply by 05/02/2014, however replies were not received on the given date. In this regard we submit that AO sought lot of information within a period of one week from the parties who are situated at Kolkata. It is not the case that the said notice was not complied by these parties. The Ld. AO on page 15 para 8.4 has admitted the fact that the details were received in response to notice U/s 133(6). Merely non-receipt on details within the given period cannot be the reason to suspect the transaction. The respective parties in response to notice U/s 133(6) filed following documents with the AO:-

(i) Their respective written acknowledgment to the effect that each one of them has made investments in the shares of the assessee company.

(ii) PAN details

(iii) Assessment details in respect of Income tax assessments.

(iv) Their respective complete name and address. The address of M/s Topgrain Mercantile Private Ltd. and that of M/s TVH Trading Company Pvt. Ltd is PD-107, Aparna Apartment, Krishna Pur, Samar Pally, Near Milan Bazaar, Kolkata-700 102. Address of M/s Godsend Biotech Private Ltd. is Ambika Silk Mills Compound Plot No. 11-12, Senapati Bapat Marg, Mahalaxmi, Mumbai-400013 (v) Certified copy of ledger account of the assessee company for the F.Y. 2010-11 as it existed in the books of accounts of each of the investing company.

(vi) Copy of Covering letter, that of Resolution of Board of directors and that of Share application form, duly filled in and signed by the investing companies.

(vii) Copy of audit report as signed by the qualified Auditors in respect of all the investing companies.

(viii) Copies of duly audited final accounts viz. Balance Sheets as on 31.03.2011 and P & L accounts for the period 2010-11 (relevant to A.Y. 2011-12)

(ix) Copies of their respective Income tax returns for the A.Y. 2011 -12

(x) Copy of respective Memorandum and Article of Association of the respective investing company.

(xi) Share application money in respect of M/s Topgrain Mercantile Private Ltd. had been paid by certain other group companies such as M/s Bridge & Building Construction Company Pvt. Ltd., M/s Panchwati Commotrade Pvt. Ltd., M/s Virat Solutions & Services Pvt. Ltd. and M/s Passionate Agencies Pvt. Ltd. etc. on its behalf as well as on its asking. The said investing company has sent/certified copy of ledger accounts of all such sister concerns as well.

Therefore, the above reason assigned by the Ld. AO is without any basis and support. The AO has not commented anything on the above documents. It is worthwhile to note that he did not find fault with the evidence filed by the investor companies, as detailed above. Neither did he reject the same before taking an adverse view in the matter. Once the assessee company has filed the necessary documents to establish identity, creditworthiness of the share applicants as also the genuineness of the transactions and the investor companies has confirmed it in the independent enquiry done by the AO, then where is the question of addition unless AO conduct further verification of the documents.

- There is no change in the total investment amount of these investee companies during the year.

Ld AO on page 3 para 4.2 stated that there is nominal change in the figure of investment as per Balance sheet of M/s TVH Trading Co. P Ltd and Topgrain Mercantile P Ltd. and based on this AO held that it is not verifiable whether these companies invested in the shares of assessee company or not. The Ld AO completely ignored the confirmation and other details filed by the assessee company as well as by the investor companies. There could be number of reasons for no change in the investment figure of these companies i.e. they may have sold old investment and invested in the shares of assessee company. Therefore, merely there is no change in figure of investment at closing of two years' comparison cannot be reason to conclude that these companies have not invested in the shares of Assessee Company. Especially in the case when the parties have confirmed the transactions and in subsequent para Ld. AO himself admitted receipt of share application money through banking channel.

➤ Directors of the investee companies not produced before AO alongwith adequate documents:

Instead of considering the documentary evidence filed by the assessee company as well as by the investee companies, the Assessing Officer directly asked the assessee to produce the directors of the investing companies before him for personal examination. All the directors are based in West Bengal and Mumbai. These directions to physically make them present at Delhi were

totally unjustified and high-handed since it was next to impossible to make the directors agreeable to come all the way to Delhi from Kolkata/Mumbai to present themselves before the Assessing Officer. The AO made virtually no effort on his level to ensure presence of the directors of investing companies before him. He issued no summons despite the fact that the appellant had given his in writing that he should directly issue summons to the directors but he remained unmoved.

The more practical and better course, however, available with Ld. Assessing Officer was to issue commission u/s 131 (1)(d) of the Act in favour of some local Income Tax authority to conduct enquiries as none of them was a local resident. No persons residing at a distance of more than 1500 kms. can legally be pressurized to make personal attendance at Delhi.

However, the assessee made sincere efforts to make them agree to the said exercise but did not succeed in bringing them over to Delhi. We succeeded in producing before the AO Shri Govind Agrawal, ex-director and authorised representative of two of the investing companies namely M/s TVH Trading Co. Pvt. Ltd. and M/s Topgrain Mercantile Pvt. Ltd. We also produced before the AO Shri Pravin Nayak, Advocate and authorised representative of M/s Godsend Biotech Ltd. The AO recorded the statement of persons presented before him. They acknowledged that these companies had made investment in the Shares of the

appellant company. This fact was acknowledged by the Ld AO on page 6 para 4.7 of his order. However he held that the directors were not carrying adequate documents to prove the transaction genuine. While directing the appellant to produce the directors of the investing companies, the AO did not give any specific list of documents/records, which they should produce before him and which would be required to satisfy him about the genuineness of transactions. His direction that they be present before him with “adequate documents” shows that Ld. Assessing Officer was himself not sure about the exact evidence which he would be requiring from the investing companies to satisfy him. Further these investee companies have already filed the desired document in response to notice U/s 133(6) of the Act. So what further documents required by AO has not been mentioned in the order.

- M/s BBCCPL, who remitted funds on behalf of Topgrain Mercantile Pvt. Ltd is a non-existing company:

In para 5.1 at page 7 of the order, the Assessing Officer has referred to his efforts through Investigation Wing, Kolkata to get the business activities of M/s BBCCPL, Kolkata verified. He has also referred to the Wing’s report to the effect the said concern does not exist at the given address. From this report, Ld. AO presumed that M/s BBCCPL was “a mere paper entity”.

