

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No. 422/Srt/2018 (Assessment Year: 2015-16)

(Physical hearing)

D.C.I.T., Vapi Circle, Vapi.	Vs.	M/s Qcap Securities Pvt. Ltd., 612-617, Maker Chamber IV, Nariman Point, Mumbai-400021. New Address; 6 th Floor, Sea Breeze Building, Appasaheb Marrathe Marg, Prabha Devi, Mumbai-25 PAN No. AAACQ 3142 J
Appellant/ assessee		Respondent/ revenue

ITA No. 423/Srt/2018 (Assessment Year: 2015-16)

D.C.I.T., Vapi Circle, Vapi.	Vs.	M/s Quant Capital Private Limited 612-617, Makers Chambers IV, Nariman Point, Mumbai-21 New Address; 6 th Floor, Sea Breeze Building, Appasaheb Marrathe Marg, Prabha Devi, Mumbai-25 PAN No. AAACQ 3159 M
Appellant/ assessee		Respondent/ revenue

Department represented by	Shri Ashok B Koli, CIT-DR
Assessee represented by	Shri Dharmesh Shah, CA
Date of hearing	07/11/2022
Date of pronouncement	31/01/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. These two appeals by the revenue are directed against the separate orders of learned Commissioner of Income Tax (Appeals), Valsad (in short, the Id. CIT(A)) both dated 27/03/2018 for the Assessment year

(AY) 2015-16. In both these appeals, the revenue has raised certain common grounds of appeal. Facts in both these years are almost similar, except various of additions on account of share capital therefore, with the consent of parties, both these appeals were clubbed, heard together and are being decided by this consolidated order to avoid the conflicting decision. For appreciation of facts, the appeal being ITA No. 422/Srt/2018 for the A.Y. 2015-16 is treated as a "lead case". In this appeal, the revenue has raised following grounds of appeal:

- "1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in deleting the addition of Rs. 4,53,66,799/- on account of addition to share capital U/s 68 of the I.T. Act.*
 - 2. It is, therefore, prayed that the order of the Id. CIT(A) be set aside and that the order of the AO be restored.*
 - 3. The appellant craves to add, modify or alter any grounds during the course of appeal proceedings."*
2. Brief facts of the case are that the assessee is a company, engaged in the business of trading of equities, shares and derivatives, filed its return of income for the A.Y. 2015-16 on 30/09/2015 declaring total income of Rs. NIL. The assessee has shown current year loss of Rs. 1.87 crore under normal provisions of Income Tax Act and book profit at Rs. 2.10 crores under Section 115JB of the Income Tax Act, 1961 (in short, the Act). The case of assessee was selected for scrutiny. During the assessment, the Assessing Officer recorded that during the period under consideration, there was addition of Rs. 4.53 crores in share capital of assessee company. The assessee was asked to furnish the detail of increased share

capital. The assessee filed its reply and submitted the name of persons who has invested in the share capital. The Assessing Officer noted that the complete details like address, PAN of the persons and copies of applications of investors applied for allotment of shares, bank statement showing corresponding entry were not furnished. The Assessing Officer again issued show cause notice dated 07/12/2017 as to why the amount of Rs. 4.53 crores should not be added to the total income of assessee. The Assessing Officer noted that the assessee has not furnished the required details. In absence of details like, identity, creditworthiness and genuineness of transactions, the Assessing Officer treated the share capital as unexplained cash credit under Section 68 of the Act, while passing the assessment order.

3. Aggrieved by the additions, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed its written submissions. The submissions of assessee is duly recorded in para 3.2 of order of Id. CIT(A). In the submissions, the assessee submitted that during the year under appeal, the assessee issued equity share capital of Rs. 1,99,00,000/- by issuing share at Rs. 10/- i.e. at par value and preference share capital from Quant Capital Holdings Private Limited of Rs. 25.00 crores. The assessee furnished details of share applicant to whom equity shares and preference shares were allotted, in the following manner:

Equity Shares Capital:				
Sr. No.	Name of the person	Address	Shares issued during the year	
			No. of Shares	Value (Rs)
1.	Sandeep Tandon ABAPT6796P	Flat No. 48, Bldg No. 3, Patrakar Hsg. Soc Near BKC Bandra East, Mumbai	1,980,000	19,800,000
2.	Vimal Jain ABOPJ 6483 B	91B, Mittal Tower, B Wing, 210, Nariman Point, Mumbai-400021	2,000	20,000
3.	Shankar Narayan		2,000	20,000
4.	Yogesh Banthia AIUPB3135B	502/3, Palm House, 16 Mughal Lane, Mahim West, Mumbai-16	2,000	20,000
5.	Jignesh Shah ANAPS5419E	B-064, Ameya Apartment, Nariman Road, Vile Parle (E), Mumbai	2,000	20,000
6.	Quant Employee Welfare Foundation Private Limited AAACQ3247H	612-617, Maker Chamber IV, Nariman Point, Mumbai	2,000	20,000
	Total		19,90,000	1,99,00,000
Preference Shares Capital:				
1.	Quant Capital Holdings Private Limited	612-617, Maker Chamber IV, Nariman Point, Mumbai	25,000,000	25,00,00,000
	Total share capital received during the year			26,99,00,000
	Adhoc addition made by AO			4,53,66,799

4. The assessee further stated that all transactions pertain to equity shares application and preference share application money which were related to intergroup company transactions. To discharge the onus as per Section 68, the assessee furnished PAN, acknowledgement of return of income of share applicant, audit report alongwith financial statement to prove

the identity. To prove the genuineness of transaction, the assessee furnished receipt of money through banking channel, bank statement of share applicant, transaction between intergroup company, confirmation of transaction with assessee company, share applicant's ledger from assessee's books of account, assessee's ledger account from share applicant's books of account, board resolution, resolving the decision of investment in assessee company. To prove the creditworthiness of investors, the assessee submitted balance sheet and Profit & Loss Account (P&L Account) showing enough income and source of income of share applicant. By furnishing all such details and evidences, the assessee discharged its primary onus in proving the share transaction as genuine. The Assessing officer passed the assessment order in a hurriedly manner and without considering the details. The assessee specifically stated that they have received share capital of Rs. 26.99 Crore, however, the assessing officer made addition of Rs. 4.35 Crore. The assessee prayed for deleting the addition of Rs. 4.35 crores. To substantiate their contention, the assessee relied on various case laws as recorded by the Id. CIT(A) on page No. 8 to 25. The assessee relied on the ratio in various case laws that the share application money received from associate concerned cannot be assessed as a cash credit if the assessee has discharged its initial onus and that if complete details of name, address, PAN no. of investors were provided and other details like share

application and genuineness of transactions is proved, no addition under Section 68 of the Act is justified. The assessee also stated that the addition cannot be made merely on the assumption and presumption on suspicion basis.

5. The Id. CIT(A) after considering the contents of assessment order and the detailed written submissions, noted that the Assessing Officer while passing the assessment order held that the assessee did not file copy of bank statement and other details, copy of full address, bank statement and other details, thus the amount of Rs. 4.53 crores were added as unexplained credit. In the appellate proceedings, the assessee has contended that the assessment order was completed in hurriedly manner and without providing sufficient opportunity. All explanation and documentary evidences were also filed in appellate proceedings, so the submission of assessee was forwarded to Assessing Officer for filing his remand report. The Assessing Officer filed his remand report dated 15/03/2018. The Id. CIT(A) extracted the relevant part of remand report of assessing officer on page No. 27 to 31 of his order. In the remand report, the Assessing Officer reported that the assessee furnished its bank statement showing receipt of share application money through Net banking/cheque, statement showing list of equity and preference share application, document of identity, creditworthiness and genuineness of transaction and filed ledger of equity share application, copy of board

resolution for allotment of share with list of allottee, copy of ROC filing for share allotment, chart showing details of share applicants alongwith related evidences. The assessee also furnished details in respect of each of investor in the share of assessee company. For Shri Sandeep Tandon who has invested Rs. 1.98 crore, the assessee furnished copy of ITR, copy of ITR of Archana Tandon (wife of Sandeep Tandon), copy of bank statement. With regard of Yogesh Banthia, the assessee filed copy of ITR. With regard to Quant Employee Welfare Foundation Private Ltd., the assessee furnished ITR for A.Y. 2015-16 and audit report. For preference share application money of Rs. 25.00 crore, the assessee furnished share application money ledger, copy of ledger confirmation of Quant Capital Holding P. Ltd., copy of bank statement of Quant Capital Holding P. Ltd., ITR of Quant Capital Holding P. Ltd. and audited report with balance sheet for A.Y. 2015-16. The Assessing Officer reported that the assessee furnished bank statement of Shri Sandeep Tandon and Quant Capital Holding P. Ltd. Bank statement of other four persons who has invested Rs. 20,000 each i.e. Vimal Jain, Shankar Narayan, Yogesh Banthia and Jignesh Shah were not furnished. Thus, the Assessing Officer disputed source of their investment. So far as source of fund of Shri Sandeep Tandon who invested Rs. 1.98 crore, the Assessing Officer reported that Id. AR of assessee explained that total income of Sandeep Tandon was Rs. 4.32 crores as can be seen from his return of income. The entries in

his bank statement were verified. The income shown in computation of total income of Sandeep Tandon were from different source of income. The Assessing Officer reported that cash flow in the bank account is not furnished. On the investment of equity share of Rs. 1.00 lac and preference share worth Rs. 25.00 crores by Quant Capital Holding P. Ltd., the Assessing Officer reported that copy of acknowledgment of return, audit report and audited account and banking statement was furnished. Cash flow explaining the source was not submitted. The Assessing officer was asked to examine the source of deposit in the bank account of Quant Capital Holding P. Ltd. during remand proceedings. The assessee explained that these are intercorporate deposit, received from group companies. The Assessing officer reported that the supporting evidence in the form of bank statement of other parties from whom the funds were received, not furnished. Therefore, in absence of these details, source of funds could not be verified. The Assessing Officer reported that identity of persons to be established, genuineness of transactions to be proved and creditworthiness of persons giving funds has to be proved. All these conditions are to be fulfilled simultaneously. The assessee failed to prove the creditworthiness of such investor. For investors No. 3,4,5,6 and 7, no details were submitted except ITR.

6. The copy of remand report of assessing officer was provided to the assessee for filing their response/rejoinder. The assessee filed their

response vide their reply/rejoinder dated 24/03/2018. The assessee besides repeating the earlier stand, submitted that to prove the creditworthiness of Sandeep Tandon, the assessee already furnished ITR with copy of bank statement and submitted that as per computation of income for A.Y. 2015-16, the total income of Sandeep Tandon was Rs. 11.41 crores. The assessee given the bifurcation of his income i.e. Rs. 3.95 crores from salary, from Quant Capital Holding P. Ltd. Rs. 49.64 lacs as short capital gain, Rs. 5.70 lacs as income from other sources on account of interest income and Rs. 6.89 crores on account of long term capital gain and dividend income. Out of Rs. 11.4 crores, Sandeep Tandon invested Rs. 1.98 crores each in equity share of Quant Capital Securities P. Ltd. and Qcap Securities Pvt. Limited. To strengthen their submission about the creditworthiness of Sandeep Tandon, the assessee filed his return of income of three assessment years i.e. for A.Y. 2013-14, 2014-15 and 2015-16 showing gross total income and exempt income. In assessment year 2013-14, Sandeep Tandon was having gross total income of Rs. 2.45 crores and exempt income of Rs. 2.10 crores, in A.Y. 2014-15 having gross income of Rs. 1.97 crore and exempt income of Rs. 3.72 crores and in A.Y. 2015-16, he was having gross total income of Rs. 4.33 crores and exempt income of Rs. 6.86 crores.

7. About the investment of Rs. 25.00 Crore by Quant Capital Holdings Pvt. Ltd. in preference share of the assessee-company, the assessee

reiterated that they have submitted share application money, ledger, copy of bank statement, ITR acknowledgement, audit report and financials containing balance sheet, P&L account and cash flow statement vide their submission dated 24/01/2018 and ledger of complete year on 07/03/2018. The said investor was having operating profit of Rs. 20.00 crores, proceed from issue of share of Rs. 4.6 crore and proceed for short term borrowings of Rs. 45.77 crores, thus having total fund of Rs. 73.38 crores. From Rs. 73.38 crores, they have invested Rs. 25.00 crores each in preference share of assessee and Quant Capital Securities Pvt. Ltd. (other assessee company/appellant in ITA No. 423/Srt/2018). Such facts are verifiable from the bank statement, bank ledger, audited balance sheet and jointly audited cash flow statement. Complete year ledger of investor clearly indicates source of fund which was used for investment in preference share of assessee company, which was not considered by the Assessing Officer. In fact, total increase in share capital during the year was Rs. 26.99 crores, however, the Assessing Officer has made *ad hoc* addition of Rs. 4.53 crore only without giving any reason in a hurriedly manner, which is not understandable. On the basis of such submission, the assessee submitted that they have been able to prove the identity, genuineness and creditworthiness of investment in share.

8. The Id. CIT(A) noted that the Assessing Officer also made an addition of Rs. 179.32 crores on account of repayment of unsecured loan which was

also the subject matter of remand report. The Assessing Officer while furnishing his remand report, reported that the entries appearing in the bank statement with respect to repayment of loan have been verified. The entries were cross verified with the entries appearing in the bank statement of loan creditor and are found to be in order.

9. The Id. CIT(A) after considering the contents of assessment order, submission of assessee, remand report furnished by the Assessing Officer and the rejoinder thereto by the assessee, noted that the Assessing Officer has accepted the explanation of assessee in remand proceeding pertaining to source of fund for repayment of unsecured loan from Quant Broking Private Limited, Qcap Securities Pvt. Ltd., Quant Capital Holdings Private Limited and Sarojini Tandon of aggregating of Rs. 179.32 crores, such addition of unsecured loan was deleted being not sustainable. So far as addition of Rs. 4.35 crores are concerned, the Assessing officer reported in his remand report dated 15/03/2018 that explanation of Sandeep Tandon was given in the form of computation of total income only and no supporting evidence was filed. The Assessing Officer further noted that the bank statement of Sandeep Tandon was filed but cash flow analysis was not filed to ascertain the source of fund deposited in the account of Sandeep Tandon. The Id. CIT(A) noted that the assessee has shown documentary evidence that the assessee received share capital during the year of Rs. 26.99 crores wherein Sandeep Tandon has

invested Rs. 1.98 crores and Quant Capital Holdings Pvt. Ltd. invested Rs. 25.00 crores. The Id. CIT(A) held that there is no figure like Rs. 4.53 crores in the balance sheet against the share capital. The assessee explained the source of investment of Rs. 1.98 crore by Sandeep Tandon out of his total income of current assessment year of Rs. 11.41 crores shown in the return of income.

10. With regard to investment of Rs. 25.00 crores by Quant Capital Holdings Private Limited, the assessee has shown that they have operating profit of Rs. 22.00 crores, proceeded from issue of share at Rs. 4.6 crores and short term borrowings at Rs. 45.77 crores. The Assessing Officer doubted the source of fund in case of Sandeep Tandon and source of fund for Quant Capital Holdings Private Limited only on the ground that cash flow analysis was not furnished. However, copy of bank statement of Quant Capital Holdings Private Limited, coupled with explanation regarding fund availability of Rs. 72.38 crores in case of Quant Capital Holdings Private Limited for the current year, thus, the source of fund investment of Rs. 25.00 crores are very well explained and established. Similarly, for Sandeep Tandon, the Assessing Officer considered the income of Rs. 4.32 crores only and exempt income of long term capital gain of Rs. 6.89 crores were not counted. All these funds are discernible from the bank statement of Sandeep Tandon. Considering such fact, the investment in share capital of investment company, the Id. CIT(A) held that there is no

case for making addition of Rs. 4.53 crores as unexplained cash credit. The Assessing Officer verified the issue in remand proceedings and doubted regarding fund availability in the hands of Sandeep Tandon, which is unfounded for the reasons that his income in the current assessment year is Rs. 11.41 crores. On such observation, the Id. CIT(A) deleted the addition of Rs. 4.53 crores as well. Aggrieved by the order of Id. CIT(A), the revenue has filed the present appeal before the Tribunal.

11. We have heard the submission of learned Commissioner of Income Tax- Departmental Representative (Id. CIT-DR) for the revenue and the learned Authorised Representative (Id. AR) of the assessee. The Id. CIT-DR for the revenue supported the order of Assessing Officer. The Id. CIT-DR for the revenue submits that during the assessment, the Assessing Officer called details regarding increase in the share capital of assessee. During the assessment only a list containing names of persons, who have invested in the share of assessee company were furnished, without providing their full address, PAN number and other details. Copies of applications by investors applying for allotment of shares, bank statement showing corresponding entries in the bank account of assessee was not furnished. Thus, the assessee failed to substantiate three basic conditions about the identity of the persons making investment, genuineness of transactions and creditworthiness of investors. In absence of details, the Assessing Officer after issuing show cause notice, made addition under

Section 68 of the Act on account of unexplained share capital. Before the Id. CIT(A), the assessee filed further details. The Id. CIT(A) deleted the addition by taking the remand report from the Assessing Officer. The decision of Id. CIT(A) is not acceptable as the Id. CIT(A) accepted the explanation of assessee that they have proved the creditworthy of invertors. On the submission of assessee, the assessing officer furnished his remand report on 15/03/2018. The assessee furnished bank statement only in respect of Sandeep Tandon and Quant Capital Holdings Private Limited. Bank statement of other five persons who had made investment of Rs. 20,000/- each, in share capital of assessee were not submitted. Thus, the source of their funds for investment in shares of assessee could not be verified. Even in case of Sandeep Tandon and Quant Capital Holdings Private Limited, the cash flow analysis explaining the source of deposits was not furnished. In absence of source of deposit, the bank account of these two persons could not be verified. During the remand proceedings, the assessee was asked to explain the source of deposit appearing in the account of Quant Capital Holdings Private Limited, it was merely stated that there were intercorporate deposits taken from group companies but no supporting documentary evidence in the form of bank statement of the other parties from whom funds were claimed to have been received was furnished. In respect of five investors namely Vimal Jain, Shankar Narayan, Yogesh Banthia and Jignesh Shah

and Quant Employee Welfare Foundation Private Limited, no details were furnished during the remand proceedings. Despite bringing all those facts in the notice of Id. CIT(A) by the Assessing Officer, the addition made by Assessing Officer was deleted. The assessee failed to establish the source of share capital invested during the year. The Id. CIT-DR for the revenue prayed to restore the addition made by Assessing Officer. In alternative and without prejudice submission, the Id. CIT-DR for the revenue prayed to restore the issue of addition of share capital to the file of Assessing Officer to examine the issue afresh.

12. On the other hand, the Id. AR of the assessee supported the order of Id. CIT(A). The Id. AR of the assessee submits that while passing the assessment order on 15/12/2017, the Assessing Officer made two major additions (i) addition under Section 68 on account of unexplained share capital received for Rs. 4.53 crores and (ii) addition under Section 68 on account of unexplained repayment of loan of Rs. 179.32 crores. The Id. AR for the assessee submits that the assessee received share capital against the equity share capital from Sandeep Tandon of Rs. 1.98 crore against allotment of share of 19.80 lacs @ Rs. 10 per share. The assessee also received small amount of Rs. 20,000/- each for allotment of 2000 shares to (i) Vimal Jain, (ii) Shankar Narayan (iii) Yogesh Banthia, (iv) Jignesh Shah and (v) Quant Employee Welfare Foundation Private Limited. The assessee also received preference share capital from its

group company for issuance of 2.50 crores share at face value of Rs. 10 each and received Rs. 25.00 crores. Thus, the assessee received total share capital of Rs. 26.99 crores. The Id. AR for the assessee submits that though the addition of repayment of unexplained loan of Rs. 179.32 crores, which was added and deleted by the Id. CIT(A), is not the subject matter of present appeal, however, those facts are relevant for appreciation of controversy raised in the additions of share capital in the present appeal. The assessee made repayment of loan of Rs. 150.00 crores to Quant Broking Private Limited, Rs. 23.59 crores to Quant Capital Holdings Private Limited, Rs. 1.60 lacs to Quant Capital Securities Private Limited and Rs. 5.00 crores to Sarojini Krishna Tandon. Thus, the total of Rs. 179.32 crores. The Assessing Officer made addition of share capital of Rs. 4.53 crores and addition of repayment of loan of Rs. 179.32 crores. The assessee filed appeal before the Id. CIT(A). During the appellate proceedings, the assessee filed various submissions. The assessee specifically submitted that they are unaware of the basis on which the figure of addition of Rs. 4.53 crores were arrived while making addition on account of share capital though aggregate receipt for share capital was Rs. 26.99 crores. The details and the submissions furnished by assessee was remanded to the Assessing Officer for his verification and report. During the remand proceedings, the assessee again filed all details and evidences with regard to receipt of share capital as well as

loan from various group concern. These evidences not only represented the source of funds received from various parties but also represented '**source of source**' in respect of share capital received by assessee. In the remand report dated 15/03/2018, copy of which is filed, the Assessing Officer noted that the loan received by assessee were fully explained with the help of various evidences filed, however, with regard to share capital, the Assessing Officer reported that the assessee has not furnished cash flow analysis without which the source of deposit appearing in the account of investor could not be verified. Especially, with regard to share capital invested by group concerned i.e. Quant Capital Holdings Private Limited and that the assessee did not furnish supporting evidence in the form of bank statement of other party from whom funds were received by the said investor. With respect to other five investors, who had invested only Rs. 20,000/- each, the Assessing Officer stated that the assessee did not file any document other than ITR in case of Yogesh Banthia.

13. The Id. AR of the assessee repeated that he is unaware as to how the Assessing Officer has arrived on the figure of Rs. 4.53 crores as share capital and made addition of such amount. In fact, during the assessment, the Assessing Officer issued notice dated 07/12/2017, copy of which is filed at page No. 19-20 of the paper book mentioning that there is addition in the assessee's share capital during this year of Rs.

26.99 crores. However, the Assessing Officer asked the assessee to show cause as to why Rs. 4.53 crores should not be added. The assessee repeatedly requested for such break up it was never submitted by the Assessing Officer either to assessee or to Id. CIT(A). Again while filing appeal before Tribunal, the Assessing Officer has challenged the addition of Rs. 4.53 crores only, which is absolutely incorrect. The real transaction of share capital is of Rs. 26.99 crores. Such narration of fact by Assessing Officer clearly shows that the Assessing Officer has not considered the case of assessee in accordance with the facts, explanation and the evidences furnished by assessee. The assessee furnished all the documents pertaining to investment made by various investors before the Assessing Officer as well as before the Id. CIT(A). The assessee not only filed evidence relating source of share capital but also the evidence establishing the 'source of source' and complied with the provisions of Section 68 as well as First Proviso to Section 68 of the Act. The Id. AR submits that he has placed on record copy of audited financial statement of the assessee for year ending on 31/03/2015, the ledger account of equity and preference share application money in the books of assessee. Board's resolution accepting the share capital, forms filed before the Registrar of Companies (ROC) for allotment of shares, bank statement of assessee. The assessee also filed copy of computation of income of Sandeep Tandon showing total income of Rs. 4.32 crores, copy of ITR of

Archana Tandon, copy of bank statement in joint name of Archana Tandon and Sandeep Tandon showing payment of share capital of Rs. 1.98 crore. The assessee has also filed confirmation letter from Quant Capital Holdings Pvt. Ltd., ITR of Quant Capital Holdings Pvt. Ltd. with financial statement for the year ending on 31/3/2015 with bank statement showing payment made to assessee for share capital. The assessee has also filed ITR of Quant Employees Welfare Foundation Pvt. Ltd. who has invested a meagre amount of Rs. 20,000/-. The Id. AR submits that the major contribution for share application and share capital is from Sandeep Tandon and Quant Capital Holdings Pvt. Ltd., remaining five persons has invested a meagre amount of Rs. 20,000/- each. The assessee also furnished details of return of income of Sandeep Tandon for A.Y. 2015-16, 2014-15 and 2013-14 showing that he has earned long term capital gain, dividend aggregating to Rs. 6.98 crores in A.Y. 2015-16. Copy of assessment order in A.Y. 2014-15 and 2015-16 are also filed. Similarly, the financial statement in case of Quant Capital Holdings Pvt. Ltd. were filed, perusal of such financial statement shows that the said investor company earned profit of Rs. 22.12 crores during the year. The said company has capital to the tune of Rs. 59.60 crores and reserve and surplus to the tune of Rs. 22.32 crores. Thus, the capacity of said investor is far beyond the amount invested by them in share capital of assessee company. The Id. AR for the assessee further

reiterated that the other remaining five investor entities, the amount is very small, the Assessing Officer has not brought any adverse evidence against them, nor investigated the facts. Their names and addresses were furnished no notice or summons were issued to them for verification of facts. The ITR of one investor Yogesh Banthia is already on record.

14. On the issue of 'source of source' relating to the share capital, the Id. AR submits that he has also filed evidence pertaining to 'source of source' showing the details of share application money received from various parties and source of source thereof. The Id. AR of the assessee furnished following details during the hearing of appeal:

Sr. No.	Name of Investor Party	Amount Received	Date of receipt	Immediate source of investor party	Amount received	Date of receipt	Page No. of Pbk
1.	Sandeep Tondon	19,80,000 1,78,20,000	23/05/2014 02/06/2014	Funds were received from Mrs. Archana Tondon who inturn received from Quant Broking Pvt. Ltd.	2,10,91,069 5,05,21,146	23/04/2014 30/05/2014	86,148-357 87, 148-357
	Sub Total	1,98,00,000		Sub Total	7,16,12,215		
2.	Quant Capital Holdings Pvt. Ltd. (Preference Share)	2,50,00,000 7,50,00,000 15,00,00,000	23/05/2014 10/06/2014 23/06/2014	Quant Broking Pvt. Ltd. Quant Broking Pvt. Ltd. Sarojini Tondon	5,00,00,000 7,50,00,000 15,00,00,000	23/05/2014 10/06/2014 23/06/2014	108,148-357 111,148-357 112,359-365
	Sub Total	25,00,00,000		Sub Total	27,50,00,000		

15. The Id. AR for the assessee submits that in case of Sandeep Tandon, funds are received from joint account of Archana Tandon and Sandeep Tandon. The funds in the said accounts were received from broking entity Quant Broking Private Limited. The copy of ITR of Quant Broking Pvt. Ltd. for A.Y. 2015-16 and bank statement is filed at page No. 146 to 356 of the paper book. With regard to Quant Capital Holdings Private Limited from whom the assessee received Rs. 25.00 crores on 23/05/2014. The

Id. AR submits that Rs. 2.5 crores were received on 23/05/2014, Rs. 7.5 crores on 02/06/2014 and Rs. 15.00 crores on 05/06/2014. The funds were received from Quant Broking Pvt. Limited. The ITR, bank statement and financial statement of Quant Broking Pvt. Ltd. is also placed on record at page No. 146 to 356 of the paper book, thus the assessee has also proved his source of source of investor making investment in the share capital. The Id. AR for the assessee by referring the financial activity of Quant Broking Private Limited submits that the said entity has total revenue from broking activity, profit from trading in share and securities aggregating to Rs. 29.48 crores and interest income from financial activities of Rs. 24.19 crores, net profit shown by the company is Rs. 7.60 cores during A.Y. 2015-16. Thus, the capacity of said company for making payment to the investor, out of which investor had paid fund to the company cannot be doubted. The bank statement clearly shows that no cash is deposited in the accounts before making payment. Thus, the assessee undisputedly proved the identity, creditworthiness and genuineness of transaction with 'source of source'. The Id. AR for the assessee by referring the addition of loan transactions would submit that the Assessing Officer made addition on account of loan transaction as well. The loan transaction included loan from Quant Broking Pvt. Ltd. During the appellate proceedings, the assessee filed voluminous evidences with respect to both the nature of transactions. During the

course of remand proceedings, all evidences were duly examined by the Assessing Officer and reported that all evidences in respect of loan transaction were found in order. Based on such finding in the remand report, the Id. CIT(A) deleted the addition of such loan transaction. Such addition is not challenged by the revenue while filing the present appeal. Meaning thereby the Assessing Officer has accepted the identity, capacity and genuineness of loan transactions with the aforesaid parties. Under such circumstances, the Assessing Officer has no reason to dispute the source of source with respect to transaction on account of share capital with the same party.

16. The Id. AR submits that the assessee has received impugned share capital money mostly from promoters, group entities and business associates. Mr. Sandeep Tandon held 99% of share capital of assessee company. Similarly, Sandeep Tandon and his family also held majority of shareholding of most of group company. In such circumstances, the Assessing Officer ought to have appreciated that no company would indulge in unexplained transaction with its own promoter and group companies. The Quant group of companies has a very wide network of business services and several businesses are carried out by them in the financial sector. Quant Broking Pvt. Ltd. is a broker entity registered with Security Exchange Board of India (SEBI) for trading at Bombay Stock Exchange (BSE), National Stock Exchange (NSE), MCX and also acting as

Depository Participant. The group has also non-Banking Financial Company (NBFC) registered with Reserve Bank of India (RBI). Similarly, the other companies are also acting as a registered Portfolio Managers and are duly registered with SEBI. The company has its mutual fund managing substantial amount of Assets Under Management (AUM). The Assessing Officer has not appreciated such background before making allegation with respect to genuineness of share capital received. The Id. AR for the assessee submits that the investment in share capital made by group companies and once the evidence is filed by assessee explaining the receipt of share capital and explaining the source of source, the Assessing Officer could not have doubted the transaction unless there are direct clinching evidence for doubting the genuineness of transaction. To support his submission, the Id. AR relied upon the following case laws:

- Renu PropTech (P) Ltd. Vs ACIT (190 ITD 378)
- DCIT Vs Karmeshwar Exim (P) Ltd. (138 taxmann.com 560)
- PCIT Vs Anmol Stainless (P) Ltd. (138 taxmann.com 535).

17. The Id. AR submits that once complete evidence are filed by assessee explaining the transaction on account of share capital, the primary onus was discharged by assessee and unless there are any direct evidence brought on record by Assessing Officer, no addition can be made on account of share capital under Section 68 of the Act. To support such submission, the Id. AR of the assessee relied upon the following case laws:

- (a) Abhijavala Developers (P) Ltd. Vs ITO 187 ITD 222 (Mum)
- (b) Tradelink Carrying (P) Ltd. Vs ITO 181 ITD 408 (Kol)
- (c) PCIT Vs Ami Industries (India) P Ltd. 424 ITR 219 (Bom)
- (d) CIT Vs Orissa Corporation P Ltd. 159 ITR 78 (SC)
- (e) PCIT Vs Jalaram Enterprises Co. P. Ltd. ITA No. 671 of 2017 (Bom) dated 07/06/2019
- (f) DCIT Vs Rohini Builders 256 ITR 360 (Guj)
- (g) Pankaj Enka Pvt. Ltd. Vs DCIT ITA No. 816/Ahd/2017.

18. On the basis of aforesaid submission, the Id. AR of the assessee submits that the Id. CIT(A) on appreciation of facts, rightly deleted the addition and prayed to uphold the order of Id. CIT(A) and be dismissed the appeal of revenue.

19. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also gone through the voluminous evidence filed by assessee to support their contention. We have also deliberated on various case laws relied upon by the Id. AR of the assessee. The assessing officer made addition of Rs. 4.53 Crore by taking view that the assessee has not furnished the required details of investor like, identity, creditworthiness and genuineness of transactions and treated the share capital as unexplained cash credit under Section 68 of the Act. As recorded above, before Id CIT(A), the assessee filed its detailed written submission. In the submissions the assessee specifically stated that they have received share application and share premium of Rs. 26.99 Crore and not Rs. 4.53

Cre as added by assessing officer. The assessee also stated that they have furnished all the required details to prove the identity, creditworthy and genuineness of transactions. The assessee also furnished the source of investment and further source of source of two investors namely Sandeep Tandon and Quant Capital Holding Private Limited. And for remaining five investors, who invested a very small amount of Rs. 20,000/- each, the assessee furnished address and PAN. The submissions of assessee was forwarded to the assessing officer. The assessing officer furnished his remand report dated 15.03.2018. As recorded above, the Id CIT(A) on considering the submissions of the assessee and the remand report of the assessing officer noted that assessing officer in his remand report has accepted the explanation of assessee with regard to source of fund for repayment of unsecured loan from Quant Broking Private Limited, Qcap Securities Private Limited , Quant Capital Holdings Private Limited and Sarojini Tandon of aggregating of Rs. 179.32 crores, such addition of unsecured loan was deleted being not sustainable. We find that so far as addition of Rs. 4.35 crores are concerned, the Assessing officer reported in his remand report dated 15/03/2018 that explanation of Sandeep Tandon was given in the form of computation of total income and bank statement of Sandeep Tandon was filed, however, cash flow analysis was not filed to ascertain the source of fund deposited in the account of Sandeep Tandon. We find that Id. CIT(A) categorically

recorded that the assessee has shown documentary evidence that the assessee received share capital during the year of Rs. 26.99 crores wherein Sandeep Tandon has invested Rs. 1.98 crores and Quant Capital Holdings Private Limited invested Rs. 25.00 crores. The Id. CIT(A) also accepted the contention of the assessee that there is no figure like Rs. 4.53 crores in the balance sheet against the share capital. The assessee explained the source of investment of Rs. 1.98 crore by Sandeep Tandon out of his total income of current assessment year of Rs. 11.41 crores shown in the return of income. Before us, the Id AR for the assessee vehemently submitted that he has filed copy of computation of income of Sandeep Tandon showing total income of Rs. 4.32 crores, copy of ITR of Archana Tandon, copy of bank statement in joint name of Archana Tandon and Sandeep Tandon showing payment of share capital of Rs. 1.98 crore. Before us, the Id AR for assessee also furnished details of return of income of Sandeep Tandon for A.Y. 2015-16, 2014-15 and 2013-14 showing that he has earned long term capital gain, dividend aggregating to Rs. 6.98 crores in A.Y. 2015-16. Copy of assessment order in A.Y. 2014-15 and 2015-16 are also filed. On perusal of return of income and from computation of income of Sandeep Tandon, we find that he has shown income of Rs. 4.32 Crore and also earned exempted long term capital gain, dividend aggregating to Rs. 6.98 crores, total income of Rs. 11.42 Crore in A.Y. 2015-16, thus, his creditworthy was proved beyond

doubt. Identity of Sandeep Tandon cannot be doubted as he is one of the promotor of the assessee company. Similarly, there should not be any doubt about the genuineness of transaction of such investment made by the promotor of the assessee company, in absence of any adverse evidence on record. Moreover, the assessing officer has not brought any evidence on record to negate the genuineness of such transaction.

20. So far as other five investors are concerned, we find that these investors have invested a meagre amount of Rs. 20,000/- each. The assessee furnished their name, address and PAN. The assessee has primarily discharged its onus in furnishing the name address and PAN. The assessing officer has not investigated against such investor. Moreover, they have invested in the share of face value of Rs. 10/- at par. No premium was paid by them. Considering the fact that the assessee discharged its onus and in absence of any incriminating evidence against such investor or investigation by assessing officer to disprove their identity, the genuineness of transaction should not be doubted.

21. About investment of Rs. 25.00 crores by Quant Capital Holdings Private Limited in preference shares of assessee the Id CIT(A) held that assessee has shown that this investor has operating profit of Rs. 22.00 crores, proceeds from issue of share at Rs. 4.6 crores and short term borrowings at Rs. 45.77 crores. The Assessing Officer doubted the source of fund in Quant Capital Holdings Private Limited only on the ground that cash flow

analysis was not furnished. The Id CIT(A) held that on considering the explanation and examination of bank statement of Quant Capital Holdings Private Limited, regarding fund availability of Rs. 72.38 crores in current year, thus, the source of fund investment of Rs. 25.00 crores are very well explained and established. During the submissions the Id AR for the assessee on this issue also vehemently submitted that he has not only proved the source of investment but also proved the source of source as well. The Id AR for the assessee furnished the details of source of source, which we have recorded in para-14 above. On perusal of such source of source, we find that the assessee has explained the source of source in the following manner;

1.	Name of investor (Preference Share)	Amount	Date of receipt of share capital	Particulars	Names of source of source
	Quant Capital Holdings Pvt. Ltd.	2,50,00,000 7,50,00,000 15,00,00,000	23/05/2014 02/06/2014 05/06/2014	Funds were received from Quant Broking Private Limited	5,00,00,000 7,50,00,000 15,00,00,000

22. On perusal of financial of Quant Broking Private Limited, we find that this entity has total revenue income from broking activity and profit from trading activity in shares, securities and derivatives aggregating of Rs. 24.98 Crore. Further, this entity has also interest income from financing activity of Rs. 24.19 Crore. The net profit shown by this entity is of Rs. 7.60 Crore during AY 2015-16. All these financial statement are filed at page no. 147 to 176 of the paper book. On the basis of the above

mentioned evidence, we find that creditworthy of the investor cannot be doubted.

23. We also find that in the present case, the assessee furnished all such details of the lenders/ depositors. We further find that there is no allegation of assessing officer that any of such lenders/ creditors are part of syndicate of accommodation entry provider. Majority of the investor either in the equity shares or preference shares are made by the group company or by promotor at the face value of the shares. There is no evidence that investment in shares of assessee is a result of some circular transactions. In view of the afforesaid factual discussions, we do not find any illegality or infirmity in the finding of the Id CIT(A), which we affirm with our additional observation. In the result, the grounds of the appeal raised by the revenue is dismissed.

24. In the result, the appeal of revenue is dismissed.

ITA No. 433/Srt/2018

25. As noted above the revenue has raised identical grounds of appeal, fact in the appeal is also similar, for making the facts more clear the details of share capital received by the assessee is recorded as under;

Equity Shares Capital:				
Sr. No.	Name of the person	Address	Shares issued during the year	
			No. of Shares	Value (Rs)
1.	Sandeep Tandon ABAPT6796P	Flat No. 48, Bldg No. 3, Patrakar Hsg. Soc Near	1,980,000	19,800,000

		BKC Bandra East, Mumbai		
2.	Vimal Jain ABOPJ 6483 B	91B, Mittal Tower, B Wing, 210, Nariman Point, Mumbai-400021	2,000	20,000
3.	Shankar Narayan		2,000	20,000
4.	Yogesh Banthia AIUPB3135B	502/3, Palm House, 16 Mughal Lane, Mahim West, Mumbai-16	2,000	20,000
5.	Jignesh Shah ANAPS5419E	B-064, Ameya Apartment, Nariman Road, Vile Parle (E), Mumbai	2,000	20,000
6.	Quant Employee Welfare Foundation Private Limited AAACQ3247H	612-617, Maker Chamber IV, Nariman Point, Mumbai	2,000	20,000
	Total		19,90,000	1,99,00,000
Preference Shares Capital:				
1.	Quant Capital Holdings Private Limited	612-617, Maker Chamber IV, Nariman Point, Mumbai	25,000,000	25,00,00,000
	Total share capital received during the year			26,99,00,000

26. Considering the fact that on same set of facts, the similar grounds of appeal raised by revenue in ITA No. 422/Srt/2018 for A.Y. 2015-16 is dismissed, therefore, following the principal of consistency, this appeal of the revenue being ITA No. 423/Srt/2018 for the A.Y. 2015-16 is also dismissed with similar observation.

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

Order pronounced in the open court on 31st January, 2023.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 31/01/2023
**Ranjan*

Copy to:

1. Assessee –
2. Revenue -
3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Sr. Private Secretary, ITAT, Surat