

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUZ RAHMAN, HON'BLE ACCOUNTANT MEMBER**

<b>ITA Nos.1822 &amp; 1823/Mum/2022</b>		<b>A.Y. 2019-20 &amp; 2017-18</b>
Novo Corporate Advisors Pvt. Ltd. 1006, Raheja Centre, Nariman Point, Mumbai 400 021. <b>PAN: AAFCN1789B</b>	<i>v.</i>	Dy. Commissioner of Income Tax, Central Circle-(2),Mumbai.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>ITA Nos.1914 &amp; 1915/Mum/2022</b>		<b>A.Y. 2019-20 &amp; 2017-18</b>
Dy. Commissioner of Income Tax, Central Circle-5(2),Mumbai.	<i>v.</i>	Novo Corporate Advisors Pvt. Ltd. 1006, Raheja Centre, Nariman Point, Mumbai 400 021. <b>PAN: AAFCN1789B</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	<b>:</b>	<b>Shri Vijay Mehta</b>
<b>Department by</b>	<b>:</b>	<b>Shri Chetan M. Kacha</b>
<b>Date of Hearing</b>	<b>:</b>	<b>14.09.2022</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>31.10.2022</b>

**ORDER**

**PER AMIT SHUKLA (JM):**

The aforesaid cross-appeals have been filed by the Revenue as well as by the assessee against common order dated 20.05.2022, passed by learned Commissioner of Income Tax

(Appeals)-55, Mumbai (in short 'Ld. CIT (A)') for the quantum of assessment under Section 143(3)/147 of the Income Tax Act, 1961 (in short 'the Act') for Assessment Year 2019-20; and under Section 143(3) for the Assessment Year 2017-18.

2. Since on merits, the issues involved are identical, arising out of identical set of facts and similar findings, therefore, same were heard together and are being disposed off by way of this consolidated order. For the sake of convenience, appeal for Assessment Year 2019-20 is taken up first and our findings given therein on merits will apply *mutatis mutandis* in the appeal for Assessment Year 2017-18.

3. Brief background of the assessee-company is that it is engaged in rendering professional advice to its clients. In consideration of the same, it receives professional fees which are offered to tax under the head 'Profits and gains from business or profession'. The Assessing Officer has held that these are not genuine professional fees therefore, he taxed the receipts under the head 'Income from Other Sources' under section 68 of the Act and the expenditure against rendering these services has been disallowed. The Assessing Officer has made addition of professional/consultancy fees of Rs. 31,25,00,000/- in Assessment Year 2017-18 and Rs. 4,00,75,000/- in Assessment Year 2019-20 under section 68 of the Act and has disallowed expenses paid as professional charges of Rs. 2,25,00,000/- in Assessment Year 2019-20. The assessment for the Assessment Year 2019-20 was completed on 29.09.2021 and pursuant to

addition made in Assessment Year 2019-20, the case for Assessment Year 2017-18 was reopened u/s 147 and addition has been made on the same grounds vide order dated 26.03.2022.

4. The Assessing Officer in the assessment order for Assessment Year 2019-20 has noted that the assessee had declared income of Rs.2,06,11,880/- under the normal provisions; and Rs.2,04,75,109/- under Section 115JC of the Act. He further noted that assessee has two Directors, viz. Shri Nirad Mehta and Shri Vinit Parekh and the company is engaged in the business of providing consultancy/professional services. Thereafter, he notes that a survey action under Section 133A of the Act was carried out on 20.09.2018 which revealed that assessee has not incurred any manpower expense to earn huge revenue since incorporation upto the date of survey. He also refers to the statement on oath under Section 131 of the Act of Shri Vinit K. Parekh, Director recorded on 20.09.2018 and 27.09.2018. Thereafter, in response to the show cause notice, assessee submitted various details from where the Assessing Officer noticed that assessee has made payment of Rs.2,25,00,000/- to M/s Devesh Vasavada & Co. a firm of CAs for providing professional services in relation to the professional services rendered by assessee to Jet Airways India Ltd. and GMR Corporate Affairs Pvt. Ltd. Notice under Section 133(6) of the Act was issued by the Assessing Officer to Devesh Vasavada & Co. who, in response, filed all the details and explanation before the Assessing Officer. However, the ld. Assessing Officer rejected all

the contentions as well as explanations and mainly referred to the statement of Shri Vinit K. Parekh from which he deduced that *firstly*, that the company had no manpower to provide the services; *secondly*, that the company had not made any payment towards rendering of services which in turn were provided to the clients; and *lastly*, there was no written agreement or email communication regarding rendering of services. He also noted that; (i) necessary details, bills, proofs etc. in respect of consultancy fees were not submitted by the assessee, (ii) a copy of the bill of Lakshmikumaran & Shridharan which was claimed by the assessee were engaged to provide professional advice to Jet Airways was not submitted, (iii) payment to Lakshmikumaran & Shridharan was made directly by Jet Airways (India) Ltd. to them. Thus, on this premise, Assessing Officer was of the view that the nexus between the income and expenses was not established by the assessee. From the details submitted by M/s Devesh Vasavada & Co., the Assessing Officer further noted that; (i) appointment letter appointing them as a retainer by the assessee-company was not submitted, (ii) the cumulative invoice issued to the assessee were not submitted, (iii) the profession fee account was not explained with any break-up showing assessee's name and names of other clients for whom similar type of work was done, (iv) ledger account of the assessee-company was not maintained in their books of account, (v) the reply was silent as regards to similar work done/services provided for any other client; and (vi) notes were not maintained for the work done or for the services rendered to the assessee by M/s Devesh Vasavada & Co.

5. Thus, the Assessing Officer was of the view that assessee had not provided any services to GMR Corporate Affairs P. Ltd. and Jet Airways (India) Ltd., therefore, the genuineness of the professional fees remained unexplained. Accordingly, the Assessing Officer made addition of entire professional fees of Rs.4,00,75,000/- shown as income under Section 68 of the Act.

6. Before the Ld. CIT (A), assessee filed detailed written submissions along with various documents which has been incorporated and discussed from pages 4 to 21 of the impugned appellate order. The Ld. CIT(A) after considering the entire gamut of facts, material on record and findings of the Assessing Officer has made the following observations and deleted the said addition :-

*“4.3.1 The AO has made addition on the grounds that necessary documentary evidences in support of consultancy fees were not submitted by the appellant Further, appointment letter for appointing of Devesh Vasavada & Company as a retainer was not been submitted. M/s Devesh Vasavada & Company could not explain the profession fee account with details of clients for whom similar type of work was done. Devesh Vasavada & Company has also not maintained ledger account of the assessee-company in their books of account. In respect of Lakshmikumaran & Sridharan, copy of the bill of was not submitted and payment was made to it directly by Jet Airways (I) Ltd. In addition to that the nexus between the income and expenses has not been established.*

*The appellant has submitted that during the year under consideration the appellant company has provided services to GMR Corporate Affairs P. Ltd. and Jet Airways (I) Ltd. and the services were provided through Shri Rajesh Chaturvedi, Devesh Vasavada &*

*Company and the law firm, Lakshmikumaran & Sridharan. The services have been rendered by the assessee-company through Mr. Rajesh Chaturvedi, a well-experienced C.A. The appellant has also submitted that in the statements recorded during the course of survey proceedings. Mr. Vinit Parikh, director had explained the detailed nature of services by the appellant company. It was further submitted that the evidences are generally not kept by the professionals who are rendering the advice. Once, the advice has been rendered, the invoices are raised and the same becomes the evidence of services rendered. It was stated that, if any further confirmation was required, the same could be brought on record. It was submitted that as per the industry practice when the legal opinions of Lakshmikumaran & Sridharan were taken, the bills were prepared directly on the client and the payments were also made by the client directly. It was submitted that in response to a notice u/s. 133(6) of the Act issued by the AO Devesh Vasavada & Company had submitted the complete particulars. It is further submitted that Mr. Rajesh Chaturvedi and Devesh Vasavada are known to each other for about 30 years and Devesh Vasavada has also been in practice for decades and they are renowned Chartered Accountants. It was submitted that the Assessing Officer has not issued any notice to the client to verify the services rendered to them. It has been submitted that the consultancy services were rendered in respect of GST advice to Jet Airways (I) Ltd and DVAT, Service Tax, GST and other taxation matters advice to GMR Corporate Affairs P. Ltd. The appellant has also submitted that with respect to the consultancy service rendered to GMR Corporate Affairs P. Ltd., the AO has made general observation without any adverse finding.*

*4.3.2 The facts of the case of the appellant are that during the year under consideration, the appellant company has provided consultancy services to GM Corporate Affairs P. Ltd. and Jet Airways (I) Ltd. and received professional fees Rs. 3.15,00,000/- from Jet Airways (I) Ltd. and Rs. 85,75,000/- from GMR Corporate Affairs P. Ltd., totaling to Rs. 4,00,75,000/-. The appellant company has been incorporated on 02.03.2016 and engaged in the business of providing financial technical and other consultancy services, mainly in the taxation field to various clients. The appellant company is a subsidiary of Alpine Corporate Advisors P. Ltd (formerly known as*

*Growmore Corporate Affairs P. Ltd.), the holding company. Shri Rajesh Chaturvedi, CA and his family members are majority share holders of M/s Alpine Corporate Advisors P. Ltd., the holding company. The holding company is engaged in the business of rendering of consultancy services. Shri Rajesh Chaturvedi is a qualified and experienced Chartered Accountant. The appellan company has provided services through Mr. Rajesh Chaturvedi, CA, Devesh Vasavada & Company and the law firm, Lakshmikumaran & Sridharan. Through Shri Rajesh Chaturvedi, C.A. the appellant company has rendered services in respect of GST matters to Jet Airways (I) Ltd. and in respect of DVAT, Service Tax, GST and taxation matters to GMR Corporate Affairs P. Ltd.*

*As far as consultancy services rendered to GMR Corporate Affairs P. Ltd. are concerned, the AO has not made any adverse inference regarding rendering of services.*

*Shri Rajesh Chaturvedi is a renowned, practicing CA and holds FCA, AICWA and MBA degree from University of Manchester. He has been stated to be very well experienced C.A. having 25 years experience. It is also a fact that the holding company, Growmore Corporate Advises P. Ltd. is also rendering services to various reputed business houses like Shapoorji Pallonji and Lodha Developers P. Ltd.*

*Jet Airways (I) Ltd had faced litigation under GST Act and the appellant company through assistance of Shri Rajesh Chaturvedi helped the company in such litigation. It has been explained that to ensure safety of aircraft engines/parts, Jet Airways (I) Ltd. required periodic servicing and hence the engines were sent abroad for servicing and repairs and then reimported back. Such reimport was fully exempt from customs duty until introduction of GST in July, 2017. On introduction of GST Act, divergent interpretations emerged at different locations in India. In Mumbai and Chennai, the Customs Department charged customs duty at higher rate on the reimport of serviced engines. This resulted into demand of Rs. 30 crores on account of customs duty on M/s Jet Airways (I) Ltd. Shri Rajesh Chaturvedi, on behalf of the appellant company, gave advisory services on the above issue. He also assisted in drafting a representation before Central Board of Excise and Customs seeking*

*clarification of the Board on the above issue. He also drafted the letter for taking legal opinion from the senior attorneys, Lakshmikumaran & Sridharan. Legal opinion was given by Lakshmikumaran & Sridharan, a copy of the same was also submitted to the Assessing Officer during the assessment proceedings.*

*The appellant company also advised Jet Airways (I) Ltd. in respect of issue faced under the GST Act in respect of its agreement with Border Security Force. Here again, the legal opinion of the attorney was taken.*

*Jet Airways (I) Ltd. was also advised in respect of getting the state-wise registration under GST Act and financial lease agreements for acquisition of aircrafts from foreign lessor.*

*4.3.3 The AO has not denied existences of services provided by the appellant to Jet Airways (I) Ltd. The AO has only doubted the genuineness of services rendered by the appellant company because the evidences/explanation submitted was not found satisfactory to the AO. The evidences/explanation given by the appellant during assessment proceedings are discussed as under:-*

*(i) During the assessment proceedings, the appellant had provided the copies of invoices raised in relation to services provided to both the clients.*

*The Invoices were raised by the appellant company in the name of GMR Corporate Affairs P. Ltd. In the invoice dated 01.05.2018, the description of nature of services mentioned is "Consultancy fees for providing Expert Advisory on DVAT and Related Litigation Issues, Service Tax, GST & Other taxation matters".*

*The Invoices were raised by the appellant company in the name of Jet Airways (I) Ltd. In the invoice dated 04.06.2018, the description of nature of services mentioned is "Consultancy fees towards GST advice from time to time". The nature of services described in the invoices is exactly the same which has been explained by the appellant to the AO during the assessment proceedings.*

(ii) During the assessment proceedings, the appellant has submitted the confirmation from Jet Airways (I) Ltd. regarding services of the appellant company taken by them. The confirmation was signed by Mr. Sundaram Ramesh, head of Direct & indirect Tax department of Jet Airways (I) Ltd., who has been associated with Jet Airways (I) Ltd since 2010 and he used to coordinate with Rajesh Chaturvedi for rendering of service.

(iii) In response to the notice u/s 133(6) of the act. Devesh Vasavada & Company has furnished complete details of the parties from whom consultancy fees were received. It was explained by Devesh Vasavada & Company that fees were charged from the client for composite services, hence, break up of service-wise fees was not possible. It was also explained that fees received from the clients were credited to 'professional fees account and no separate ledger account of clients were maintained in the books of account. Devesh Vasavada & Company has also explained that as a practice they do not keep any notes in respect of advisory services. In addition to that it was stated that appointment letter is not mandatory while hiring a Chartered Accountant. Thus, Devesh Vasavada & Co. has explained that they had provided consultancy to appellant company, for which an amount of Rs. 2,25,00,000/- was received from it.

(iv) During the course of the assessment proceedings for A.Y. 2017-18, in response to notice u/s. 142(1) dated 25.02.2022, the appellant has submitted that Shri Shivkumar Mahalingam (ex-employee of Jet Airways (1) Ltd.) along with Shri Rajesh Chaturvedi personally visited the office of the Assessing Officer as well as the Addl.CIT on 04.02.2022. Before the Assessing Officer, Shri Shivkumar had explained in detail the services provided by the appellant company through Shri Rajesh Chaturvedi to Jet Airways (I) Ltd. Thereafter, a summons u/s. 131 of the Act was issued to Shri M. Shivkumar to explain message/conversation impounded during survey in Jet Airways (I) Ltd. on 19.09.2018. Further, an e-mail was also sent by AO to him. In response to that, Shri Shivkumar had replied by e-mail and explained about the nature of services rendered by the appellant through Shri Rajesh Chaturvedi.

*(v) During the assessment proceedings, it was explained that Lakshmikumaran & Sridharan had given legal opinion to Jet Airways (I) Ltd. and the invoice for such services were directly raised on Jet Airways (I) Ltd. Therefore, the copies of invoices raised by Lakshmikumaran & Sridharan were not in possession of the appellant company. Since the bill was raised by Lakshmikumaran & Sridharan directly on Jet Airways (I) Ltd., the payment was made directly by Jet Airways (I) Ltd. to them. The appellant had produced a copy of the legal opinions given by Lakshmikumaran & Sridharan to Jet Airways (I) Ltd., which confirmed rendering of services by Lakshmikumaran & Sridharan.*

*Thus, based on appreciation of facts on record, the finding of the Assessing Officer that no details, bills, proofs etc. in respect of consultancy fees were produced, is not found to be correct.*

*4.3.4 The AO has referred to the statements of Shri Vinit K. Parikh, Director of the appellant company, which was recorded on 20.09.2018 and 27.09.2018 during the survey proceedings. In these statements, Shri Vinit K. Parikh has stated that (i) the company had no manpower to provide the service; (ii) the company had not made any payment towards rendering of services which in turn were provided to clients and (iii) there was no written agreement or e-mail communication regarding rendering of services. In this regard, it is explained by the appellant that it has taken services of Shri Rajesh Chaturvedi, CA and M/s Devesh Vasavada & Co to render services. Shri Rajesh Chaturvedi himself has participated in the meetings with the clients and counsels and himself advised the clients. For taking assistance of Devesh Vasavada & Company payment of Rs. 2,25,00,000/- for consultancy has been made by the appellant. In answer to Q. No. 17 of the statement dated 20.09.2018, Shri Vinit Parikh has stated that payment was made to Devesh Vasavada & Company by Growmore Corporate Advises P. Ltd. (holding company of the assessee), however, in fact, the payment was made by the appellant company and not the holding company and thus the statement was made by Shri Vinit Parikh through oversight. Therefore, absence of manpower by itself cannot lead to the conclusion that no services have been rendered.*

*Another allegation levelled by the AO in his assessment order was the absence of contract between the contractor and the assessee. The assessee has submitted that neither the law nor the Act mandates two parties to enter into written legal contracts before commencing work or for booking an expenditure. A verbal agreement between parties with an identified scope of work, the conduct of such work and the payment thereof through banking channels is sufficient proof of genuineness of a transaction and of the work done. Further, there is no legal requirement of having written agreement with the client for rendering consultancy services. Even absence of e-mail communication can also not disprove the facts that GST and other related services taken by the payer companies from the appellant company.*

*In fact, in his statements, Shri Vinit Parikh has categorically stated that the company has been providing consultancy and professional services to their clients. He has also stated that Mr. Rajesh Chaturvedi used to communicate with Jet Airways (I) Ltd. and on his direction the invoices were raised in the name of Mr. Shivkumar from Jet Airways (I) Ltd. He has also stated that Jet Airways (I) Ltd. has been introduced by Mr. Rajesh Chaturvedi. He has also clarified the nature of services.*

*4.3.5 Provisions of section 68 of the Act, cast primary onus on the assessee to prove identity, creditworthiness of the creditor and genuineness of the transactions. As far as identity and creditworthiness of the parties are concerned, both the parties. Le GMR Corporate Affairs P. Ltd. and Jet Airways (I) Ltd. are reputed business houses, therefore, their identity and creditworthiness are not doubtful. Even the AO has also not doubted their identity and creditworthiness. The appellant has provided the details and explained the nature of services provided by it to both the parties during the assessment proceedings. Thereafter, the onus gets shifted to the AO to establish that the explanation given by the appellant was not satisfactory. The AO has issued notice u/s 133(6) of the Act to M/s Devesh Vasavada and Co., which has provided the complete details. The AO has not made any enquiry with M/s Lakshmikumaran & Sridharan and not examined Shri Rajesh Chaturvedi. The AO has also not made any cross-enquiry with M/s.*

*Jet Airways (I) Ltd. and M/s. GMR Corporate Affairs P. Ltd. In absence any further enquiry to disprove the explanation furnished by the appellant company, no addition can be made u/s 68 of the Act.*

7. Before us, the ld. DR submitted that during the survey it was clearly found that assessee has incurred bogus expenditure and also referred to certain question and answer as incorporated in the assessment order of the Director of assessee-company. Secondly, he submitted that there was no agreement of providing the services and, therefore, rendering of services was not proved. He also pointed out that the person who has provided the services, Shri Rajesh Chaturvedi, is husband of one of the shareholder of Growmore Corporate Advises P. Ltd. and Director which holds 100% shares in the assessee-company and she was not aware of the receipts or services provided. The claim of services rendered by Shri Rajesh Chaturvedi remains unsubstantiated and unverifiable and there was no agreement with Shri Rajesh Chaturvedi for why he was hired and for rendering of what kind of professional services and he was not paid at any professional fees for rendering professional services. Thus, the genuineness of rendering of services and the expenses has not been established with any documentary evidences and it is merely a claim. Further, there is no documentary evidence that Shri Rajesh Chaturvedi has been engaged on behalf of assessee to work for Jet Airways India Ltd. He thus strongly relied on the order of ld. Assessing Officer.

8. On the other hand, ld. Counsel for assessee, Shri Vijay Mehta drew our attention to the various documents filed before

the Assessing Officer and Ld. CIT(A). He submitted that assessee has received professional fees for professional services rendered to its clients being Jet Airways (India) Ltd. and GMR Corporate Affairs Pvt. Ltd. for Assessment Year 2019-20. Details of the professional fees received along with invoice copies raised by the assessee on its clients were submitted during the assessment proceedings vide letter dated 01.03.2021 placed at pages 35 to 41 of the paper book for Assessment Year 2019-20. It can also be noted from the said submission, that the assessee had also submitted bank statement entries highlighting receipt of professional fees from its clients.

9. Description of services and GST charged on the professional fees were mentioned on the invoices which are placed at pages 39 and 40 of the paper book for Assessment Year 2019-20. The invoices have been raised on the following parties in consideration of the following services:

- Jet Airways (India) Ltd. towards consultancy fees towards GST Advice from time to time from 2016 to April 2018. It must be noted that GST liability at the rate of 18% has been discharged.
- GMR Corporate Affairs Pvt. Ltd. towards consultancy fees for providing expert advisory on DVAT and related litigation issues, service tax, GST and other taxation matters. It must be noted that GST liability at the rate of 18% has been discharged.

10. During the assessment proceedings, no inquiry was made into the professional fees received from GMR Corporate Affairs and no adverse finding on the same has been recorded. The Assessing Officer has doubted only the professional fees received from Jet Airways (India) Limited. In this respect, the assessee had submitted vide submission dated 25.09.2021 and once again submitted that it had rendered the following services in Assessment Year 2019-20 to Jet Airways (India) Ltd.: [provided from pages 42 to 88 of paper book for Assessment Year 2019-20];

- GST implication on reimport of aircraft engine parts sent for repairs outside India.
- Rate of GST applicable on service provided by Jet Airways to BSF,
- State wise registration for GST,
- Applicability of GST on Financial lease rentals for agreement entered prior to GST introduction.

11. The above services have been elaborated at pages 42 to 44 of the paper book for Assessment Year 2019-20 and supporting evidences of the results of such professional services have been placed at pages 45 to 88 of the paper book for Assessment Year 2019-20.

12. Vide the assessee's submission on 27.09.2021, the assessee also clarified that it assisted Jet Airways (India) Ltd. in obtaining various opinions from Lakshmikumaran & Shridharan. It was clarified that the invoices were raised by Lakshmikumaran & Shridharan directly on Jet Airways (India) Ltd. and consideration

was also paid directly. [evident from documents placed at page 89 of paper book for Assessment Year 2019-20]

13. Regarding the genuineness of services rendered to Jet Airways (India) Ltd. for Assessment Year 2017-18, Ld. Counsel pointed out to the copy of invoice raised on Jet Airways (India) Ltd. Which has been placed at page 46 of the paper book for Assessment Year 2017-18. The invoice mentions that the services rendered were towards:

- a. Advisory charges for consultation from time to time in respect of granting of SFIS/SEIS Licenses and utilization thereof for fuel procurement as well as service tax payment.
- b. Advisory charges for consultation from time to time in respect of tax efficient procurement of fuel on ex-refinery basis.

He also pointed out that the services provided by the assessee to Jet Airways (India) Ltd. were not restricted to GST issues.

14. Ld. Counsel further submitted that Shri Rajesh Chaturvedi personally visited the Assessing Officer and the Additional CIT (Central) -5 along with employee of Jet Airways (India) Ltd., Shri M. Shivkumar to substantiate the genuineness of services rendered. They had categorically explained that the services rendered to Jet Airways (India) Ltd. were through Shri Rajesh Chaturvedi as a representative of the assessee company. Summary of the services rendered by the assessee to Jet Airways (India) Ltd. were also explained. In support he drew our attention

to the submission of the assessee dated 11.03.2022 placed at pages 33 to 63 of the paper book for Assessment Year 2017-18.

15. The Assessing Officer had issued summons under Section 131 of the Act on Shri M. Shivkumar, employee of the Jet Airways asking him to provide explanations. The reply from Shri M. Shivkumar received by the Assessing Officer has been reproduced in para 13 of the assessment order of Assessment Year 2017-18. Shri M. Shivkumar has categorically stated that Jet Airways (India) Ltd. had taken services from Shri Rajesh Chaturvedi in relation to GST issues through the assessee and Growmore Corporate Advisors Pvt. Ltd. ("Growmore"). In his reply to summons, he also provided the Assessing Officer with details of payments made to the Assessee Company and Growmore and services against which payment made was also mentioned. However, in para 14 of the assessment order of Assessment Year 2017-18, Assessing Officer has simply dismissed the reply of Shri M. Shivkumar on the ground that proper and complete explanation was not given.

16. Further, Ld. Counsel pointed out that at para 15 of the assessment order of Assessment Year 2017-18, the Assessing Officer stated that the assessee submission was not acceptable as it was silent on rendering similar work/services to other clients other than Jet Airways (India) Ltd. and stated that notes or any kind of record was not maintained for so called services rendered. The assessee could not furnish documentary evidence that it was regularly carrying on business activity of rendering professional

services. In absence of any manpower, genuineness of expenses and nexus with receipts is not established. However, the assessee during the assessment proceedings had submitted letter dated 11.03.2022, the profile of Shri Rajesh Chaturvedi, his achievements and qualifications. It was also submitted that it was due to the professional services rendered by the assessee, Jet Airways (India) Ltd. was able to obtain huge benefit of approximately Rs. 298 crores of SFIS duty credit from the DGFT. The assessee even submitted a letter of confirmation received from Jet Airways (India) Ltd. of services rendered (signed by Mr. Sundaram Ramesh who is an ex-employee of Jet Airways (India) Ltd.) (Copy of which was shown to us at page 63 of paper book of AY 2017-18). The Assessing Officer has acknowledged the above submission of the assessee in para 10 of the assessment order for Assessment Year 2017-18. However, the Assessing Officer has ignored the same while arriving at conclusion in para 11 of the said order. Despite the service provider and service receiver confirming the services rendered, the Assessing Officer has claimed the receipt of professional fees to be non-genuine.

17. The communication information of Shri Rajesh Chaturvedi, Shri M. Shivkumar and Shri Sundaram Ramesh were shared with the Assessing Officer vide submission dated 11.03.2022. Yet the Assessing Officer has not examined the above named persons or conducted any independent enquiry other than issuing summons to Shri M. Shivkumar.

18. The entire premise of the AO for arriving to the conclusion that the professional services are not genuine is the statement of

the director of the company recorded under Section 133A of the Act. The Assessing Officer first note the following facts:

- Survey action u/s. 133A of the Act was carried out by DDIT (Inv) - Unit 3(4) on the assessee on 20.09.2018 in connection with the survey on Jet Airways Group.
- The assessee company has 2 directors - Mr. Nirad Mehta and Mr. Vinit Parikh and the assessee is engaged in business of providing consultancy/professional services. During AY 2019-20, assessee has shown income from business, STCL and other sources.
- Survey u/s. 133A of the Act revealed that assessee has not incurred any manpower expenses to earn the huge revenue since incorporation up to date of survey and it is after the survey action that the assessee has booked expenses against some parties during AY 2019-20. The statement on oath of Mr. Vinit Parikh has immense evidentiary value and cannot be overlooked at time of assessment proceedings.

AO then refers to statement of Shri Vinit Parikh, director of Assessee Company and relied upon extensively in his assessment order.

19. Ld. Counsel then took us to the statement of Mr. Vinit Parikh and submitted that from the perusal of the statement following facts were stated by him:

- Mr. Vinit Parikh has stated that he only looks after the compliance, regulatory, audit and administration functions of the company. [Q. No. 10]
- He has stated that the assessee is 100% subsidiary of Growmore which was incorporated in July 2011 and that he

had become director of Growmore in March 2016. Since Growmore is 100% holding company of the assessee, he was also appointed as director of the assessee. [Q. No. 12]

- The shareholder of Growmore invited him to become shareholder of the assessee. One of the shareholders of Growmore was Ms. Varsha Chaturvedi and he has not received formal communication regarding invitation to become director. [Q. No. 14]
- Growmore and the assessee are in business of providing consultancy and professional services. [Q. No. 15]
- The companies don't have manpower to provide such services. [Q. No. 16]
- The assessee had received professional fees from Jet Airways (India) Ltd. towards advisory charges for consultation from time to time in respect of tax efficient procurement of fuel on ex-refinery basis and consultancy fees towards GST advice by invoice dated 20.04.2016 and 04.06.2018. [Q. No. 17]
- Similarly Growmore has also received professional fees from Jet Airways (India) Ltd. towards pursuing various papers and holding conference regarding issue of NCD and TDS compounding matter, consultancy fees towards Boeing transaction, advisory fee for sale and lease back of Boeing 777. [Q. No. 17]
- No agreements / MOU were entered into with Jet Airways (India) Ltd. for rendering above services. [Q. No. 18]
- Mr. Rajesh Chaturvedi, husband of Varsha Chaturvedi (Shareholder of Growmore) used to coordinate with Jet Airways (India) Ltd. towards rendering of services and on his

direction, invoices were raised on Jet Airways (India) Ltd. [Q No. 19]

The assessment of Jet Airways (India) Ltd. for AY 2019-20 was completed by ex-parte order wherein all the legal and professional fees paid were disallowed. It was submitted that any finding in the case of Jet Airways (India) Ltd. will not affect the assessee for the reason that the assessment was completed by Ex parte-order.

- His job was only to raise invoice on the instructions of Mr. Rajesh Chaturvedi. [Q. No.20]

However, throughout the assessment proceedings, no inquiry was made from Shri Rajesh Chaturvedi. On the contrary, Shri Rajesh Chaturvedi suo-moto interacted with Assessing Officer along with employee of Jet Airways (India) Ltd. giving complete details of professional services rendered that has been overlooked by the Assessing Officer.

20. Further, Ld. Counsel referred to another statement of Shri Vinit Parikh recorded on 27.09.2018, placed at pages 29 to 34 of paper book for Assessment Year 2019-20 wherein the following facts are evident from his statement:

- Other than the two directors, there is only one other employee who looks after the accounts of assessee. [Q. No. 7]
- Mr. Vinit Parikh shared a personal relationship with Mr. Rajesh Chaturvedi and his firm used be auditors. Mr. Vinit

Parikh knows Mr. Rajesh Chaturvedi for more than 12-13 years. [Q. No. 9]

- He is himself not aware of who used to communicate with Mr. Rajesh Chaturvedi from Jet Airways (India) Ltd. towards rendering of the services. [Q. No. 10]
- The assessee was introduced to Jet Airways (India) Ltd. through Mr. Rajesh Chaturvedi.[Q. No. 11]

21. Thus, throughout the statements recorded, Shri Vinit Parikh has categorically mentioned that it was Shri Rajesh Chaturvedi who had rendered services to Jet Airways (India) Ltd. The Assessing Officer has stated that Shri Rajesh Chaturvedi is not receiving any consideration for rendering these services. In rebuttal it was submitted that the assessee is a family owned company of Shri Rajesh Chaturvedi and he would be benefitting indirectly from the profits of the assessee. Therefore, no consideration was sought by Shri Rajesh Chaturvedi. Ld. Counsel thus submitted that when it is abundantly clear and established that the services were rendered through Shri Rajesh Chaturvedi, the assessee did not require any manpower to render services since all the services were rendered through him. The ld. CIT (A) has appreciated the facts of the case and held that the services rendered by the assessee were genuine.

22. As regards the professional charges paid to its Chartered Accountant, M/s. Devesh Vasavada and Co. Invoice raised by M/s. Devesh Vasavada and Co. on the assessee, Ld. Counsel submitted that during assessment proceedings assessee has

placed the invoice [copy placed at page 41 of the paper book for Assessment Year 2019 20]. The invoice was raised towards professional charges for advising the assessee on tax matters from time to time, which could not have rejected by the AO.

23. The Assessing Officer had even issued notice u/s. 133(6) of the Act on M/s. Devesh Vasavada and Co. calling for certain details which have been reproduced at para 12 of the assessment order for Assessment Year 2019-20. The reply of M/s. Devesh Vasavada and Co. has been extracted at para 13 of the said order. The Assessing Officer objected to the reply of M/s. Devesh Vasavada and Co. in para 14 and 15 of his order. However same was rebutted and countered before the CIT(A) in the following manner:-

- a. *The AO stated that the same was vague and not substantiated with supporting proof. He further stated that no copies of appointment as retainer submitted or cumulative invoice.*

*It is submitted that there was no such document in writing and it was not uncommon to not have these documents. The assessee had submitted in its own submission dated 01.03.2021, a copy of invoice raised by DVC on the assessee and bank statement highlighting payment to DVC Thus document is very much on record.*

- b. *The professional fees account showing assesses name and breakup of other clients to whom similar work has been done is not submitted.*

*It was submitted that the fees received from clients are directly credited to professional fees account and not to a separate account of client and hence the ledger account of Novo Corporate Advisors Pvt Ltd does not appear in its books. Moreover, Form No.26AS was filed by DVC which clearly shows the name of the client.*

c. *The AO stated that the reply of DVC was silent on similar work done for its other clients.*

*It was submitted that the fees were charged on composite basis and hence it was not possible to identify the charges for individual services.*

d. *The AO stated that no work papers or notes were maintained by DVC for the work done or services rendered to the assessee.*

*It was submitted by DVC that as a regular practice they do not keep any notes on advisory services.*

e. *Assessee enclosed copy of legal opinion furnished by LKS to Jet but has not furnished the invoice.*

*It was clarified that the invoices were raised by LKS directly on Jet Airways (India) Ltd. and payment was made directly to LKS by Jet Airways (India) Ltd.*

24. Ld. Counsel thus submitted that the Assessing Officer has completely ignored that M/s. Devesh Vasavada and Co. has accepted that it has accounted for the professional charges received from the assessee and has offered the same to tax. The assessee and M/s. Devesh Vasavada and Co. had provided the Assessing Officer with sufficient explanation regarding the genuineness of services. In fact, M/s. Devesh Vasavada and Co. has represented and advised the assessee throughout the assessment and reassessment proceedings. Despite receiving satisfactory reply from M/s. Devesh Vasavada and Co., the Assessing Officer has disallowed the expenses on small ancillary matters such as maintenance of work papers or notes. The Ld. CIT (A) has perused the above facts and has on this basis has held the expenses to be genuine.

## DECISION

25. We have heard the rival submissions, perused the relevant findings given in the impugned order as well as the material referred to before us at the time of hearing and the documents placed in the paper book as pointed out by the learned counsel as discussed by us in detail in the foregoing paras. The main issue involved on merits is that, the entire receipts from professional income which already has been shown as income in the Profit & Loss account has been treated as 'deemed income' and has been taxed under Section 68 of the Act. This amount has already been shown as credit in the books of account and income has been offered to tax. It is not the claim that assessee has treated this income as 'capital receipt' for which there is no explanation about the nature and source of credit. The nature is in the form of 'professional income' offered to tax and source is payment received from client of assessee, Jet Airways India Ltd. It is not the case that Jet Airways India Ltd. or GMR Corporate Affairs Pvt. Ltd. has denied any payment made to the assessee-company or stated that this payment was not in consideration of professional services rendered by the assessee-company. It is an undisputed fact that the assessee-company has provided professional services to its clients which in the impugned years were provided to Jet Airways India Ltd. and GMR Corporate Affairs Pvt. Ltd from which assessee has received the professional fee of Rs.4,75,00,000/- for Assessment Year 2019-20 and Rs.31,25,00,000/- for the Assessment Year 2017-18 and same has been disclosed as income from professional fees. The entire case of the Assessing Officer hinges upon, **firstly**, that assessee

has made payment of Rs.2,25,00,000/- to M/s. Devesh Vasavada and Co. for providing of professional services in relation to professional services rendered by assessee to Jet Airways India Ltd. and GMR Corporate Affairs Pvt. Ltd. Which could not be established properly; **secondly**, he has referred to statement of Shri Vinit K. Parekh wherein he has stated that the company had no manpower to provide the services and there was no written agreement or email communication regarding rendering of services; and, **lastly**, the necessary details in respect of consultancy fee was not submitted by the assessee and accordingly, the nexus between income and expenditure has not been established. The finding of the Assessing Officer has been summarized by the Ld. CIT (A) in para 4.1 of his order which we have extensively dealt in the foregoing paragraphs.

26. From the records it is seen that before the Assessing Officer, assessee had filed details of professional fee received along with copies of invoices, copies of which has been placed in the paper book, and bank statement/entries highlighting receipt of professional fees alongwith the letter filed before the Assessing Officer. The description of 'professional services' alongwith GST charged on 'professional service fee' have been mentioned in the invoices, copy of which are at pages 39 and 40 of the paper book. The services which has been mentioned for Jet Airways India Ltd. is towards consultancy fee for GST advice from time to time from the year 2016 to April 2018; and for GMR Corporate Affairs Pvt. Ltd. towards consultancy fee for providing expert advisory on DVAT and related litigation issues, service tax, GST and other

taxation matters. For all the professional services, GST liability @ 18% has been discharged. It was also an admitted fact that insofar as professional fee received from GMR Corporate Affairs Pvt. Ltd. is concerned, there is no adverse finding or any inquiry by the AO at all. However, it is only with respect to professional fee received from Jet Airways India Ltd. that the Assessing Officer has casted his doubt. Time and again, assessee has filed all the details for rendering of various services to Jet Airways India Ltd., which included GST implication on re-import of aircraft engine parts sent for repairs outside India, rate of GST applicable on services provided by Jet Airways India Ltd. to BSF, state-wise registration for GST, applicability of GST on finance leasing rentals for agreement entered prior to GST introduction. All these services have been elaborated in detail with supporting evidences before the Assessing Officer which are there in the paper book from pages 44 to 88. Not only that, the assessee had also clarified how it had assisted Jet Airways India Ltd. in obtaining opinion from a big firm like Lakshmikumaran & Shridharan and clarified that the invoices raised by the said firm directly on Jet Airways India Ltd. and the consideration was also paid directly. The invoices raised by the assessee on Jet Airways India Ltd. clearly mentioned the services were towards -

- a. Advisory charges for consultation from time to time in respect of granting of SFIS/SEIS Licenses and utilization thereof for fuel procurement as well as service tax payment.
- b. Advisory charges for consultation from time to time in respect of tax efficient procurement of fuel on ex-refinery basis.

27. Insofar as involvement of Shri Rajesh Chaturvedi who has rendered professional services on behalf of assessee-company, it has been clearly brought on record that Shri Rajesh Chaturvedi had personally visited the Assessing Officer and Addl. CIT alongwith Shri M. Shivkumar, employee of Jet Airways India Ltd. to substantiate the genuineness of services rendered and they have explained that the services rendered to Jet Airways India Ltd. were through Shri Rajesh Chaturvedi as representative of assessee-company. Summary of all the professional services rendered has also been explained in detail before the AO. The Assessing Officer has also issued summons under Section 131 of the Act on Shri M. Shivkumar, the employee of Jet Airways India Ltd. who has rendered his reply which has been taken note of by the Assessing Officer in assessment order for Assessment Year 2017-18 in para 13. Shri M. Shivkumar has categorically stated that Jet Airways India Ltd. had taken services from Shri Rajesh Chaturvedi in relation to GST issues through the assessee and Growmore Corporate Advisory Pvt. Ltd. and he also provided the Assessing Officer details of payment made to the assessee against the services. Nowhere the Assessing Officer has given any reason as to why the reply of employee of Jet Airways India Ltd. is not tenable. It is very surprising that the assessee-company has shown receipts from professional services from its clients, who have received professional services and made the payment, and have explained the nature of services rendered for which the payment has been made, still the Assessing Officer without any material or information on record or any other further inquiry

has disbelieved the professional services rendered by the assessee-company.

28. One very important fact which has been brought on record is that, during the course of assessment proceedings, Jet Airways India Ltd. through its employee has categorically submitted that due to professional services rendered by the assessee, Jet Airways India Ltd. was able to obtain huge benefit of Rs.298 crores of SFIS duty credit from DGFT and to substantiate it assessee has even submitted the letter of confirmation from Jet Airways India Ltd. This fact has been acknowledged by the Assessing Officer in his order for Assessment Year 2017-18. Thus, despite the services provided and the services receiver having confirmed the entire rendering of service, it is unfathomable as to how and for what reason the Assessing Officer has disbelieved the same.

29. Now, coming to the statement of Shri Vinit K. Parekh on which the Assessing Officer has heavily relied upon, a bare perusal of the entire statement shows that he has stated that he only looks after compliances, regulatory audit and administrative functions of the company and that assessee is 100% subsidiary of Growmore Corporate Advisory Pvt. Ltd. He was Director of Growmore Corporate Advisory Pvt. Ltd. and was also appointed Director of the assessee-company. One of the shareholders of Growmore Corporate Advisory Pvt. Ltd. was Shri Rajesh Chaturvedi. Further, Growmore Corporate Advisory Pvt. Ltd. and the assessee are in the business of providing consultancy and professional services and that the company does not have

manpower to provide such services. However, he has clearly stated that assessee has received professional fee from Jet Airways India Ltd. towards advisory charges for consultation from time to time for various services. Similarly, Growmore Corporate Advisory Pvt. Ltd. has also received professional fees from Jet Airways India Ltd. for other professional and consultancy services. However, he admitted that Shri Rajesh Chaturvedi, husband of Smt. Varsha Chaturvedi a share holder in assessee company used to co-ordinate with Jet Airways India Ltd. and was representative of assessee-company towards rendering of services and he has rendered services to these companies on behalf of the assessee-company. The only case of Assessing Officer is that Shri Rajesh Chaturvedi has not received any consideration for rendering of services. It is immaterial whether Shri Rajesh Chaturvedi has received any professional remuneration or fees or not, especially when his wife is the shareholder of the assessee-company and it his discretion to charge professional fees or not that cannot be questioned by AO to draw adverse inference. Once the services have been proved to be rendered by Shri Rajesh Chaturvedi or on behalf of the assessee-company, then, whether assessee-company had manpower or not is irrelevant. Apart from that, assessee has also paid professional charges to its Chartered Accountant, M/s. Devesh Vasavada & Co. towards professional charges for advising the assessee on tax matters and other matters from time to time. They have also confirmed and also filed all the details before the Assessing Officer. Merely because there is no agreement for providing professional services, that does not mean that a professional body or professional firm has

not rendered services. Otherwise also, any person who engages professionals like lawyer, Chartered Accountant, etc. it is not necessary that there has to be a written agreement as to what kind of services would be rendered. Rendering of services can be gauged by the invoice/bill raised by the professional; itself is the proof of the agreement and rendering of services. We are in tandem with the explanation and submissions given by the learned counsel before us, as dealt and incorporated above, which has neither been rebutted nor found to be unacceptable in light of any inquiry or material information on record by the Assessing Officer. Thus, the order of Ld. CIT(A) as incorporated above is not only based on correct appreciation of facts, but also in accordance with law and, therefore, the same is confirmed and the grounds raised by the Revenue are dismissed.

30. As observed in the earlier part of our decision, the Assessing Officer has made addition under Section 68 of the Act treating it to be deemed income. The relevant Section 68 of the Act reads as under :-

*“68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.”*

Thus, the section envisages that, if any sum is found credited in the books of the assessee for which assessee has offered no explanation about the nature and source thereof or such an

explanation is not to the satisfaction of the Assessing Officer, then, the same shall be charged to income tax as income of the assessee of that previous year. Here, it is not the case; *firstly*, that no explanation has been given by the assessee; and, *secondly*, that the assessee could not substantiate the explanation by various documents and evidences. The nature and source of credit is the professional income received from the entities like, Jet Airways India Ltd. and GMR Corporate Affairs Pvt. Ltd. which is not in dispute at all. Further, the same sum received has already been offered to income tax, then, how such an income can be brought to tax again as 'deemed income'? It is definitely not the case that income has been treated as 'capital receipt' by the assessee, which has not been offered as income or is not chargeable to income tax. Thus, the said approach of the Assessing Officer, in our opinion, is not legally tenable. Hence, on this ground also the addition made by the Assessing Officer is vitiated. Accordingly, the addition of Rs.4,25,00,000/- for Assessment Year 2019-20 and Rs.31,25,00,000/- for Assessment Year 2017-18 is hereby deleted and Revenue's appeal for both the years are dismissed.

31. Since we have dismissed Revenue's appeals and the entire addition stands deleted, the grounds raised by the assessee with regard to validity of reopening for Assessment Year 2017-18 is treated as purely academic.

32. The assessee in its appeal for both the Assessment Years 2017-18 and 2019-20 has raised the issue that Ld. CIT (A) ought to have directed the Assessing Officer to allow the expenses

incurred by the appellant for providing services. Since the Assessing Officer has treated the entire income as 'deemed income' under Section 68 of the Act, which we have already deleted, accordingly the income shown by the assessee in the Profit & Loss Account from business or profession has to be accepted in the absence of any specific disallowance made by the Assessing Officer. We have already held the payment made by the assessee towards professional charges to M/s. Devesh Vasavada & Co. is genuine, which claim already stands debited to the profit & loss account has to be allowed as per the computation of income filed by the assessee in the income tax return. Therefore, there is no requirement of giving any further direction for allowing the same. Accordingly, the grounds raised by the assessee are held to be infructuous.

33. In the result, appeals of the Revenue are dismissed and appeals of the assessee are held to be infructuous.

Order pronounced in the open court on 31.10.2022.

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai, Date : 31.10.2022

\*SSL\*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "B" Bench, Mumbai
- 6) Guard file

By Order

Asstt. Registrar/Sr. Private Secretary  
I.T.A.T, Mumbai