It is submitted that the said BBCCPL, Kolkata is the short name of M/s Bridge Ft Building Construction Company Pvt. Ltd., which is actually one of the 7 companies, which paid a part of share application money to the appellant company on behalf of and at the direction of M/s Topgrain Mercantile Private Ltd. (i.e. the actual investing company). As per the information available in our records, the said company exists at Kolkata at the address 90-B, Shyama Prasad Mukherjee Road, Kolkata-700 026. The investing company M/s Topgrain Mercantile Private Ltd. has furnished to the AO, a certified copy of ledger account of the said party. Perusal of the said ledger account shows that the investing company had sold to it shares, against which M/s Bridge & Building Construction Company Pvt. Ltd. transferred the sale consideration thereof amounting to Rs. 57.30 crores to the appellant company through RTGS at the direction of M/s Topgrain Mercantile Private Ltd. As an evidence of the said RTGS transfer, the investing company has also sent to the AO a copy of bank account statement of A/c No. 253010200002103 of M/s BBCCPL, Kolkata in Axis Bank. The said bank account statement shows that Customer No. of M/s BBCCPL, Kolkata is 253002673 and its address is 90-B, Shyama Prasad Mukherjee Road, Kolkata, West Bengal- 700026. The investing company has also filed with the AO, a copy of OD limit account No. 01052320005783 of M/s BBCCPL, Kolkata in some other bank (name is not legible in the

photocopy), its branch being at U.N. Brahamchari Street, Constantta Building II, Dr. U.N. Brahamchari Street, Kolkata-700017 (Phone No. 2210 3838). This OD limit account statement shows that Customer ID of M/s. Bridge & Building Construction Company Pvt. Ltd. is 33816018 and that its address is 90-B, Shyama Prasad Mukherjee Road, Kolkata, West Bengal- 700026. The above evidence proves in adequate measure that M/s BBCCPL, Kolkata does exist and is very much a genuine entity. It further proves that there is nothing abnormal about the impugned transaction between the investing company and M/s BBCCPL, Kolkata. It is not known as to at which defunct/discarded/old address of the said party, the Investigation Wing people were searching for the said BBCCPL, Kolkata, which was existing well before their eyes!

In view of the above facts, it is submitted that there is no substance in the assertion of the AO that M/s Bridge & Building Construction Company Pvt. Ltd. is a non-existent company. Above all, the AO is not legally correct in taking cognigence of any report of the Investigation Wing without confronting the same to the assessee, and without seeking its explanation thereon. This report was never confronted to us. Deciding any issue on the basis of an un-confronted report/evidence would be against all canons of natural justice.

- All the companies have received funds from other companies immediately before issue of cheques to the assessee company and also analyzed funds trail and concluded that the appellant company has ploughed back its own money in the books of account in the garb of share application money:

Ld AO on page 11-13 stated that in case of all three companies, funds were received from other companies immediately before issue of cheques to the appellant company. The said allegation of the Ld AO is completely wrong which can be verified the fund trail given on page 18-40 of the assessment order. On page 18 Ld AO stated that assessee has received a sum of Rs. 42,35,00,000/- on 13/07/2010 from Godsend Bio-tech Ltd. He further stated that M/s Godsend Bio-tech Ltd received fund of Rs. 30.11 crore from various parties from 11 /06/2010 to 12/07/2010, details of which are as under:-

Details of Funds received by Godsend Bio-tech Ltd. from various Parties (Page 18 -25 of assessment order)

Amount Reed.	Date of receipt	Name of Party
50,00,000	11.06.10	Stock net Int
50,00,000	11.06.10	Artelligence Bio
50,00,000	14.06.10	-
50,00,000	14.06.10	-
50,00,000	14.06.10	-
50,00,000	14.06.10	-
50,00,000	14.06.10	-
50,00,000	14.06.10	-
55,00,000	14.06.10	-
45,00,000	14.06.10	-
50,00,000	15.06.10	Oshin Invest

50,00,000	15.06.10	Ishpat Sheets
50,00,000	15.06.10	Novelty Traders
50,00,000	15.06.10	Albatross Share
50,00,000	16.06.10	Ishpat Sheets
50,00,000	16.06.10	Artillegence Bio
50,00,000	17.06.10	
50,00,000	17.06.10	Novelty Traders
50,00,000	17.06.10	One2 E Solution
50,00,000	17.06.10	stocknet Int
50,00,000	17.06.10	Ishpat Sheets
50,00,000	18.06.10	Albatross Share
50,00,000	18.06.10	Ishpat Sheets
50,00,000	18.06.10	Novelty Traders
50,00,000	18.06.10	One2 E Solution
50,00,000	21.06.10	Oshin Invest
50,00,000	22.06.10	One2 E Solution
55,00,000	22.06.10	Gromore Fund
45,00,000	22.06.10	Gromore Fund
50,00,000	25.06.10	Novelty Traders
50,00,000	25.06.10	Oshin Invest
50,00,000	25.06.10	One2 E Solution
50,00,000	25.06.10	stocknet Int
1,00,00,000	28.06.10	Oshin Invest
50,00,000	28.06.10	Novelty Traders
50,00,000	28.06.10	stocknet Int
50,00,000	28.06.10	Sidh Housing
50,00,000	28.06.10	Ishpat Sheets
50,00,000	28.06.10	Artillegence Bio
10,00,000	30.06.10	Albatross Share
50,00,000	30.06.10	stocknet Int
50,00,000	30.06.10	Oshin Invest
40,00,000	30.06.10	Gyaneshwar Trading
50,00,000	2.07.10	Oshin Invest
50,00,000	2.07.10	Novelty Traders
50,00,000	2.07.10	Artillegence Bio
1,00,00,000	2.07.10	Oshin Invest
50,00,000	6.07.10	Oshin Invest
50,00,000	6.07.10	Novelty Traders
50,00,000	6.07.10	Artillegence Bio
50,00,000	6.07.10	Gyaneshwar Trading
50,00,000	6.07.10	Sidh Housing
25,00,000	6.07.10	Sidh Housing
50,00,000	07.07.10	Sidh Housing
50,00,000	07.07.10	One2 E Solution
50,00,000	07.07.10	Albatross Share

50,00,000	07.07.10	One2 E Solution
50,00,000	07.07.10	Novelty Traders
50,00,000	07.07.10	Albatross Share
50,00,000	07.07.10	Novelty Traders
50,00,000	07.07.10	stocknet Int
50,00,000	07.07.10	Oshin Invest
50,00,000	07.07.10	Ishpat Sheets
50,00,000	07.07.10	Ishpat Sheets
25,00,000	07.07.10	Oshin Invest
50,00,000	08.07.10	One2 E Solution
50,00,000	08.07.10	Albatross Share
50,00,000	08.07.10	Albatross Share
50,00,000	08.07.10	Ispat Sheets
50,00,000	08.07.10	Oshin Invest
50,00,000	08.07.10	Sidh Housing
50,00,000	09.07.10	Gyaneshwar Trading
50,00,000	09.07.10	Sidh Housing
50,00,000	09.07.10	Ispat Sheets
50,00,000	09.07.10	Albatross Share
50,00,000	09.07.10	One2 E Solution
50,00,000	09.07.10	Sidh Housing
50,00,000	09.07.10	Novelty Traders
50,00,000	09.07.10	Oshin Invest
50,00,000	12.07.10	Novelty Traders
50,00,000	12.07.10	Albatross Share
36,50,000	12.07.10	Stocknet Int
301150000	Total	

From the above chart it is very clear that as against the payment by Godsend Bio-tech Ltd. of Rs. 42.35 crore to assessee on 14/07/2010, the company was having funds of Rs. 12.25 crore in its bank account and the balance amount was received from various parties from 11/06/2010 to 12/07/2010. Further bank statement filed by the company (Page 92 of paper book) also shows that as on 01 /07/2010 there is bank balance of Rs. 23.01 crore in the bank account of M/s Godsend Bio-tech Ltd. against

which the funds were transferred to the assessee company on 14/07/2010. Therefore, the allegation of AO that the funds were immediately transferred to assessee company is not correct.

It was further noted from the said money trail chart that on page 27 of the order, the AO contended that assessee company received funds from Topgrain Mercantile P Ltd. on 10/05/2010, which were received by this company from other parties on 01/10/2010. Now how it is possible to release funds on 10/05/2010 against the funds received on 01/10/2010. Same situation is appearing on page 28 as well. It appears that the so called trail chart prepared by AO has no legs and contention of AO is far from truth and it proves nothing. The Assessing officer has failed to bring out any material to show that the said funds originated from the appellant company and ultimately came back to it under the garb of share application money. Above all, this so-called "cash trail" has no cash at all. It may kindly be verified from record that all the transactions are through banking channel and in none of the accounts of the parties referred to by the AO, there is any cash entry. This transfer of money from one hand to another and that too through the banking channel, proves nothing since money has essential nature of movement. It serves as a medium of exchange. It never remains stacked at a place. If it be so, the paper currency would be worn out, eaten up by the ants and loose its value.

Not only that in none of the bank accounts requisitioned by the AO u/s 133(6) there were any cash deposits, it is further to be noticed that there were no doubtful entries or transactions in the said accounts as no such thing has been pointed out by the Assessing Officer. All these bank accounts were just normal bank accounts of the business concerns, which as usual contain entries of receipt and payments. So, examination of these bank accounts leads to nowhere. It does not help the AO to hold the money to have come from the coffers of the assessee company. Unless and until this chain of “trail of money” is completed, the allegation of “ploughing back” of the funds, as made by the AO remains an allegation only and nothing more than that.”

13. The Ld. Counsel further submitted that Assessing Officer has not brought any adverse material on record to prove that the share application money and premium received by the assessee-company is not genuine. In fact, assessee had received share capital from other companies also wherein there is no premium involved, it has been accepted by him simply because assessee had received huge premium that does not mean it is to be disbelieved. He further submitted that proviso to Section 68 was introduced w.e.f 1.4.2010 and there was no bar on the issue of share at premium. Regarding Assessing Officer's observation that investee companies have

offered petty income in their return of income is not incorrect because criteria to justify the creditworthiness are the source of funds and not income for a particular year. These companies have sufficient own funds to invest in the share of the assessee company which is evident from the following chart as per balance sheet as on 31.03.2011.

	<i>TVH Trading Co P Ltd</i>	<i>Topgrain Mercantile P Ltd.</i>	<i>Godsind Biotech Ltd.</i>
<i>Share Capital</i>	<i>1,95,12,000</i>	<i>189,20,000</i>	<i>97,24,000</i>
<i>Reserve & Surplus</i>	<i>46,58,88,000</i>	<i>45,16,80,000</i>	<i>45,19,76,000</i>
<i>Total Own Funds</i>	<i>48,54,00,000</i>	<i>47,06,00,000</i>	<i>46,17,00,000</i>
<i>Investment in share of assessee Company</i>	<i>26,40,00,000</i>	<i>35,50,00,000</i>	<i>41,90,00,000</i>

14. Further, Assessing Officer's remark that Kolkata is a breeding place of paper companies and that all the investing companies, based are at Kolkata, are therefore non- genuine companies, shows his prejudiced mind. He seems to have forgotten the fact that Kolkata is a big centre of business and commerce of India. He further seems to have conveniently ignored the fact that even the appellant company is a Kolkata based company. As per his way of thinking, the appellant company too should be a fictitious company. There is no legal or factual basis of such finding of the Assessing Officer regarding the Kolkata based companies. This finding of his is entirely based on conjectures, surmises, doubts and mere heresy. Moreover, he has not made any such adverse remarks against the Mumbai and Guwahati based share applicants.

15. Ld. Counsel has also tried to distinguish the case laws cited by the Assessing Officer, in the following manner:-

(i) Commissioner of Income tax v. M/s N.R. Portfolio Pvt. Ltd.(Delhi High Court)

In the cited case, the facts were that the assessee was a share broker but he had not traded in any stocks & shares. The assessee continued to receive dividends on its investments but it did not pay any dividend to the so-called share holders, from whom the impugned share capital had been obtained. The assessee's bank account showed large amount of cash debits and credit entries. Summons u/s 131 sent by the assessing officer to all the seven shareholders were received back un-served with the result that nobody attended. The assessee too did not attend the assessment proceedings and therefore received an adverse order. The assessment in the cited case was completed u/s 147/144 of the I.T. Act, 1961 ex-parte. As against the above facts of the cited case, the assessee duly attended the assessment proceedings and filed all the details to establish the identity, creditworthiness of the shareholders and genuineness of the transactions. So, the assessment was completed u/s 143(3) r.w.s. 263 of the Act. Further, there is no finding of any cash debits and credit entries in the account of the assessee. All the shareholders responded to the notices u/s 133(6) and confirmed the transactions. Moreover, no contradiction was noticed by the AO in the declared nature of business and its actual business activities, as was found in the cited case. Clearly, the facts of the cited case are entirely distinguishable from the facts of the assessee. So decision of the cited case

(which is in favour of the Revenue) cannot be made applicable to the case of the assessee.

(ii) Onassis Axles Private Limited v. CIT(ITA 31 /2013)(Delhi)- Decision dated 13.02.2014(2014) 44 taxmann.com 408/(2014) 364 ITR 53

The facts of the cited case are that the assessee received share application money from three companies. The AO issued summons u/s 131 to all the three shareholders, which came back un-served with remarks of the postal authorities "No such person". The AO informed of this to the assessee and asked him to either produce the shareholders/investors or to provide their changed addresses. The assessee did not comply. He neither furnished new addresses of the investors nor produced them. Rather, he continued to say that all the relevant details relating to share capital have already been filed. Then, the AO got enquiries conducted from Mahamedha Bank Ltd., Noida, from which bank the pay orders towards share application money had been got issued and in which bank all the three shareholding companies had shown their accounts and the assessee had claimed that the pay orders had been made out of funds lying in the said bank accounts of the investing companies. From the information provided by the bank, it was found that two of the investing companies had opened bank accounts on 31.03.2007 whereas pay orders towards share application money were dated 29.06.2006(i.e. before opening of account). It meant that the claim of the assessee that the pay orders were made out of regular bank accounts of the investing companies was patently wrong. Moreover, in the bank of the third investing company, cash of '

25.04 lakhs had been deposited before issuing pay order for ' 25,03,125/-. These facts led to believe that transactions of share application money were sham.

There are no such adverse facts in the appellant's case. So, the cited case law is distinguishable on the basis of huge variation in the facts of the two cases. Therefore, ratio of the cited case is not applicable to our case.

(iii) CIT v. Odeon Builders Pvt. Ltd.(Delhi)

The facts of the cited case are quite distinguishable from the facts of our case. Therefore, its ratio is not applicable to the case of the appellant.

(iv) CIT v. Nipun Builders & Developers Pvt. Ltd. in ITA No. 120/2012(Delhi)- (2013) 30taxmann.com292(Delhi)/(2013) 214 Taxman 429(Delhi)/ (2013) 350 ITR 407(Delhi)/(2013) 256 CTR 34

This case law at S.No. (iv) at pages 11 to 14 of the assessment order has been quoted by the AO in the most confusing manner. The first two paras given thereunder and the gist of cases reproduced thereafter which have been referred to in the above judgment i.e. of CIT v. Devi Prasad Vishwanath Prasad [1969] 72 ITR 194(SC), CIT v. M. Ganapathi Mudaliar [1964] 53 ITR 623(SC)/A. Govindarajulu Mudaliar v. CIT [1958] 34 ITR 807 (SC) only pertain to the cited case of CIT v. Nipun Builders & Developers Pvt. Ltd. All other cases mentioned under the broad head 'Nipun Builders & Developers Pvt. Ltd.' were not part of the said judgment and have been mentioned here creating a lot of unnecessary confusion. Surprisingly, some of the said cited cases rather support the case of the assessee rather than the Revenue.

Nonetheless, the facts of the case of Nipun Builders & Developers P. Ltd. are that on noticing that the assessee had received share application money, the assessing officer issued summons u/s. 131 to the share applicants. These all were received back undelivered with the remarks “No such company”. Then the AO sent an inspector at the given addresses of the investing companies, who confirmed in his report that share applicants did not exist at the given addresses. Thereupon, the AO asked the assessee to produce principal officers of the subscribing companies. In reply, the assessee pointed out that the registered offices of the companies could be found in the website www.mca.gov.in. and that the A.O. may visit the site for further verification. The Hon’ble High Court took adverse view of such uncooperative attitude of the assessee as well as that of its extreme and unjustified stand and reversed the order of the ITAT.

16. One very important fact, which Ld. Counsel pointed out that apart from various evidences filed by the assessee, the Assessing Officer has got all the relevant details directly from the investing companies as requisitioned u/s. 133(6) by him which is a fact available on record and also discussed in the Ld. CIT (A) order. Thus, all the parties have directly confirmed before the Assessing Officer during the course of assessment proceedings itself. Apart from that, legal representatives of the main investing companies too were produced before the Assessing Officer, who confirmed the transaction, in question and the details as required were also filed subsequently. The allegation and observation of the Assessing Officer that no

reply was filed which was asked by the representatives of the companies is totally erroneous.

17. Finally, he submitted that the appellant had fully discharged its onus by filing plethora of documents to establish the identity, creditworthiness of the creditors and genuineness of the transactions. The investing parties are available at the given addresses; are regular Income-tax assesseees, duly registered corporate entities, regularly filing statutory returns with the ROC, and are maintaining regular books of accounts and they make all the business dealings through regularly maintained bank accounts. Their accounts are statutorily audited by a qualified auditor. The documents filed by us before the Assessing Officer fully establish their identity. Their audited balance sheets fully establish their financial worth. So, their creditworthiness is beyond doubt. All the investing parties have confirmed having made the transactions with the appellant company in response to notices u/s 133(6). In exchange to the share application money, shares have duly been allotted to each one of the investor. Assessee has also filed copies of share certificates issued to the investors. The information of such allotment was duly filed with the Ministry of Corporate Affairs in the statutory return meant for that purpose and it must be available on their site. So, genuineness of the transactions, too, is established.

18. In counter to the submission made by the Ld. CIT-DR, his contentions including the decisions relied upon by him were as under:

10.1 Ld CIT DR stated that the assessee has not submitted current position of the shareholding. If these shares were bought back by the management of the assessee company it clearly proves that the funds introduced as share capital are own fund of the company.

Reply: We have filed current position of shareholders and as per the same these shareholders are still continuing to be shareholder of the company and there is no such buy back by the company or its management. Therefore, the apprehension of Ld DR is not correct.

10.2. As per information in public domain, Shri Gurinder Jit Singh, main person of the assessee company subsequently become director in these investee company. Therefore, he has indirect control on these companies.

Reply: Shri Gurinder Jit Singh is director in these companies since 3rd July, 2010 i.e. even before these companies become shareholder in the assessee company. Therefore, allegation that he become director subsequently to gain indirect control is not correct.

10.3. Ld DR relied upon decision of Apex Court in caser of NRA Steel & Iron Ltd. before the bench.

Reply : The said decision has no applicability on facts of the case. In NRA Steel there was no response of notices issued U/s 133(6) of the Act neither any person appeared before AO and AO has enquired about the investor companies and proved that the same are non-existing companies. Further in this case all

the three parties have duly replied notice issued U/s 133(6) and provided the desired details to the AO. AO has not acted upon the information provided by the assessee as well as by the investor companies. There is no further investigation by the AO. Therefore, the reliance of Apex Court decision is not correct. On the contrary, we submit that after NRA Steel there are number of decision in favour of assessee wherein it was held that once details provided to the AO onus is on the AO to further investigate and bring material to prove the transaction non-genuine. We rely on the following decisions in this regard:

-(2018) 257 Taxman 390 (Delhi) PCIT vs. Hi-tech Residency Pvt. Ltd.

(2018) 257 Taxman 335 (SC) PCIT vs. Hi-tech Residency Pvt. Ltd. - SLP Dismissed.

Section 68 addition was made in hands of assessee company since assessee was not able to produce any of director, shareholders or principal officer of companies to whom shares were allotted lenders from whom unsecured loans was taken - Tribunal considered said issued in detailed manner and deleted said addition holding that assessee had discharged its onus of establishing identity, genuineness and creditworthiness of both investors as well as lenders - Whether, on facts, there was no infirmity in said order - Held, yes

-(2018) 90 taxmann.com 424 (Delhi) ACIT Vs. Shyam Indus Power Solutions P Ltd.

Assessee-company was engaged in business of transmission and distribution of power with State Electricity Boards - From investigation/enquiry conducted by Investigation Wing in case of some companies, it was revealed that assessee had received money through those companies, whose business activities

were suspicious and which were indulging in entry operation - Assessee company had received unsecured loan and share application money from these companies but failed to submit documentary evidences in respect of share allotment made to these companies - Assessing Officer observed that it clearly indicated that these transactions were sham and were made only for routing accommodation entries of said companies and made additions under section 68 - Assessee had furnished names and addresses of share applicants, their PAN and confirmation with their bank account and Income-tax returns - Moreover, Assessing Officer had not at all carried out any investigation to show that those companies did not exist but were paper company; they were not having worth of investing and transaction lacked genuinity - Further investigation wing report was not shown to assessee - Whether, thus, assessee had discharged initial onus cast upon him under section 68 and no addition was called for -

Held, yes

-(2018) PCIT Vs. Chain House International P Ltd. (408 ITR 561)(MP)- (2020) PCIT Vs. Chain House International P Ltd (113 Taxmann.com 32)(SC) - SLP Dismissed.

Whether issuing share at a premium is a commercial decision and it is prerogative of Board of Directors of a company to decide premium amount and it is wisdom of shareholder whether they want to subscribe shares at such a premium or not and, ultimately, this is a mutual decision between both companies - Held, yes - Whether in day to day market, unless and until rate is fixed by any Government Authority or unless there is any restriction on amount of share premium under any law, price of shares is decided on mutual understanding of

parties concerned; thus, once genuineness, creditworthiness and identity of investors are established, revenue should not justifiably put itself in armchair of a businessman or in position of Board of Directors and assume role of ascertaining how much is a reasonable premium having regard to circumstances of case - Held, yes - Whether, thus, once genuineness, creditworthiness and identity of investors are established, no addition could be made as cash credit on ground that shares were issued at excess premium - Held, yes

(2019) S/tree Laxmi Estate (P.) Ltd. in ITA No. 6557/Mum 2017 (Mumbai)

In the above case The Bench had considered the decision of Hon'ble Supreme Court in the case of NRA Iron & Steel (P.) Ltd. (supra) and held that the facts of the case before the Hon'ble Supreme Court are entirely different, where on the basis of facts of that case Hon'ble Supreme Court came to the conclusion that mere furnishing of certain documents is not sufficient enough and what is relevant is all three ingredients, i.e. identity, genuineness of transactions and creditworthiness of the parties should be proved beyond doubt. We find that in the case before the Hon'ble Supreme Court the parties never responded to 133(6) notices. The AO has carried out inquiries by issuing notices u/s. 133(6), for which none of the companies have replied. None of the companies produced bank statements to establish source of funds for making such huge investments in shares, even though they were declaring a very meagre income in the return. None of the investors appeared before the AO, but merely sent response through Dak. In this case, from the facts on record, it is clear that the assessee has filed complete set of documents, but the AO neither carried out any

investigation nor issued notices u/s. 133(6) or summons u/s. 131(1) to examine the veracity of documents furnished by the assessee. Unless, the AO carried out further investigations to ascertain true nature of transactions, he cannot come to the conclusion merely on the basis of documents submitted by the assessee. Therefore, after considering relevant facts, the coordinate Bench came to the conclusion that decision rendered by Hon'ble Supreme Court in the case of NRA iron & Steel (P.) Ltd. has no application, where the AO has not carried out any inquiries

-(2010) 194 Taxman 43 (Delhi)/(201 1) 330 ITR 298 (Delhi) in the case of CIT Vs. Dwarkadhish P. Ltd.

It was held by Hon'ble Delhi High Court that "In any matter, the onus of proof is not static one. Though in section 68 proceedings, the initial burden of proof lies on the assessee, yet once he proves the identity of the creditors/share applicants by either furnishing their PAN numbers or Income-tax assessment numbers and shows the genuineness of the transaction by showing money in his books of account either by account payee cheque or by draft or by any other mode, then the onus of proof would shift to the revenue. Just because creditors/share applicants could not be found at the address given, it would not give the revenue right to invoke section 68. One must not lose sight of the fact that it is revenue, which has all the powers and wherewithal to trace any person. Moreover, it is a settled law that the assessee need not to prove the source of source. " (Para 8)

(2014) 52 taxmann.com 23(Delhi) CIT-XI V. Rama Krishna Jewellers.

In this case, various additions were made under section 68 for relevant years as confirmations, bank account statements, Income Tax returns of persons who had given unsecured loans and cash credits to the assessee were not brought on record- The assessee before Commissioner (Appeals) had filed several details including their PAN, bank statements and Income Tax returns- Commissioner (Appeals) deleted additions being based on no material- Whether there was no reason to interfere with the said finding- Held, yes [Para 23]

[2014] 49 taxmann.com 13 (Delhi) CIT v. Nipun Auto (P) Ltd.

Hon'ble Delhi High Court averred in this case that "Where identity of share applicants had been established and their bank accounts, IT returns and balance sheet in addition to confirmation letters were produced, addition under section 68 was to be deleted. "

CIT Vs. Divine Leasing and Finance Ltd. [2008] 299 ITR 0268(Delhi)

It was held by Hon'ble Delhi High Court that "If relevant details of the address or PAN identity of the creditor/subscriber are furnished to the Department along with the copy of the share holders' register, share application forms, share transfer register etc., it would constitute acceptable proof or acceptable explanation by the assessee"

In the case of the appellant, a number of documents, as enumerated in the earlier paragraphs were furnished to AO, which constitute acceptable proof.

[2008] 307 ITR 0334(Delhi) CIT v. Value Capital Services P. Ltd.

In this case, Hon'ble Delhi High Court, relying on the decisions in the case of CIT v. Stellar Investment Ltd. (1991) 192 ITR

0287 (Delhi) and CIT v. Sophia Finance Ltd.[1994] 205 ITR 0098 (Del) held that:

“It is quite obvious that it is very difficult for the assessee to show the credit worthiness of strangers. If the Revenue has any doubt with regard to their ability to make the investment, their returns may be reopened by the Department.

In any case, what is clinching is the additional burden on the Revenue. It must show that even if the applicant does not have the means to make the investment, the investment made by the applicant actually emanated from the coffers of the assessee so as to enable it to be treated as the undisclosed income of the assessee. This has not been done in so far as the present case is concerned and that has been noted by the Tribunal also

Under the circumstances, we are of the view that the Tribunal has not committed any error in deleting the addition”

[2013] 30 taxmann.com 328 (Delhi) CIT v. Gangeshwari Metal (P) Ltd.

It was held by Hon’ble Delhi High Court that “Where the assessee in support of transaction of receipt of share application money brought on record various documents such as names and addresses of share applicants, their confirmatory letters, copies of bank statements etc., said transaction was to be regarded as genuine and, consequently, no addition could be made in respect of same under section 68.”

[2012] 19 taxmann.com 26 (Delhi) CIT-II v. Kamdhenu Steel St Alloys Ltd.

Hon’ble Delhi High Court held in this case that “Once adequate evidence/material is given, which would prima facie discharge burden of the assessee in proving identity of shareholders,

genuineness of transaction and creditworthiness of shareholder, thereafter in case such evidence is to be discarded or it is proved that it is 'created' evidence, revenue is supposed to make thorough investigation before it could nail assessee and fasten assessee with liability under sections 68 and 69, Where assessee had given particulars of registration of investing/applicant companies; confirmation from share applicants; bank account details; and had shown payment through account payee cheques, etc., it could be said that assessee had discharged its initial onus and just because some of creditors/share applicants could not be found at the address given, it would not give revenue a right to invoke section 68 without any additional material to support such a move. ”

CIT v. M/s Vishal Holding & Capital (P) Ltd. ITA 1031/2010 (Delhi)

In this case, it was held by Hon'ble Delhi High Court that "In our opinion, the AO has simply acted on the information received from the Investigation Wing without verifying the details furnished by the assessee. The assessee has also produced best possible evidence to support its claim. Consequently, the addition made by the AO cannot be sustained. ”

In the case of the appellant as well, Ld. AO has simply acted on the report of the Investigation Wing and conducted no meaningful enquiry at his level. So, there was no case for making the addition.

CIT v. Steller Investment Ltd. [2001] 251 ITR 263/1 1 5 Taxman 99(SC)

In this case, Hon'ble Supreme Court affirmed the view of Delhi High Court in the case of CIT v. Steller Investment Ltd. [1991] 192 ITR 287/59 Taxman 568, that reads as under:

"It is evident that even if it be assumed that the subscribers to the increased share capital were not genuine, nevertheless, under no circumstances, can the amount of share capital be regarded as undisclosed income of the assessee. It may be that there are some bogus shareholders in whose names shares had been issued and the money may have been provided by some other persons. If the assessment of the persons who are alleged to have really advanced the money is sought to be reopened, that would have made some sense but we fail to understand as to how this amount of increased share capital can be assessed in the hands of the company itself. "

The above-cited case relates to cash credit on account of subscription to shares whereas the assessee's case is that of loan by way of subscription to OFCDs. The nature of both the receipts is similar as money is received in both cases from the subscribers. Hence, the ratio of the above case is quite applicable to the instant case.

-[2002] 256 ITR 795(SC) CIT v. Gujarat Heavy Chemicals Ltd.

Hon'ble Supreme Court expressed its opinion in this case that in case where the share applicants were to be considered genuine, the right course for the Assessing Officer is to identify the real person to whom the money belongs and assess him to tax instead of assessing the company and as such there was no justification for assessing the company.

(2014) 43 taxmann.com 395 (Gujarat) CIT -1 V. Dharamdev Finance (P) Ltd.

The following questions were held in favour of the assessee:

Various additions were made to the assessee's income on account of cash credits- It was found that in respect of said credits, the assessee had filed PAN of creditors, their confirmations and their bank statements, which established their credit worthiness. Moreover, the transactions were made through banking channels. Whether any addition could not be made to assessee's income u/s 68- Held Yes (Para 5).

Whether in the absence of any contrary material, any addition should not be made to the assessee's income- Held yes (Para 9).

(2014) 42 taxmann.com 473 (Gujarat) CIT -1 Vs. Apex Therm Packaging (P) Ltd.

It was held that "Where name, address, PAN, copy of I. T. returns, balance sheet, P&L of all creditors/lenders as well as their confirmation had been furnished, the AO could not make addition on account of unsecured loan and interest thereon."

(2013) 37 taxmann.com 340 (Allahabad) CIT-1, LKO v. Lucknow Property Management Group

It was held by Hon'ble High Court that "Addition as cash credit was not sustainable where assessee-developer received amounts from allottees, who were regularly assessed to tax. "

(2014) 41 taxmann.com 550 (Gujarat) CIT-1 Vs. Shailesh Kumar Rasiklal Mehta

Hon'ble Gujarat High Court averred that "Where transactions were routed through bank and the assessee had explained the source of income, additions u/s 68 could not be made. "

In the case of CIT v. Jitendra Dolepatbhai Shah (2014) 41 taxmann.com 523 (Gujarat), Hon'ble High Court averred that "The source of credit has been explained by the assessee with

documentary evidence and the documents were not found false. On perusal of the impugned order of the CIT(Appeals), we are convinced that on doubts and suspicion, the AO has treated short term capital gain as unexplained credit. On the basis of doubts and suspicion, the cash credits cannot be held as unexplained. ”

Similarly, in the case of MOD Creations Pvt. Ltd. v. ITO(Delhi High Court), it was held that “The assessee had discharged its initial onus placed on it. In the event the Revenue still had a doubt with regard to the genuineness of the transactions in issue or as regards the creditworthiness of the creditors, it would have had to discharge the onus which had shifted on to it. A bald assertion by the Assessing Officer that the credits were a circular route adopted by the assessee to plough back its own undisclosed income into its accounts, could be of no avail. The Revenue was required to prove this allegation. An allegation by itself which is based on assumption will not pass muster in law. The Revenue would be required to bridge that the suspicions and proof in order to bring home this allegation.”

DECISION

19. After considering the aforesaid submissions and the material relied upon before us, we find that there is no dispute that the assessee has received share application money from six companies, out of which, from three companies assessee has received premium for sums aggregating to Rs.103,80,00,000/-. In the case of Ganesh Buildcon Pvt. Ltd., Feelgood Creation Pvt. Ltd., and Beyond Management Pvt. Ltd. from whom the assessee has received

share application money of Rs.1,79,60,000/- Rs.1,34,70,000/- and Rs.1,34,70,000/-, respectively has been accepted to be genuine. Assessing Officer has only disputed the other three companies as discussed above, merely because the assessee company has received huge premium from such parties. In so far as the initial onus cast upon the assessee for proving the nature and source of the share capital, the assessee had filed various documents which have been incorporated in the foregoing paragraph, viz.,

- a) Photocopy of share application forms, duly filled in, as submitted by the investing companies to the assessee company, while applying for shares.
- b) Certified true copy of Board resolutions passed by Board of Directors of the respective companies in respect of investment to be made in the shares of the assessee company.
- c) Photocopies of PAN Cards of all the investing companies as issued by the Income Tax Department, Govt. of India.
- cl) Audit reports alongwith photocopies of final accounts i.e. Balance sheets, Profit & Loss accounts, complete with the schedules of the investing companies.
- e) Photocopies of Memorandum and Articles of Association of the said companies, with certificates of incorporation.
- f) Bank account statements of the investing companies for the relevant period.
- g) Allotment Advice issued by the assessee company, giving details of the allotment of shares against the share application money received, indicating Folio No. Certificate Number, number of shares allotted, complete with distinctive numbers and amount received against such share allocation.

- h) Photocopy of acknowledgment portion of Income tax returns (ITRs) alongwith statement of income of the investing companies.
- i) Fresh addresses (wherever applicable) of the investing companies for facilitating direct correspondence with them on independent level by the Department.
- j) Copies of Equity Share Certificates issued to the investors.
- k) Copy of return of allotments (of shares) filed by the assessee company with the ROC in Form 2 (Pursuant to section 75(1) of the Companies Act, 1956).
- l) Copies of MCA21: Company Master Details and company/LLP Master Data of all the investing companies as obtained from the site of Ministry of Company Affairs

20. One of the main allegation of the Assessing Officer is that the notices sent u/s.133(6) were not received on the given date for which it has been clarified before us that within a short span, Assessing Officer has sought lot of information during the period of one week from the parties situated outside Delhi. In fact, all the notices were ultimately duly complied with by these parties who have sent all the requisite details as required by the Assessing Officer in his notices u/s.133(6). Thus, there cannot be reason of compliance of the notices have been made beyond the dates specified by him and as his observation lose its relevance. In fact, these parties have submitted following documents with the Assessing Officer directly to him in their replies in response to notice u/s 133(6):-

- (i) Their respective written acknowledgment to the effect that each one of them has made investments in the shares of the assessee company.
- (ii) PAN details
- (iii) Assessment details in respect of Income tax assessments.
- (iv) Their respective complete name and address. The address of M/s Topgrain Mercantile Private Ltd. and that of M/s TVH Trading Company Pvt. Ltd was PD-107, Aparna Apartment, Krishna Pur, Samar Pally, Near Milan Bazaar, Kolkata-700 102. Address of M/s Godsend Biotech Private Ltd. is Ambika Silk Mills Compound Plot No. 11-12, Senapati Bapat Marg, Mahalaxmi, Mumbai-400013
- (v) Certified copy of ledger account of the assessee company for the F.Y. 2010-11 as it existed in the books of accounts of each of the investing company.
- (vi) Copy of Covering letter, that of Resolution of Board of directors and that of Share application form, duly filled in and signed by the investing companies.
- (vii) Copy of audit report as signed by the qualified Auditors in respect of all the investing companies.
- (viii) Copies of duly audited final accounts viz. Balance Sheets as on 31.03.2011 and P & L accounts for the period 2010-11 (relevant to A.Y. 2011-12)
- (ix) Copies of their respective Income tax returns for the A.Y. 2011 -12
- (x) Copy of respective Memorandum and Article of Association of the respective investing company.
- (xi) Share application money in respect of M/s Topgrain Mercantile Private Ltd. had been paid by certain other group

companies such as M/s Bridge & Building Construction Company Pvt. Ltd., M/s Panchwati Commotrade Pvt. Ltd., M/s Virat Solutions & Services Pvt. Ltd. and M/s Passionate Agencies Pvt. Ltd. etc. on its behalf as well as on its asking. The said investing company has sent/certified copy of ledger accounts of all such sister concerns as well.

21. Thus, the reason assigned by the Assessing Officer does not have much credence to dislodge the evidences filed by these parties to corroborate the assessee's explanation and the documents submitted by the assessee to prove the nature and source of credit. Regarding various observations and allegation of the Assessing Officer, the ld. counsel has given a very detail rebuttal based on documents on record as incorporated above in the foregoing paragraphs. From bare perusal of the explanation duly supported by the documents, we find that whatever so called inquiry which was conducted by him has not lead to any iota of adverse material so as to hold that the transaction is not genuine. The Assessing Officer required the Directors/the representatives of the three companies which were produced before him, the same were duly complied with and not only they were produced but have also confirmed the transaction and given the required documents on the subsequent dates. Once these parties have directly confirmed the transaction with all the documents and the authorized representatives have duly appeared before the Assessing Officer, then without any substantial ground he has disbelieved on a very technical and whimsical reasons.

Here in this case, the investee companies are based outside Delhi and if he was not satisfied with the authorized representative sent by them, then at least he could not have issued a commission u/s.133(1)(d) to be examined by the local Income tax authority. Further, these authorized representative have adduced the document but nowhere Assessing Officer has pointed out what was lacking in such documents which was already submitted by these companies in reply to the notice u/s.133(6) and what extra he wanted to examine, has not been mentioned.

22. Regarding one of the companies, i.e., M/s. Bridge and Building Construction Pvt. Ltd. who has made the payment on behalf of M/s. Topgrain Mercantile Pvt. Ltd., Ld. counsel explanation as incorporated above is testimony to itself that M/s. Topgrain Mercantile has furnished a certified copy of the ledger account of the said party which shows that investee company has sold its share against which M/s. Bridge and Building construction company had transferred the sale consideration thereof amounting to Rs.57.30 crore through RTGS at the direction of M/s. Topgrain Mercantile Pvt. Ltd. Evidences to this effect of RTGS transfer and copy of bank statement of the said company was also filed before the Assessing Officer. The said bank statement reveals that there was an OD limit and there was also mention of correct address. Thus, without any cogent material to rebut such evidence, adverse inference cannot be drawn that transaction through this company is sham.

23. Another allegation by the Assessing Officer was that these companies have received funds from other companies before issuance of cheques through the assessee company and also tried to analyze fund trail to assume that assessee-company had ploughed back its own money in the books of account in the garb of share application money. The said allegation itself is based on erroneous assumption of facts which has been demonstrated by the Id. counsel, from the details of funds chart as reproduced above, specifically in the case of payment made by M/s. Godsons Pvt. Ltd. to the assessee. The chart clearly indicates that against the payment of Rs.42.2 crore to the assessee on 14.07.2010, the company was having funds of Rs.12.25 crore in bank account and the balance amount was received from various parties between 11.06.2010 to 12.07.2010. Further as per the bank statement as on 01.07.2010 there was a bank balance of Rs.21.01 crore in the bank account of M/s. Godsons and M/s. Biotech Ltd. against which the funds were transferred to the assessee-company on 14.07.2010. Thus, this allegation of the Assessing Officer also does not have any basis. Similarly in the case of funds received from M/s. Topgrain Mercantile Company Pvt. Ltd. on 10.05.2010 also it was duly shown that this company has received funds from other parties prior to date. Nowhere in the so called alleged cash trail there is an element of cash or anything has been brought on record that any of the trails, assessee's undisclosed cash or income has been routed. In fact, none of these bank account

requisitioning by the Assessing Officer u/s. 133(6), there was any cash deposits.

24. In so far as the source of the fund and the creditworthiness of the parties, it is seen from the chart reproduced hereinabove that these parties had sufficient own funds to invest and the share of assessee-company duly reflected in their balance sheet as on 31.03.2011.

25. Thus, on these facts and circumstances of the case and material on record, it cannot be held that the onus cast upon the assessee to prove the identity, creditworthiness of the investee parties or genuineness of the transaction has not been explained properly nor there is any adverse finding or material gathered from any inquiry that it is a bogus transaction or kind of accommodation entry. Thus, we do not find any reason to tinker and deviate from the finding of the Id. CIT (A) while deleting the addition. Accordingly, the order of the Id. CIT (A) is confirmed and the appeal filed by the Revenue is dismissed.

26. In so far as the appeal for the Assessment Year 2012-13 is concerned, the facts are exactly the same, as here in this year assessee has received share application money of Rs.23 crore. Out of Rs.23 crores, Rs. 4.50 crore was received from M/s. TVH Trading Company and Rs.18.50 crore from Vishaka Tech Pvt. Ltd. One additional fact in this year is that, shares could not be allotted to these parties and the share

application money has been treated as advance received against the property for which the assessee-company has filed confirmation from the said parties to this effect. Here, in this year also, all the parties have confirmed and given the details to the Assessing Officer in response to the notice u/s. 133(6) and Assessing Officer has simply relied upon the finding of the earlier year. Additionally in this year, Director of M/s. TVH Trading Company Pvt. Ltd. had personally appeared before the Assessing Officer in relation to investment in Assessment Year 2011-12 also, who has confirmed the transaction not only for Assessment Year 2011-12 but also for Assessment Year 2012-13. Our finding given in the appeal for Assessment Year 2011-12 will apply *mutatis mutandis* in this year also as a finding of the ld. Assessing Officer and the ld. CIT (A) is exactly the same. Accordingly, appeal for the Assessment Year 2012-13 is also dismissed.

27. In the result, both the appeals of the Revenue are dismissed.

Above decision was announced on conclusion of Virtual Hearing in the presence of both the parties on 31/08/2021.

Sd/-
[PRASHANT MAHARISHI]
[ACCOUNTANT MEMBER]

DATED: 31/08/2021

PKK:

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER