IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM AND SHRI PAVAN KUMAR GADALE, JM

ITA No. 7052/Mum/2019

(Assessment Year 2013–14)

The Asst. Commissioner of Income–tax, Circle 6(1)(1), Room no. 504, Aayakar Bhavan, M.K. Road, Mumbai–400 020	Vs.	Chiripal Poly films Limited A–8/A–9, Peninsula Centre, Dr. S.S. Rao Road, Parel, Mumbai–400 012
(Appellant)		**(Respondent)**
PAN No. AADCC7403M		

Assessee by	:	Shri Tushar Hemani, Sr Adv.
Revenue by	:	Shri Nikhil Chaudhary, CIT DR

Date of hearing:	13.01.2022
Date of pronouncement :	12.04.2022

O R D E R

PER PRASHANT MAHARISHI, AM:

1. This appeal is filed by the learned Asst. Commissioner of Income-tax, Circle-6(1)(1), Mumbai (the learned Assessing Officer) against the order passed by the learned Commissioner of Income Tax (Appeals)-12, [the learned CIT(A)] Mumbai dated 28.08.2019 for Assessment Year 2013-14 raising the following grounds of appeal:-

    1) on the facts and circumstances of the case and in law, the learned CIT (A) erred in deleting the addition made by the assessing officer u/s 56 (2) (viib) of the act without appreciating that facts that the AO had interfered with the taxpayers statutory

right Under rule 11 UA (2) of the ITR two choose the method of valuation after rejecting the taxpayers valuation, the AO had the authority to carry out its own independent valuation and adopt the NAV method for this purpose

2) on the facts and circumstances of the case and in law, the learned CIT (A) erred in deleting the addition made by the assessing officer u/s 56 (2) (viib) of the act without appreciating the fact that the matter of taxability cannot be decided on the basis of entries which the assessee may choose to make his account but has to be decided in accordance with the previous (sic provisions) of law

3) on the facts and circumstances of the case and in law, the learned CIT – A order in deleting the addition made by assessing officer on account of depreciation claimed on intangible assets on the basis of decision made in assessment year 2012 – 13

2. subsequently, on 26/7/2021 the learned AO filed additional grounds as under :-

"1. On the facts and circumstances of case whether Ld CIT (A) was justified in deleting the addition of Rs. 39,00,37,200/- on account of share capital including share premium collected on the issue of shares

treated as unexplained credit under Section 68 of income tax act 1961 without appreciating the fact that genuineness & creditworthiness of the entities from which these funds received was not properly established by the assessee.

2. On the facts and circumstances of case, in view of Hon'ble Supreme court's decision in the case of NRA Iron & Steel 262 Taxman 74, whether deleting the addition of ₹. 39,00,37,2007/– by Ld CIT (A) on account of share capital including share premium collected on the issue of shares treated as unexplained credit under Section 68 of income tax act 1961 is justified, as the assessee has failed to discharge its onus to prove the genuineness of transaction. Even the source of these investments remained unexplained.

3. Whether on facts and circumstances of case, the LD CIT (A) is justified that section 68 of IT act cannot be applied where the transaction is proved to be that of share allotment that the valuation of charging premium is not justified."

3. As the above grounds are also arising from the order of the learned CIT – A, which inadvertently could not be raised by the learned assessing officer earlier, the same, was requested to be admitted. The learned authorised representative also did not raise any serious objection to the above admission of additional grounds of appeal, therefore, same are admitted.

4. Brief fact of the case shows that assessee is a company engaged in the business of Bi-axially Oriented Polypropylene and Trading in Fabric. It filed its return of income on 29.11.2013 at Rs. Nil and carried forward loss set off of Rs. 3,58,40,958/-. The book profit of the assessee was determined under section 115JB of the Act at Rs. 14,64,74,439/-. Return was picked for scrutiny.

5. During the year assessee has received share capital from a foreign party, namely M/s Opulence Investments Limited (OIL), Apex fund SVS, 4th Floor, Raffles Tower, 19, Cyber city, Ebene, Mauritius in two trenches amounting to Rs. 39,00,37,200/- comprising of share premium of Rs. 38,63,22,560/- . In the first trenches, On 24th December, 2012, equity shares 2,12,760/- were issued having a face value of Rs. 10 per share at a premium of Rs. 1,040/- per share at issue price of Rs 1,050/- per share at a total consideration of Rs. 22,33,98,000/- out of which share premium was Rs. 22,12,70,400/-. The second trench was received on 30th March, 2013, wherein 1,58,704 shares were allotted at a total consideration of Rs. 16,66,39,00/- comprising of share premium of Rs. 16,50,52,160/-at the same premium per share. Thus, 3,71,464 shares were issued to Messer's opulence investment Ltd for a total consideration of Rs. 39,00,37,200/- comprising of share premium of Rs. 38,63,22,560/- .

6. During the course of assessment proceedings, the assessee was asked to prove the identity and

creditworthiness of the party as well as the genuineness of the above transaction in terms of provisions of Section 68 of the Income-tax Act, 1961 (the Act). The FT&TR division of CBDT was also requested for seeking information of the transaction. On 24th January, 2016, assessee submitted

a. Party wise details of the share premium charged in a specific format

b. the justification of allotment of shares

c. TEV study report of GITCO

d. valuation certificate prepared on the basis of discounted cash flow method in terms of rule 11 UA of income tax rules valuing the shares at ₹ 1050 per share, based on the financial appraisal of GITCO

e. details of opulence investments Ltd with respect to its incorporation in Mauritius

f. shareholders agreement entered into with the investor

g. the compliance made Under the provisions of Foreign Exchange Management Act and reserve bank of India with respect to share subscription by investor such as foreign inward remittance certificates, UIN No, FCGPR report

h. board resolutions with respect to allotment of shares and

i. Annual returns filed with Registrar Of Companies

j. bank statement and bank realization certificates with respect to receipt of share application money

7. However, as assessee did not furnish the annual accounts of the investor, learned assessing Officer was of the view that assessee has failed to prove the initial onus cast upon him under section 68 of the Act of proving the identity and creditworthiness of the investor as well as the genuineness of the transaction. Learned assessing Officer further examined the justification of the premium of ₹ 1040/- per share. He examined the valuation report prepared by Mr. Sanjay Kumar Jhabburam & Co., Ahmadabad dated 17th December, 2012, wherein according to the Discounted Cash Flow (DCF) method, the shares was valued at 1050/- per share. The learned assessing Officer rejected valuation certificate stating that it is cryptic, two pages report and did not contain data based on which projection are made and also did not contain the management estimates. He also considered the reports submitted by GITCO and found that net profit after tax and depreciation calculated based on DCF method is at variance with the report of the valuer for FY 2014-15 to FY 2017-18. The learned assessing Officer further considered that actual results of the assessee for FY 2012-13 to FY 2015-16 and

held that those are also at variance with the amounts projected in the valuation report. Therefore, he made an addition of Rs. 39,00,37,200/- under section 68 of the Act.

8. During the course of assessment proceedings for assessment year 2012 – 13 the learned assessing officer disallowed the depreciation of ₹ 1,729,780/– on usage right considering same as building whereas assessee contended it to be an intangible assets entitled to depreciation @ 25 % , therefore on the same reasons, the learned AO found that the claim of the depreciation of ₹ 3,286,582 is disallowable.

9. Accordingly, assessment order was passed under section 143(3) of the Act on 30th December, 2016 determining total income of the assessee at loss of ₹ 32,426,494/– and a further unexplained cash credit u/s 68 of the act was added amounting to ₹ 390,037,200/- which was held to be taxable u/s 115 BBE of the act.

10. Assessee aggrieved with the order of the learned Assessing Officer preferred the appeal before the learned CIT(A), who deleted the above addition u/s 68 of the income tax act of ₹ 390,037,200 as well as deleted the disallowance of the depreciation of ₹ 3,286,582/–. Therefore, the learned Assessing Officer is aggrieved with that order and has preferred this appeal.

11. The learned departmental representative, contesting the first issue in the appeal of addition u/s 68 of the act deleted by the learned CIT – A, submitted that

i. Assessee has failed to discharge its onus cast upon him with respect to issue of share capital to the foreign party. In absence of evidence and proof of identity and creditworthiness of the above party and in view of huge premium charged by the assessee which does not commensurate with either the actual financial results or TEV report of GITCO. Therefore, genuineness of the above transaction is in doubt.

ii. Assessee did not submit the financial results of the investor.

iii. premium is even otherwise not justified for the reason that as per the TEV report of GITCO which was based on 3 productions lines installed and commissioned, where as in the valuation report refers only 2 BOPP lines were installed.

iv. Valuation report submitted by the assessee based on DCF method is flawed and has rightly been rejected by the learned Assessing Officer as it does not match with actual financial results.

v. Alternative valuation made by the learned AO clearly shows fair value of the equity per share cannot be more than Rs 881/- per share where

the assessee issued the shares at the rate of Rs. 1050/– per share.

vi. During the course of hearing he placed before us, the information received by the learned assessing officer under Article 26 of Exchange Of Information of Double Taxation Avoidance Agreement received from Mauritius revenue authorities wherein the annual accounts of the investors along with other details were also provided. On the balance sheet of investors company OIL, he submitted that investor does not have any significant business activity and did not have any revenue of its own for several consecutive years. Investor has meager expenses and therefore, the creditworthiness of the investor company is in serious doubt. It was further stated that the company does not have any fixed assets and most of the assets are financial assets.

vii. He further vehemently supported the order of the learned Assessing Officer and submitted that the case is covered by the decision of Hon'ble Supreme Court in case of PCIT v. NRA Iron & Steel Pvt. Ltd (2019) 412 ITR 161 (SC). He therefore submitted that the order of the learned Assessing Officer deserves to be confirmed.

viii. LD CIT (A) has deleted the above addition merely on the basis that the above sum was received by the assessee through banking channel. He submitted that merely submitting the bank statement of the assessee without showing creditworthiness and genuineness of whole transaction, the learned CIT (A) grossly erred in deleting the addition.

12. On the second issue of the disallowance of depreciation, he relied upon the order of the learned assessing officer.

13. On the first issue of the addition u/s 68 as well as the adequacy of the premium charged by the assessee for issue of shares to a foreign party, learned Sr. Advocate Shri. Tushar Hemani firstly submitted that originally Revenue was not aggrieved by deleting the addition under section 68 of the Act by learned CIT (A) but was aggrieved with the premium charged by the assessee and therefore for which the grounds of appeal originally filed along with form No. 36. The learned Assessing Officer challenged the addition deleted by the learned CIT (A) under section 56(2) (viib) of the Act. He submitted that subsequently vide letter dated 26.07.2021, the learned Assessing Officer raised an additional ground of appeal challenging the deletion of addition under section 68 of the Act. He submitted that on both these counts the argument of the learned Departmental Representative as well as the reasons given by the learned Assessing Officer are not

correct and addition either u/s 68 of the act or u/s 56 (2) (viib) of the act is not sustainable. He therefore submitted that the order of the learned CIT – A which considered all these aspects, deserves to be upheld.

14. On the issue of applicability of the provisions of Section 68 of the income tax act on the issue of shares to opulent investment Ltd, he submitted that now the information has been received Under Article 26 of the Double Taxation Avoidance Agreement under Exchange Of Information clause which has clearly shown that the amount of investment made by the foreign party opulence investment Ltd cannot be added u/s 68 of the act. He submitted that the identity and creditworthiness of the investor and genuineness of transaction has been proved beyond doubt.

15. With respect to the applicability of provisions of section 56(2) (viib) of the Act, he submitted that the above provision applies only to a Resident Investor and does not apply to a Non-Resident and therefore all the grounds of appeal of the learned AO with respect to valuation of shares etc, should fail.

16. Even otherwise, he submitted the share premium charged by the assessee is based on valuation report prepared on DCF method, which is one of the prescribed methods under Rule 11UA of the Income-tax Rules. Further valuation report was based on financials appraised and vetted by GITCO. He extensively referred to the report of GITCO and the valuation report furnished before the

learned Assessing Officer. He submitted that discounted cash flow method is approved under FEMA as well as Income-tax Act. He submitted that according to the exchange regulation, the share issue price to a foreign entity should be equal to or more than the fair market value arrived based on DCF method. He submitted that the observation of the learned Assessing Officer that the valuation report submitted by the assessee is sham for the reason that the projection of the valuation report are based on incorrect presumption of the production lines as well as the projection of existing BOPP units whereas if the combined project is considered there is no difference between the net profit after tax and depreciation worked out by GITCO and the valuer. Therefore, according to him the net profit as per the valuation report is same which is considered by GITCO in combined project. With respect to allegation of the learned assessing officer that the valuation report is at variance with the actual performance of the company, he submitted that actual results are bound to be different for projected results. However, he submitted that for FY 2013-14 actual results are better than the projected results.

17. He further submitted that in assessee's own case the co-ordinate Benches have affirmed that premium of Rs. 990/- per share is justified. He submitted that in Assessment Year 2011-12 in ITA No. 2671/Mum/2016 share premium of Rs. 990/- and similarly, for Assessment Year 2012-13, the same premium was upheld by the ITAT in ITA No. 5996/Mum/2016. For Assessment Year 2013-14 and for

Assessment Year 2014-15, the value of the share is higher by just Rs 50 per share and that is based on proper working.

18. He otherwise submitted that the learned assessing Officer has not made any effort to determine the fair market value of the shares according to Rule 11UA (2) (b) even after rejection of the fair market value determined by assessee. He submitted that valuation now suggested by ld AO of Rs 881/- per share does not have any basis but is based on incorrect reading of facts. He therefore submitted that the learned CIT (A) has correctly deleted the addition under section 56(2) (viib) of the Act.

19. With respect to the addition under section 68 of the Act, he submitted that on identical facts and circumstances in assessee's own case for Assessment Year 2011-12 and for Assessment Year 2012-13 the issue is decided in favour of the assessee. He therefore submitted that even on the principle of consistency, the learned assessing Officer should not have challenged the deletion of addition.

20. He further submitted that assessee has submitted the complete details with respect to the investors, which proves the identity and creditworthiness of the investors as well as genuineness of the transactions. He took us to the various details filed before the learned assessing officer in the form of Foreign Inward Remittance Certificate (FIRC), the correspondence with the Reserve Bank of India and submitted that investment of M/s Opulence Investments Limited (OIL) is compliant of FEMA

and RBI guidelines. He further extensively referred to the various details furnished before the lower authorities in case of the investors in the form of certificate of incorporation issued to the investors by Mauritius authorities, global business license issued by financial services commission of Mauritius, shareholders agreement entered into by assessee with investors to show that the complete details have been filed by the assessee to discharge onus cast upon the assessee.

21. He further submitted that the learned assessing Officer has submitted the report of FT&TR, wherein the details with respect to opulence investments Ltd were received. He submitted that the details of application for incorporation of the company as per the companies Act 2001, showing the name, address, details of the directors, Shareholders, and secretary of the company is furnished. He further submitted that the annual audited accounts of the investors is now received for the year ended on 31st December, 2012 as well as for Year 2013-14. He submitted that the amount of investment made in the assessee company i.e. M/s Chiripal Poly Films Limited has been disclosed as unquoted shares available for sale as financial assets. He further referred to the information received from the Mauritius Authorities by letter dated 20th July 2017 in the form of the bank statement of the investors from the date of the opening of the account till 30th July 2013 showing that from that bank account the investors has made investment in the assessee company. He further referred to the same letter stating that the

source of the funds enabling the above investment by foreign party in assessee company were also received from Far East capital Ltd which was shareholder of the investors at that time. He therefore submitted that the information received by the FT&TR division of central board of direct taxes clearly shows that assessee has proved the identity and creditworthiness of the shareholder investor as well as the genuineness of the whole transaction.

22. In view of this, he submitted that addition could not have been made under section 68 of the Act as well as under section 56(2) (viib) of the Act and therefore, the learned CIT (A) has correctly deleted the addition on both the grounds.

23. With respect to the claim of applicability of proviso to Section 68 of the Act inserted with effect from 01.04.2013, he submitted that it applies only in the case of Resident Investors and not in case of non-resident investors.

24. He further submitted that the decision relied upon by the learned Departmental Representative of Hon'ble Supreme Court in the case of NRA Iron & Steel Pvt. Ltd (supra) does not apply to the facts of the case. He submitted that in that particular case as per Para 9, the learned assessing Officer made an independent and detailed inquiry of the creditworthiness of the parties, source of the funds and genuineness of the transaction. In that case, the field reports revealed that the shareholders are not existing or

lacked creditworthiness. He submitted that in the present case FT&TR inquired about the investors from Mauritius revenue Authorities and sent the complete information, which clearly shows that about existence of investors, source of funds with the investors and the genuineness of the transaction. He further referred to Para no. 12 of that order and submitted that contrary to that in the present case, the detailed inquiry made by the Revenue authorities have conclusively proved that addition could not have been made in the hands of the assessee. He therefore, supported the order of the learned Commissioner of Income Tax (Appeals).

25. He also submitted that the investor is engaged in investment business and therefore , there cannot be revenue unless there is declaration of dividend etc. As it is a new company , there is no such income earned. The expenses are also related to investment activities and it does not need any investment in fixed assets. Anyway this cannot go against the assessee as complete bank statement and trail of the funds is available under Exchange of Information.

26. He also referred to several judicial precedents covered by the ld CIT (A) on the issue of taxability u/s 68 as well as u/s 56 (2) (viib) of the Act.

27. In the rejoinder, the learned Departmental Representative submitted that the decision of the Hon'ble Supreme Court clearly applies in this case as presently it is a case of private placement of the shares and therefore the addition

under section 68 of the Act was justified. He submitted that the shares of the assessee are overvalued and further referred to Page no. 206 of the PB to show that the valuation report is also not proper. He further referred submission of the learned assessing officer placed before us. In view of this, he submitted that the order of the learned assessing Officer deserves to be upheld.

28. We have carefully considered the rival contentions along with the several judicial precedents cited before us and perused the orders of the lower authorities. We have also carefully considered the information received from the Mauritius revenue authorities to FT & TR division of the Central Board Of Direct Taxes with respect to the investor i.e. opulence investment Ltd.

29. As per ground number 1 – 3 of the additional ground of appeal and ground number 1 – 2 of the original appeal memo, the learned assessing officer has challenged the addition deleted by the learned CIT – A with respect to the investment made by opulence investment Ltd in the assessee company amounting to ₹ 390,037,200/–. The learned assessing officer has made the addition u/s 68 of the act as well as applied the provisions of Section 56 (2) (viib) of the act holding that the premium charged by the assessee is excessive.

30. The fact shows that assessee has allotted 3,71,464 equity shares to one company M/s. Opulence Investments Limited (OIL), Apex Fund Services Mauritius Limited, 4th Floor, Raffles Tower, 19, Cyber city, Ebene, Mauritius in

two trenches. On 24th December 2012, 2,12,760 shares were issued at a total consideration of Rs. 22,33,98,000/- of the face value of Rs. 10/- each where the share premium was of Rs. 22,12,70,400/-. On 30 March 2013, further allotment of 1,58,704 shares were issued at a consideration of Rs. 16,66,39,200/- was received. Accordingly, total consideration was received of Rs. 39,00,37,200/- and the share premium included therein was Rs. 38,63,22,560/-. Thus, in short, the shares of the face value of Rs. 10/- were issued to that party at a premium of Rs. 1,040/- per share. The assessee submitted vide letter dated 24 November 2016, details asked in a specific format. Further, assessee submitted that assessee has established a new BOPP project line which is highly capital-intensive project, requires huge investments in infrastructure as well as in working capital. The assessee got the proposal appraised from Gujarat Industrial and Technical Organization Limited (GITCO). This institute has been set up by various financial institutions and nationalized banks. That company evaluated and appraised the project. The copy of the project report was submitted before the Assessing Officer. The assessee further submitted the report of an independent valuer based on project appraised by Gujarat Industrial and Technical Organization Limited (GITCO) determining the value of the share of the assessee at Rs. 1050/- per share. It was further explained that Discounted Cash Flow method was used for valuation which is in conformity with notification dated 29th

November, 2012 under Rule 11UA for the purpose of section 56(2)(viib) of the Act. Therefore, it was submitted that the shares have been issued to the above party shares of face value of Rs. 10/- each at a premium of Rs. 1040/- per share. For raising above funds; assessee approached many parties, bankers, and investors for the same. After negotiation, M/s. Opulence Investments Limited being a company incorporated under section 24 of the Companies Act, 2001 bearing no. 111195 at Republic of Mauritius proposed to infuse the funds as a strategic investor. The assessee also submitted the shareholder agreement entered into with the company. The assessee submitted that at the time of receipt of the share capital, the compliance with the FEMA provisions were made and such details were submitted along with FCGPR report. The assessee also submitted the copy of the Board Resolution, Copy of share certificates, copy of Form-2 being allotment return, copy of bank statements and bank realization certificates, where complete details and KYC of investor is mentioned. The learned Assessing Officer found that assessee has not submitted the copy of the balance sheet and financials of M/s. Opulence Investments Limited and evidence regarding resources of the funds and therefore, he held that the identity, creditworthiness of the investors and the genuineness of the transactions remains unproved. Therefore, the addition under section 68 of the Act was made. He further examined the issue with respect to justification of share premium of Rs. 1040/- per share. He rejected the valuation report stating it to be

cryptic and without adequate basis. He also found that there is a variance between estimation of profit as per valuation report and report of GITCO as well as with actual performance of the company. Therefore, he made an addition under section 68 of the Act.

31. The learned CIT(A) dealt with the whole issue as per ground No. 2 in Paragraph No. 4 of his order as under:-

> *"4.4 In the written submissions, the appellant stated that the AO has merely concluded that the Mauritius entity is a shell company and the investments received by the assessee were not genuine. It is argued that despite making available all the data pertaining to investors, the AO arbitrarily made addition under Section 68 in respect of the share capital received. Incidentally, the AO also contended that the valuation report was cryptic two-page report with working given on just a single …. and there were internal mismatches of the projected figures with real figures paring in GITCO Report and actual results appearing in P&L statement and thus questioned the adoption of DCF method for the valuation of shares, by stating that the estimation used by the appellant is imaginary, fictitious and has no correlation with the business of the appellant.*
>
> *4.5 I have gone through the assessment order of the AO; submissions of the assessee company extracted above and perused the material available on the record. The appellant submitted following details and documents before the AO for establishing the identity*

and creditworthiness of its immediate investor i.e. M/s. Opulence Investments Limited, (Mauritius), and the genuineness of the transaction, as required under the provisions of Section 68:

- *Name, address and PAN of the share holders;*
- *Date of transaction;*
- *No. of shares allotted/ applied during the year;*
- *Issue price of shares;*
- *Total Consideration received;*
- *Share premium received;*
- *Copy of Valuation Report certifying the intrinsic/ face value of shares as on the date on which share premium is taken and justification of share premium in accordance with the provisions of section 56(2)(viib).*

Evidence regarding identity of investor genuineness of the transaction and creditworthiness of Opulence Investments Limited, (Mauritius):

- *Complete address details of OIL;*
- *Copy of certificate of incorporation issued by Ministry of corporate affairs of Republic of Mauritius;*
- *Copy of Global Business License (Category-1) issued by Financial Services.*
- *Commission of Mauritius;*

- *Copy of Shareholders Agreement entered into with OIL;*
- *Copy of Board Resolution authorizing issue of share capital;*
- *Copy of Share certificate;*
- *Copy of complete reporting made to RBI for FIRC, UIN No. and FCGPR report inter-alia containing entire banking transaction details; Copy of Annual return filed with ROC;*
- *Copy of its Bank statement showing receipt of share capital subscription money; Copy of CMA report (appraised and vetted by GITCO) for BOPP Line; Copy of share valuation certificate justifying the share premium charged by the independent professional;*

4.6 It is seen from the above that the appellant had filed extensive documents to substantiate not only the identity of its immediate investor Le. M/s Opulence Investments Limited, (Mauritius). In this, regard Hon'ble Delhi Tribunal in case of Bycell Telecommunications India (P.) Ltd. V. PCIT (supra) held that the AO was not required to verify the source of source, except under exceptional circumstances where there is a strong prima facie material to demonstrate that the source itself is not genuine. In the instant case, nothing has been brought on record by the AO to challenge the genuineness of the source. As a result, the action of the AO in questioning the source of source is not warranted. Thus, that the

focus during the assessment proceedings was on ascertaining the justification for share premium in the background of the issue price, contending that DCF valuation was not an appropriate method for valuation of shares and the entire amount received towards issue of shares represented unexplained cash credits under Section 68.

4.7 It is seen that the said monies received by it from M/s. Opulence Investments Limited, (Mauritius) were computed in accordance with DCF valuation arrived at by an independent Chartered Accountant in compliance with the Foreign Exchange Management Act and the rules and regulations framed there under. This being an approved method for the purpose of FEMA, was an acceptable method for the valuation of shares. Hon'ble Mumbai Tribunal (jurisdictional) in case of Finproject India Private Ltd. v. PCIT (supra), the DCF technique of valuation was considered to be appropriate method for determining the value of shares, given that the same was in accordance with the FEMA provisions. Thus, the appellant cannot be considered to be in default for compliance with something that was merited by law.

Further, on examination of the submissions filed by the appellant, it is seen that the genuineness of the transaction of receipt of share capital had been duly established by the appellant by furnishing the copy of the Foreign Inward Remittance Certificate (FIRC) issued by the Authorised Dealer Banks and Form-2 submitted to the Registrar of Companies. In the said

FIRC's, the authorised dealers have certified the receipt of inward remittance from M/s. Opulence Investments Limited, (Mauritius) on various dates, the Rupee equivalent of which amounting to Rs. 39,00,37,200 has been credited to the Bank Account of the appellant. Further, it is certified in the FIRC that the purpose of remittance is "FDI purchase of equity" favouring "Chiripal Poly Films Ltd.". Apart from the genuineness of the transaction, the Foreign Inward Remittance certificate also served the purpose of establishing the identity of M/s. Opulence Investments Limited, (Mauritius), as it mentions the name of the remitter and the name of the remitting bank in Mauritius and the purpose of the remittance. In this connection, it is pertinent to point out that M/s. Opulence Investments Limited, (Mauritius), which is headquartered in Mauritius, is the holding company of the appellant.

4.9 Further, it is seen that the appellant has informed the RBI regarding the Foreign Inward Remittance from M/s. Opulence Investments Limited, (Mauritius) towards subscription to the shares of the appellant company at Rs. 1050 per share comprising of face value of Rs. 10 per share and premium of Rs. 1040 per share, along with the KYC form in respect of the non-resident investor. It is further seen that the RBI has allotted Unique Identification Number (UIN) for the said Foreign Inward Remittance and intimated the same to the appellant. Thus, it is seen that the investment made by M/s. Opulence Investments Limited, (Mauritius) in the share capital of the

appellant company during the year, which comprised of paid up share capital of Rs.37,14,640 and share premium of Rs.38,63,22,560, has duly complied with the FEMA provisions and RBI regulations.

Further, it is seen that similar issue was involved in assessee's own for AY 2011-12, where the Hon'ble ITAT allowed assessee's appeal vide its order in appeal no. ITA No. 2671/Mum/2016 dated 19.02.2019.

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4.11 The investor in the share capital of the appellant company is a Non-Resident. As per provisions of Section 68 of the Act, where any sum is found credited in the books of accounts maintained by the assessee, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not satisfactory in the opinion of the AO, the sum so credited may be charged to income-tax as the income of the assessee of that previous year. The Finance Act, 2012 amended Section 68 of the Act from AY 2013-14 by inserting a proviso to provide that where the Assessee is a company in which the public are not substantially interested, and the sum so credited consists of share application money, share capital or share premium, any explanation offered by such Assessee company shall be deemed to be not satisfactory unless the person, being a resident in

whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited. As per the amendment brought in which is applicable from AY 2013-14, the proviso only to such amounts as are received by the Appellant from its resident shareholder(s); in whose name monies received towards share capital (including premium) is credited in the books of accounts of the Appellant.

4.12 In this regard reliance is placed on the decision of the Hon'ble jurisdictional Mumbai Tribunal in the case of Finproject India Private Ltd. v. [2018] 93 taxmann.com 461 wherein the Mumbai Tribunal upheld the decision of the Hon'ble CIT(A), who by placing reliance on the decision of Hon'ble Bombay High Court in case of Vodafone India Services Private Limited (368 ITR 01) and that of the Hon'ble Mumbai Tribunal in case of Green Infra Ltd. (ITA No. 7762/Mum/2012), concluded that no addition should be made under Section 68 of the Act in the hands of the company, towards share premium received from non-resident shareholders. Further, reliance is also placed on the decision of the Hon'ble Delhi Tribunal in the case of Bycell Telecommunications Indià Pvt. Ltd. v. PCIT [2018] 90 taxmann.com 268, wherein the Delhi Tribunal has categorically held that proviso to Section 68 of the Act, brought in by the Finance Act, 2012 w.e.f. April 1, 2013, requiring the assessee company to explain the identity, genuineness and creditworthiness of the person investing in share application money, share capital, share premium, etc.

applies only in the case of a person being the investor who is resident in India and in whose name such credit is recorded in the books of the company. The Tribunal has further categorically noted that the proviso cannot be extended to non-resident investors. A similar view has also been upheld by the Hon'ble jurisdictional Mumbai Tribunal in case of ACIT v. Vertias (India) Pvt. Ltd. (ITA No. 3276/Mum/2016) wherein it was observed that the proviso to Section 68, inserted w.e.f. 1 April 2013, would apply only to funds collected by closely held companies from its resident shareholders and hence, would not apply in case of non-resident investors. In view of the above and given the fact that the Assessee has undisputedly received monies towards share capital from non-resident shareholder viz., M/s. Opulence investments Limited, (Mauritius), it held that the proviso to Section 68 of the Act will not to apply in the instant case.

4.13 The AO further held that the DCF valuation used by the assessee is bogus and sham and has no connection with the actual figures. AO also contended that the valuation report was cryptic two page report with working given on just a single page and there were internal mismatches of the projected figures with real figures appearing in GITCO Report and actual results appearing in P&L statement and thus questioned the adoption of DCF method for the valuation of shares. It is seen that the said monies received by it from M/s. Opulence Investments Limited, (Mauritius) were computed in accordance

with DCF valuation arrived at by an independent Chartered Accountant in compliance with the Foreign Exchange Management Act and the rules and regulations framed there under. The compliance to FEMA and RBI regulations is discussed in the above paragraphs. Any reference to valuation of shares under Rule 11UA is relevant to Section 56(2) (viib) of the Act. It is also necessary to note that the provisions of section 56(2)(viib) are applicable only to the share premium received from resident investors only. In this case the investment in share capital is received from a non resident. Therefore, provisions of section 56(2)(viib) and valuation under Rule 11UA are not applicable. Further, in asséssee's own case ITO v. M/s Chiripal Poly Films Ltd. (2019) 104 taxmann.com.172, reproduced above, Hon'ble jurisdictional Mumbai Tribunal observed that. valuation of shares is not relevant for determining genuineness of the transaction for the purpose of Section 68 of the Act. Hon'ble Mumbai Tribunal has also a categorically mentioned that the requirement of valuation of share premium was neither envisaged by the pre-amendment provisions nor by the amended provisions of Section 68.

4.14 Thus, it is seen from the above discussion that the evidences filed by the appellant have established the identity of the shareholder, the genuineness of the transaction and the creditworthiness of the shareholder in respect of the share capital of Rs. 39,00,37,200 received from M/s. Opulence

Investments Limited, (Mauritius) during the year. In view of the same, it is held that the share capital (including share premium) received from M/s. Opulence Investments Limited, (Mauritius) cannot be treated as unexplained cash credit and consequently, no addition is warranted u/s. 68 of the Act in respect of the said share capital (including share premium). Hence, the AO is directed to delete the addition of Rs. 39,00,37,200/- made in the assessment order u/s.68 of the Act. Assessee gets relief. This ground of appeal is therefore allowed."

32. During the course of hearing, the learned Assessing Officer vide letter dated 27.12.2021 submitted letter of FT&TR, CBDT dated 19th May 2017, according to that letter, Mauritius Revenue Authorities vide letter dated 20th April, 2017 furnished the information under Article 26 of India-Mauritius Double Taxation Avoidance Convention (DTAC) submitted the details of investors. According to that information M/s. Opulence Investments Limited was a company formed by Apex Funds Services (Mauritius), 4th Floor, Raffles Tower, 19, Cyber city, Ebene, Mauritius as a private company. It also submitted the constitution of the company holding categorical one global business license. It also submitted the memorandum and Artciles of the investor. The Mauritius Authority also submitted the copies of the financial statements of the investors for the year ended on 31 December 2013 and 31 December 2014. According to the financial statements as on 31st December, 2013, the investor company was having total assets of

USD $ 63,31,390 , further for the year ended on the 31st December, 2014, it was having a total assets of US $ 81,84,179. According to note 5 for that year it had financial assistance available for sale of Us $ 81,75,054 In the above sum, the investors has disclosed that it is invested in an Indian company namely Chiripal Poly Films Ltd. (Assessee) 7.91% of the equity. Such sum at the fair value determined at US $ 81,75,054. For the year ended on 31 December 2013 such sum was US $ 63,20,518. Investors had share capital of 72,27,601 ordinary shares of US $ 1 each. Vide letter dated 27 January 2017 another piece of information was received in furtherance to letter dated 20 April 2017 from Mauritius Revenue authorities. According to that letter the name of Five directors of investors were intimated as under:-

OPULENCE INVESTMENTS LTD
Company no: 111195 C1/GBL
Suite 208, 2nd Floor NG Tower, Ebene Cybercity, Mauritius

Register of Directors

	Full name of Director	Address of Director	Position Held	Nationality	Date of appointment	Date of resignation
	Mahmad Hayder Amiran	41 Doyen Ave, Quatre Bornes, Mauritius	Director	Mauritian	18-Jul-12	20-Dec-16
	Navun DUSSORUTH	7, Chamroo Lane, Petite Riviere, Mauritius	Director	Mauritian	18-Jul-12	20-Dec-16
	Tushar Chandra Karia	3 Lynwood Drive, Northwood, HA6 1HL, United Kingdom	Director	British	20-Jul-12	20-Dec-16
	Yajjadeo LOTUN	Camp Samy Branch Road, Moka, Mauritius	Director	Mauritian	20-Dec-16	
	Jacques Eday TONG SAM	Victor Hugo St Pallazzo, Residence Pallazzina, Beau Bassin, Mauritius	Director	Mauritian	20-Dec-16	

33. The information also contained that Fidelis Trust and Corporate Services Limited is the management company administering the affairs of the company and further certified that none of the directors or share holder of the investor company in present or in past were of Indian origin and the company does not have any associated person or entities.

34. It further noted the details of the share holders as under:-

OPULENCE INVESTMENTS LTD
Company no: 111195 C1/GBL
Suite 208, 2nd Floor NG Tower, Ebene Cybercity, Mauritius

Register of Shareholders (Ordinary USD1.00 Par Value Shares)

	Full Name & Address of Shareholder	Date of Acquisition	Number of share acquired	Certificate Number	Remarks
	Nawaab Nominees Limited C/O Apex Fund Services (Mauritius) Ltd, 4th Floor, 19 Bank Street, Cybercity, Ebene 72201, Mauritius	18 July 12	1	1	Full transfer of holding to Far East Capital Limited on 20 July 2012,
	Far East Capital Fund Limited Victoria Place, 31 Victoria Street, Hamilten HM 10, Bermuda	20 Jul 12	1	2	Full transfer of holdings from Nawab Nominees Limited on 20 July 2012
	Far East Capital Fund Limited	21 Jan 13	4,107,600	3	Transferred to Actinium Investments Fund Limited on 15 March 2017
	Far East Capital Fund Limited	29 Oct 13	3,120,000	4	Transferred to Actinium Investments Fund Limited on 15 March 2017
	Far East Capital Fund Limited	1 Sep 14	10,000	5	Transferred to Actinium Investments Fund Limited on 15 March 2017
	Far East Capital Fund Limited	31 May 16	10,000	6	Transferred to Actinium Investments Fund Limited on 15 March 2017
	Actinium Investments Fund Limited	15 Mar 17	7,247,601		Full transfer of holdings from Far East Capital

	Nerine Chambers, Road Town, Tortola, VG1100, British Virgin Islands				Limited on 15 March 2017

35. On perusal of the above detail, it is apparent that at present 72,47,601 shares were held by a Actinium Investments Fund Limited these shares were acquired all the investors company by 15th March 2017 by full transfer of holding from Far East Capital Fund Limited. Thus, it is apparent that from 21st June 2013, till 15th March 2017 100% shareholding of the investor company was with Far East Capital Fund Limited. It also contained the balance sheet of the investor company where once again as on 31 December 2012, the investment in Chiripal Poly Films Ltd. (Assessee) of Us $ 4099890 is shown.

36. Further, on 28 July 2017, further information was received from Mauritius Revenue authorities wherein it was stated that the investor is holding bank account number 080-151178.020 of current account, which was open with HSBC bank Mauritius Limited on 9 August 2012 and close on 26 August 2014. It is also provided the KYC document submitted by the investors with the bank and also the details of the introducer for that bank account. The complete copy of the bank statement from the date of opening to 30 March 2013 showing the investment made in the assessee company and further funds available in that bank account were sent. The letter also stated that sources of funds enabling the above investment by the investors in the assessee company are received from Far East Capital Fund Limited, which was shareholder at that

time. The Mauritius Revenue authorities also certified that these funds could be identified in the bank statements. It further certified that HSBC bank Mauritius Limited, that there is no portfolio associated or within the company (investor) is the beneficial owner.

37. No adverse information either with respect to investor or Assessee or with respect to creditworthiness of investor and genuineness of transaction is received from Mauritius Revenue Authorities. None is also available with ld AO.

38. In view of the above facts, we find that the identity of the investor, creditworthiness of the investors and genuineness of the transactions have been established in terms of information received from Mauritius Revenue authority. Information received clearly proves beyond doubt that allegations of ld AO are not sustainable.

39. Nothing has been placed before us to show that either the information sent of Mauritius revenue authority is not correct or the Investor company is still a sham. The ld Ao has also not placed any material on record to show that Investor company is sham.

40. The orders of the ld CIT (A) has relied up on several Judicial precedents, it was not shown to us by revenue that those do not apply to the facts of the case.

41. Therefore, we do not find any infirmity in deletion of the addition under section 68 of the Act of Rs. 39,00,37,200/- by the learned Commissioner of Income tax (Appeals).

42. In view of the information received under article 26 of Exchange Of Information Artcile of DTAA , the decision relied upon by the learned Departmental Representative of Hon'ble Supreme Court in NRA and Iron and steel Pvt. Ltd. 103 taxmann.com 48 (SC) is misplaced.

43. In view of this grounds no. 1, 2, & 3 of the appeal with respect to addition under section 68 of the Act are dismissed.

44. Now, we come to the justification of premium charged by the assessee. At the cost of repetition, the fact shows that assessee has been issued shares of Rs. 39,37,00,200/- consisting of face value of 3,71,464 shares of Rs. 10 at each amounting to Rs. 37,14,640/-. The assessee further received premium on 3,71,464 shares at the rate of 1,040 per share amounting to Rs. 38,63,22,560/-. The learned Assessing Officer rejected the valuation report submitted by the assessee for two reasons;

I. That valuation is cryptic and did not have the basic data of the valuation including management representation

II. The valuation report is at wide variance with the project appraisal report by GITCO and the actual performance of the company in subsequent years.

45. The provisions of section 56(2)(viib) of the Act provides that where a company not being a company in which the public are substantially interest receive in any previous year from any person being a resident any consideration

for issue of shares that exceeds the face value of such share, the aggregate consideration received for such shares has exceeds the fair market value of the shares is the income chargeable to tax under the head income from other sources in the hands of such issue of company. From the plain reading of the above provisions of the law, it is clear that it applies only in case of receipt of considering for issue of shares from a resident person. In the present case, M/s. Opulence Investments Limited is non-resident and therefore, the provisions of section 56(ii) (viib) of the Act do not apply in the case of the assessee.

46. Even otherwise, the fact shows that the share premium of Rs. 1040/- per share has been derived based on adopting Discounted Cash Flow Method based on CMA report appraised and vetted by GITCO and accordingly, valuation certificate in accordance with Rule 11UA. Further, the learned Assessing Officer has rejected the valuation report stating it to be cryptic and two-pager report. It is contended by the LD AR that there is no mismatch between figures reported in TEV study report prepared by GITCO and figures taken in Valuation report determining value of shares. He further submitted that TEV study is the basis for valuation certificate. We completely agree with the above submission of the assessee that if there is no variation between the figures of TEV study report conducted by GITCO and the earning figures of valuation report then, even otherwise tow pager report, despite being cryptic cannot be discarded.

47. The facts are also put to our attention that the net profit after tax and depreciation worked out by the learned assessing officer are fallacious for the reason that it considered the projections for the existing BOPP lines whereas the projections with respect to the combined project should have been adopted. If, the financial projections of the combined project are taken into consideration than there is no difference in the financial projections of net profit after tax and depreciation taken as per the valuation report as well as by the GITCO. This is tabulated as Under:-

net profit after tax and depreciation for financial year	As per GITCO of the existing BOPP Lines	As per GITCO (combined project)	As per the valuation report
12 – 13	1085.75	1085.75	1085.31
13 – 14	1849.84	1849.84	1849.44
14 – 15	2127.29	4823	4822.49
15-16	2442.48	7049	7049.01
16-17	2514.50	8303	8302.83
17 – 18	2608.09	9123	9122.69

There cannot be any dispute that the figures of net profit after Tax and Depreciation shall be taken of the combined project and not of the existing project only. Therefore, it is now evident that if the combined projections as per GITCO report are taken, there is no difference between the financial figures of net profit after tax and depreciation taken as per the valuation report.

48. The learned assessing officer was also of the view that the financial projections of the valuation report are at wide variance with the actual results. The claim of the assessing officer is that the actual results shows far less net profit compared to the projected results, therefore the allegation is that in the projected results the profits are shown higher to justify the higher premium. However when we look at the actual figures we find that for financial year 13 – 14 the actual profit of the assessee is only Rs. 2033.700 which is less than the projected results in the valuation report of Rs. 1849.44. Even otherwise, the discounted cash flow method speaks about the estimation of future cash flow available to an organization. It is based on so many estimations, exemptions, representation, and other external factors. Therefore merely if there are variations in the actual performance of an enterprise with the projections, the projections cannot be rejected as such on that basis unless the regulatory authority finds flaws and disproportionalities or absurdities in assumptions, estimations etc. No doubt, variations between the actual results in the estimation are required to be justified by the assessee, if questioned. Based on the explanation of the assessee the learned assessing officer is bound to decide whether the brands is because of the valid reasons or it is merely for justification of higher premium.

49. Further with respect to the valuation of the share of the assessee company, it has been shown to us that for assessment year 2011 – 12 the assessee issued shares at

a premium of ₹ 990 per share which is been accepted by the coordinate bench in ITA number 2671/MU M/2016. Further for assessment year 2012-13 identical premium i.e. ₹ 990 per share has been accepted by the coordinate bench in ITA number 5996/M/2016. For assessment year 2013 – 14, the premium accepted by the assessee is only ₹ 1040 per share, which is marginally higher than the premium accepted by the coordinate bench in earlier years in assessee's own case. We have not shown by the revenue that the above premium accepted by the coordinate benches in assessee's own case has not been accepted by the revenue. Therefore, on this basis also, we are of the view that the premium charged by the assessee of ₹ 1 040 per share is not excessive.

50. The learned assessing officer has also worked out the fair value per equity shares of ₹ 887 per share point written submission dated 27/12/2021 wherein the learned assessing officer is of the view that the valuation of shares based on the TEV study which was on the basis of three BOPP lines whereas in the value for valuation certificate the valuation was made on the basis of two BOPP lines only. The learned assessing officer therefore worked out the net distributed income to the equity shareholders at two third of projected net distributable income and worked out fair value per equity shares of ₹ 887 per share. This is only because of the reason that the learned assessing officer has considered the projection for the existing BOPP project only, which is Page number 62 of the report of GITCO, the AO should have taken the combined

projections placed at page number 67 of that project report. Therefore, the valuation made by the learned assessing officer at ₹ 887 per share is based on incorrect assumptions.

51. In view of the above facts, we uphold the order of the learned CIT – A in deleting the addition u/s 68 of the act with respect to shares issued by the assessee at a premium of ₹ 1 040 per share to opulence investment Ltd Mauritius as based on the explanation of the assessee and information received by FT & TR division of CBDT clearly proves the identity and creditworthiness of the investor. The premium charged by the assessee on the issue of shares cannot also be charged to tax in the hands of the assessee in view of the provisions not applicable where investor is a non-resident as well as proper justification supported by valuation report and TEV study produced.

52. In the result, ground number 1 – 3 of the additional grounds of appeal and ground number 1 – 2 of the original appeal memo are dismissed.

53. Coming to the ground number 3 of the original appeal memo where the learned assessing officer is aggrieved by the action of the learned and CIT – A in deleting the addition/disallowance of depreciation claimed on intangible assets. The fact shows that the AO noticed during the course of assessment proceedings from the assessment order for assessment year 2012 – 13 that assessee has claimed depreciation on intangible assets amounting to ₹ 1,729,782, which was disallowed. The fact shows that

assessee has obtained a right for usage of common infrastructure and administrative facilities that were allotted in Vraj integrated Textile Park Ltd. These are the rights for usage of common infrastructure and administrative facility for plots, which were allotted in the above Textile Park. According to the assessee, usage and occupancy rights for common infrastructure and administrative facilities developed in the industrial park had been conferred upon the assessee company. Therefore according to the assessee said rights were directly or keen to and having Inextricable linkage with the access and effective utilization of factory building and other facilities established by the assessee company in that Textile Park. Therefore, according to the assessee it is an intangible asset and hence is eligible for depreciation at the rate of 25%. The AO is of the view that above advantage is linked to the factory building, factory building itself is eligible for depreciation at the rate of 10% and therefore depreciation can be claimed by the assessee only at the rate of 10% on this intangible right. Therefore, AO disallowed the depreciation claimed by the assessee on the above for the reason that it has been disallowed in the earlier years. The learned CIT – A deleted the about disallowance based on the order passed by his predecessor for assessment year 2012 – 13. Both the parties confirmed before us that identical issue has been decided by the coordinate bench in assessee's own case for assessment year 2012 – 13 in ITA number 5996/M/2016 and therefore it deserves to be followed.

The coordinate bench dealt with the above issue as Under:-

> "3. The next issue to be decided in this appeal is as to whether the ld CIT (A) was justified in deleting the disallowance of ₹ 17,29,780/- made on account of depreciation on intangible assets in the facts and circumstances of the case.
>
> 3.1. We have heard the rival submissions and perused the materials available on record. We find that the ld AO observed that the assessee had shown addition of intangible assets of RS 3,45,95,600/- as 'rights in infrastructure' and claimed depreciation thereon during the year under consideration. The ld AO observed that this addition does not fall under the list of intangible assets u/s 32(1)(ii) of the Act and accordingly denied the depreciation thereon. We find that the assessee had pleaded that it had acquired 'rights in infrastructure' during the year under consideration and since such rights were for usage of common infrastructure and administrative facilities for plots allotted in Vraj Infrastructure Textile Part (VITP), the same were akin to and having inextricable link with 'excess and effective utilization of factory building and other facilities' established by the assessee in VITP.

We find that the assessee had further pleaded that despite the fact that such rights were shown as 'intangible assets' eligible for depreciation at 25% in the Tax Audit Report, the assessee had adopted rate of depreciation applicable to 'factory building' at 10% and since the assets were acquired in the second half of the year, it had claimed depreciation at the rate of 5% amounting to ₹ 17,29,780/- (3,45,95,600 * 10%* 50%). We find that the ld AO had denied depreciation on the only ground that the assessee had self-contradicted its claim by saying that such rights were intangible assets on one hand and by claiming depreciation at the rate applicable to factory building on the other hand. We find that the ld CIT-A had granted relief to the assessee by categorically holding that the rights in infrastructure acquired by the assessee in VITP is having direct nexus with effective utilization of its factory premises in its Textile Park. This factual finding has not been controverted by the revenue before us. Either way, the incurrence of expenditure towards acquiring rights in infrastructure in VITP has not been doubted by the revenue. The only issue is the rate of depreciation thereon. The LD CITA had also observed that the assessee is eligible for 25% depreciation

but had claimed only 10% and accordingly deleted the disallowance made by the LD AO. Hence, we do not deem it fit to interfere in the order of the ld CITA. Accordingly, the Ground No. II raised by the revenue is dismissed."

54. We find that facts are similar in this year too. We have not been explained any reason by the LD DR to deviate from the orders of the coordinate bench in assessee's own case. Therefore, respectfully following the decision of the coordinate bench in assessee's own case for assessment year 2012 – 13 we do not find any infirmity in the order of the learned CIT – A in allowing depreciation on the usage and occupancy rights at the rate of 25% considering it as intangible asset. Accordingly, ground number 3 of the appeal is dismissed.

55. In the result, appeal filed by the learned AO is dismissed.

Order pronounced in the open court on 12.04.2022.

Sd/-	Sd/-
(PAVAN KUMAR GADALE)	(PRASHANT MAHARISHI)
(JUDICIAL MEMBER)	(ACCOUNTANT MEMBER)

Mumbai, Dated: 12. 04.2022
Sudip Sarkar, Sr.PS
Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai

6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai