

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं./ITA No.04/RPR/2020

(Assessment Year: 2011-2012)

M/s S R Ingots Pvt. Ltd., House No.16, Opp.CG Gramin Bank, Choubey Colony, Raipur	Vs	ACIT, CC-1, Raipur
PAN No. :AAICS 5559 D		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Ajoy Kumar Singh & Smt. Surbhi Jain, Ars
राजस्व की ओर से /Revenue by	:	Smt. Ila M. Parmar, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	12/04/2023
घोषणा की तारीख/ Date of Pronouncement	:	09/06/2023

आदेश / ORDER

Per Arun Khodpia, AM :

The assessee has filed this appeal against the order passed by the CIT(A)-3, Bhopal, dated 18.11.2019 for the assessment year 2011-2012, on the following grounds :-

- In the facts and circumstances of the case and in law, Id. CIT(A) was not justified in confirming order u/s 147 r.w.s 143(3) passed by ACIT - CC(1) Raipur, though the order passed by ACIT was clearly bad in law.*
- In the facts and circumstances of the case and in law, Ld. CIT(A) was not justified in confirming the re-opening of the case u/s 147, though the A.O was not in the possession of any concrete evidence or material in his possession, he was not having any reasonable belief and he acted only on suspicion, conjectures & surmises.*
- In the facts and circumstances of the case and in law, Ld. CIT(A) was not justified in confirming the addition, though the action u/s 147 was void ab initio, due to the amendment in section 153A w.e.f 1.4.2017 and appellant could have been assessed/reassessed only u/s 153A.*
- In the facts and circumstances of the case and in law, Ld. CIT(A) failed to properly appreciate a large number of*

evidences provided and citations made and erred in confirming addition of Rs. 4.91 crs and Rs. 24,550/- made by the A.O without any material and corroborative evidences.

5. *In the facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition of Rs. 4.91 cr received during the year as share capital/share premium though the appellant has discharged its onus by submitting a large no. of evidences to prove identity of subscribers, their creditworthiness and genuineness of transactions and these evidences are part of government documents and records.*
6. *In the facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition of Rs. 24550/- made by the A.O as commission paid by the appellant though there is no evidence of any such commission paid.*
7. *Appellant craves leave to amend, alter or add any other ground or grounds during the appellate proceedings, if situation is such warranted in the interest of justice.*

2. Brief facts of the case are that the assessee is a company incorporated on 19.05.2009. the company is involved in manufacturing of basis iron and steel. Search and seizure operation u/s 132 of the Act were carried out on various premises of Singhal Group on 31.08.2017. Therefore, premises of assessee was also covered search action u/s 132 of the Act. Regular return of income was filed on 28.09.2011 declaring total income at Rs. Nil. During the course of search and seizure operation it was unearthed that the assessee company has received share capital and share premium in AY 2011-12. The maximum share capital and premium has been received through Kolkata based shell companies. Therefore, the AO after receipt of information from ADIT(Inv)-I, Raipur and after recording reasons reopened the case of assessee u/s 147 of the Act and notice u/s 148 of the Act was issued after approval from Pr CIT (Central), Bhopal. In compliance to notice issued u/s 148 of the Act return of income was filed

on 25.06.2018 declaring total income at Rs. Nil. The AO after passing detailed order made addition of Rs. 4,91,24,550/- to the income of the assessee on account of unexplained cash credit u/s 68 of the Act.

3. Against the above order of AO, the assessee preferred appeal before the Id. CIT(A) and the Id. CIT(A) dismissed the appeal of the assessee.

4. Now, against the order of the Id. CIT(A), the assessee is in further appeal before the Tribunal.

5. During the hearing on 11.04.2023 the assessee placed before us Synopsis of Dates, Revised Statement of facts and a copy of the Revised Ground of appeal and additional grounds, which reads as under:-

Reference: -ITA 4/RPR/2020 (AY 2011-12), Date of Hearing- 11.04.2023

Synopsis of Date: -

S.No.	Date	Remarks
1.	23-08-2004	S.R. Ingots Pvt Ltd was incorporated on this day for manufacturing at Siltara Industrial Area, Raipur (SRIPL)
2.	01-04-2009	01.04.2009 to 31.03.2010 (AY 2010-11) manual scrutiny done (Page 439)
3.	01-04-2010	Start of the Seventh (7 th) (FY 2010-11) (AY 2011-12) impugned assessment year
4.	30.04.2010	Share Allotment to 5 Corporates by private placement (Page 53) (AY 2011-12) impugned assessment year
5.	02.08.2010	Share Allotment to 21 Corporates by private placement (Page 53) (AY 2011-12) impugned assessment year
6.	31.03.2010	End of Financial Year (AY 2011-12) impugned assessment year
7.	11.08.2011	Filing of Annual return with MCA
8.	28.09.2011	ITR Filed for AY 2011-12, Page 01 A.O.
9.	31.08.2017	Search on SRIPL & Singhal Group / LPS 08, page No. 04 to 07 related to SRIPL.
10.	02.09.2017	Statement of Ravi Singhal, (Page 19, AO).
11.	03.10.2017	Statement of Vinod Jajoo, (Page 30, AO). SRIPL not named (page 446)
12.	05.10.2017	Retraction filed by Mr. Ravi Singhal. – [page 17, para 4.6.1 CIT (A)]
13.	19.02.2018	Order U/s 127(2) centralizing the case by PCIT Raipur
14.	27.02.2018	Letter of ADIT (Inv.)-2 Raipur to ITO ward - 1(1). (Page 448)
15.	12.03.2018	Letter of ITO ward 1(1) to ACIT CC-1, Raipur (page 447)
16.	14.03.2018	Letter by ACIT CC-1 to ADIT (Inv.)-2, Raipur (page 445)
17.	16.03.2018	Reminder by ACIT CC-1 Raipur to ADIT (Inv.)-2, Raipur. (Page 444)
18.	16.03.2018	Proposal U/s 151 for obtaining approval of PCIT central Bhopal. (page 381)
19.		Endorsement by Add. CIT central range, Raipur (Page 382)
20.	26.03.2018	Approval of PCIT central Bhopal (Page 382)
	27.03.2018	Forwarding of sanction U/s 151(1) r.w.s. 149 for re-opening. (Page 380)
21.		Reopened the case of SRIPL U/s 148.
22.	25.06.2018	ROI for AY 2011-12 filed in the response to notice U/s 148.
23.	31.08.2018	Notice U/s 143(2) issued fixing hearing on 11.09.2018, (Page 03- A.O.)
24.	14.11.2018	Objection to re-opening filed with the AO, (Para 4, Page 04 - A.O.)
25.	12.11.2018	Reasons for re-opening shared by the AO, (Page 3/ Page 383-385).
26.	26.11.2018	Objection to Notice U/s 148, rejected by AO, (Para 5, page 4 A.O.)
27.	30.10.2018	Notice U/s 133(6) issued to 26 Share Allottees as per ROC – (Page 53, para 11.1).
28.	30.10.2018	Notice U/s 142(1) for compliance on 01.11.2018, (page 55, para 11.3, A.O.)
29.	30.10.2018	Summons U/s 131 for compliance on 01.11.2018, (page 56, para 11.4, A.O.)
30.	01.11.2018	No Compliance from our side (appellant company)
31.	12.11.2018	Proposal for Penalty U/s 272(1)(A) to JCIT Central Raipur (page 56, para 11.5, A.O.)
32.	28.11.2018	Compliance by the appellant company – (Page 99, A.O.)
33.	06.12.2018	SCN in CD for compliance 11.12.2018 – (Page 91, Para 11.11)
34.	10.12.2018	Penalty of Rs. 10,000 imposed U/s 272(1)(C) by JCIT Central, Raipur
35.	18.12.2018	Detailed reply page 96 (para 12.1), page 96 (para 12.1)
36.		Synopsis of reply received U/s 133(6), (Page 97, A.O.)
37.	22.12.2018	147 rws 143(3) of Income Tax Act.

“Revised Statement of facts: A.Y. 2011-12 dated 11.04.2023

SR Ingots is a Private Limited company incorporated on 23-08-2004. The company has received share subscriptions in the PY 2008-09 and PY 2009-10, and allotment of shares was made to 26 body corporates on 30-04-2010 & 02-08-2010 in the PY 2010-11, relevant to AY 2011-12 (impugned A.Y.). It is pertinent to mention that for PY 2009-10 relevant to AY 2010-11, Manual Scrutiny Assessment has already been completed as per departmental database.

In this case, the original Return of Income for the AY 2011-12 was filed on 28-09-2011 declaring total income at Rs. NIL. There was a search and seizure operation conducted on 31-08-2017 at multiple places including the Corporate HQ of the Singhal Group. The appellant company is part of the group and is based out of the corporate HQ's. The name of SR Ingots

Private Limited (SRIPL) does not figure out in the panchnama, however document/ loose papers LPS 08 Pages 04 to 07 was recovered and seized. The case of the Appellant company was reopened U/s 147 of the Income Tax Act, 1961. Ostensibly on the basis of letter F.No. ADIT (Inv-2) Raipur dated 27-02-2018 to ACIT CC-1, Raipur along with the statement of one Mr. Vinod Jajoo, recorded U/s 131(1A) dated 03-10-2017 forms the basis of reopening U/s 147 of the Act.

The Ld. ACIT CC-1, Raipur had written letter dated 14-03-2018 to the ADIT (Inv.-2), Raipur, wherein he records his angst, with respect to the statement of Mr. Vinod Jajoo. "your report is silent on Sl. No. 2,4,5,8,10,11,12,13,14,15,16,19 and 23. You have not given any findings as to why share capital received from these companies should be considered for addition to the total income. Further the Ld. ACIT CC-1 also pointed out in his letter that the name of S R Ingots Private Limited is nowhere reflecting in the statement of Mr. Vinod Jajoo. Reminder was also issued on 16-03-2018. Reading the above letter of the ACIT CC-1 it can safely be inferred that no proper satisfaction was recorded that income has escaped assessment for A.Y. 2011-12.

The assessee company filed its revised return U/s 148 at Rs. NIL on 25-06-2018.

Reasons recorded were provided to the assessee company vide letter dated 12-11-2018. Notice U/s 143(2) dated 31-08-2018 fixing the case for hearing on 11-09-2018. The Company filed objection vide letter dated 14-11-2018, wherein the very invocation of Section 147 was challenged, which was rejected by the AO vide order dated 26-11-2018. Further notice U/s 142(1) dated 30-10-2018 issued to the assessee company to produce details by 01-11-2018. The AO issued notices U/s 133(6) dated 30-10-2018 to the 26 body-corporate, to which shares had been allotted during the previous year. Summons U/s 131(1A) was also issued to the assessee company on 30-10-2018, for compliance by 01-11-2018. Thus, opportunity of hearing was nothing but an empty formality only. Even this glaring conduct went un-noticed by the Ld. CIT (A), who enjoys co-terminus powers of the AO as held by the Hon'ble SC in the case of Kanpur Coal Syndicate 53 ITR (225).

In response to notice U/s 133(6), Nine (9) body corporate filed their reply along with source of source, it is pertinent to mention that out of 9 body corporate that replied, Eight (8) had stated that they had subscribed to the Share Capital of SRIPL in PY 2009-10 while one in PY 2008-09. Thus, by no imagination could the share subscription money be assessed to tax in AY 2011-12. Out of the remaining seventeen (17), in eleven (11) bases the notice U/s 133(6) was sent to the wrong address, four (4) had received the notices but replies were awaited and in the remaining two (2) cases, the

notice U/S 133(6) dated 30-10-2018 could not be served due to incomplete address.

While passing the final order U/s 143(3) r.w.s. 147, Ld. AO made the addition of entire share application/ premium which were actually received in the PY 2008-09 & 2009-10 and only allotment was done in PY 2010-11, relevant to AY 2011-12. Thus, the very invocation of section 68 of Income Tax Act, 1961 is contrary to the mandate of the Section 68 itself.

The AO passed the impugned Asst. Order U/s 147 r.w.s 143(3) on 22-12-2018, making addition of entire share capital / premium not received during the PY 2010-11, relevant to AY 2011-12 amounting to Rs. 4,91,00,000/- along with commission at 0.05% amounting to Rs. 24,550/-.

- I) It is pertinent to mention that huge and high-pitched assessment was framed, disregarding the fact, that the statement of Mr. Vinod Jajoo does not name SRIPL.
- II) The letter that ADIT (Inv.-2) had shared, had half baked information.
- III) Allotment of shares does not trigger Section 68 of the Act, AY 2011-12 was beyond the (1+6) mandate of Section 147 r.w.s 149 of the Act, was passed without observing the principles of natural justice and was barred by limitation (Time barred).
- IV) Notice U/S 133(6), 142(1), and Summons U/s 131(1A) were all issued on same date 30-10-2018. With regard to 142(1) and Summons U/s 131(1A), compliance was sought on 01-11-2018 itself
- V) In utter disregard to information / reply received in response to section 133(6) of the Act, which categorically brings out that the share subscription amounts were not received in PY 2010-11, relevant to AY 2011-12.
- VI) Being aggrieved, Appellant filed an appeal before the Ld. CIT (A) - Bhopal. During the course of hearing, the assessee filed a detailed submission on both the points in PART-A and PART-B, viz. on legality of the reopening of the case U/s 147 and on the validity of additions made as above.
- VII) Appeal was finally dismissed by Ld. CIT (A) vide his appellate order dated 18.11.2019.

From the appellate order, it becomes very clear that the Ld. CIT (A) failed to exercise his co-terminus power, Kanpur Coal Syndicate 53 ITR (225) (SUPRA), and based his order only on the narratives made by the AO in his assessment order and did not rely or take Cognizance of the large number of facts and evidences submitted by the appellant company. Facts of the cases

cited by CIT (A) are far-fetched from the fact of the case of the appellant. One such instance is available at Pg. 39 Para 4.1.2 of Ld. CIT (A) order wherein he out of nowhere mentions statement of Shri Satpal Singh Bhatia, this name does not find mention anywhere in the Assessment Order passed by the AO on 22.12.2018 and what is most demoralising and discouraging that none of these statements referred to by the AO or the Ld. CIT (A) were made available thereby denying the appellant company an opportunity to explain or cross examine them, it is trite law, any inference drawn on such statements are infructuous and bad in law, in view of Hon'ble SC in case of Andaman Timber V/s CCE Civil Appeal No. 4228 of 2006 dated 02-09-2015, (281, CTRO 241) has held inter alia as under: -

'Not allowing assesses to cross examine witness by adjudicating authority though statements of those witness were made the basis of impugned order, amount in serious flaw which make impugned order nullity as it is amounted to violation of principal of justice'.

Being aggrieved by the order of the CIT (A), Appellant is in appeal before this Hon'ble Bench of ITAT, Raipur.”

6. **Revised grounds:-**

“1. That in facts and circumstances of the case, the Ld. Lower authorities erred in adding and confirming an addition of Rs. 4,91,00,000/- under section 68 of the Act against share capital and premium not received during the said period.

2. That the in facts and circumstances of the case, the Id. Lower authorities erred in adding and confirming an addition of Rs. 24,550/- as commission expense of the assessee company purely on the basis of assumption and surmises.

3. That in facts and circumstances of the case, the Ld. AO erred in law by initiating the proceedings under section 147 of the Act instead of completing the assessment under section 153A/ 153C of the Act.

4. That the Ld. AO erred in the very invocation of section 148 as the reason to believe suffered from factually incorrect/ irrelevant information and borrowed satisfaction while failing the basic test as laid down in several judicial precedence.

5. That the both the lower authorities erred in holding that the amendment to section 68 introduced by Finance Act, 2012, was retrospective in nature and thus, adding the share capital proceeds in the hands of the assessee instead of individual shareholders.

6. *That the Ld. AO violated the principles of natural justice by relying on statements and evidences which were not shared with the assessee, thus rendering the entire assessment null and void.*

7. *For that the appellant craves leave to add, alter or delete all or any grounds of appeal."*

7. The assessee in its appeal has raised the following additional grounds:-

"1. The search was conducted on Singhal Group on 31.08.2017, notice under section 148 could have been issued for 1 (part)+6 assessment years, last (sixth year) being A.Y 2012-2013. Thus A.Y 2011-2012 could not have been reopened u/s 148 of the Income Tax Act, 1961 is barred by limitation (Time barred).

2. That the proceeds of Share Application Money received in PY 2008-2009 and PY 2009-2010, emanates for the Assessment order for AY 2011-2012 but was not made a specific ground before the Id. CIT(A)."

8. On **Revised Ground No. 1** , the Id. AR raised the contention by submitting that the Id. lower authorities erred in adding and confirming the amount of Rs.4,91,00,000/- u/s 68 of the Act treating the share capital and premium which was received in earlier Assessment years and not during the relevant A.Y 2011-12, as bogus and unexplained. To substantiate this contention, the Id. AR of the assessee drew our attention to Page 97 of the assessment order. On page 97 of the assessment order, the Id. AO has furnished a table, which is showing the date of transfer of subscribed amounts and according to the said table the dates of amount transferred towards share capital and premium were falling in the month of April to September, 2009 i.e. in the AY 2010-11. In continuation, it was the submission of the Id. AR that since all the amounts of alleged bogus share capital receipt in the hands of the assessee which were added by invoking

provisions of section 68 of the I.T. Act since, were received in the F.Y 2009-10 relevant to A.Y 2010-11, thus by no imagination such subscriptions moneys can be assessed to tax in the A.Y 2011-12. For better appreciation of the facts the Statement furnished at Page 97 of the assessment order is extracted as under:

Sr o	Subscriber	FY	Subscribed	Date of transfer	Bank Statement	Amount received prior to transfer	Date thereof	Period of statement	Balance at the end of statement	Investments (+)	Investments (-)
1.	Matrix Distributors Pvt. Ltd.	2010-11	800,000	16/04/09	Yes	1,800,000	16/04/09	01/04/09 to 09/07/09	10,248	6.60	5.90
			2,000,000	22/06/09	Yes	2,000,000	22/06/09				
2	Uplink Marketing Pvt. Ltd.	2010-11	900,000	06/04/09	Yes	1,500,000	04/04/09	01/04/09 to 20/04/09	9,791	3.10	3.00
3	Apurva Barteer Pvt. Ltd.	2009-10	900,000	07/04/09	Yes	900,000	07/04/09	01/04/09 to 15/04/09	10,232	Not Enclosed	
			1,000,000	20/04/09	Yes	1,800,000	20/04/09				

4	Motorex Finance Pvt. Ltd.	2008-09	1,000,000	1/08/09	No					Not Enclosed	
5	Muskan Distributors Pvt. Ltd.	2009-10	1,200,000	04/05/09	Yes	1,200,000	04/05/09	01/04/09 to 12/06/09	34,240	5.77	4.83
			1,000,000	19/05/09		1,000,000	19/05/09	01/04/09 to 20/05/09	20,215		
			1,000,000	21/07/09		1,000,000	21/07/09	10/07/09 to 12/08/09	34,240		
6	Mangal Energy & Power Pvt. Ltd.	2009-10	1,000,000	24/04/09	No					3.14	3.12
7	Liberal Merchants Pvt. Ltd.	2009-10	1,000,000	24/04/09	Yes	1,000,000	24/04/09	01/04/09 to 14/05/09	10,399	3.42	2.55
			1,000,000	14/05/09	Yes	1,000,000	14/05/09				
8	Natraj Viracom Pvt. Ltd.	2009-10	900,000	03/04/09	Yes	800,000	03/04/09	01/04/09 to 30/04/09	6,655	2.94	2.07
9	Hocghly Jute Mills(Bobbili)(P) Ltd.	2009-10	1,000,000	24/09/09	Yes	600,000	24/09/09	14/08/09 to 08/10/09	9,760	1.83	1.89

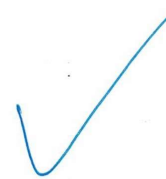
9. To corroborate the factual correctness of the claim of the assessee and dates recorded by the Ld AO, Ld AR drew our attention to page 313 of paper book no 2 of the assessee submitted on 14.11.2022, showing the summary of share capital and premium in the FY 2009-10 along with ledger accounts of the respective share subscribers available on page nos 314 to 339. Also, the copy of leger account of share application and copy of bank book were also produced before us in the paper book no 2. Copy of the group summary of Share application is culled out as under:

S.R.INGOTS PRIVATE LIMITED
PLOT NO.- 19-20 PHASE - 1
SILTARA, RAIPUR (C.G.)

Share Application

Group Summary

1-Apr-2009 to 31-Mar-2010



Particulars	Opening Balance	Transactions		Closing Balance
		Debit	Credit	
SHARE APPLICATION ISSUED ON 06.04.09	40,00,000.00 Cr	40,00,000.00		
Apurva Barter Pvt. Ltd.			19,00,000.00	19,00,000.00 Cr
Exclusive Barter Pvt. Ltd.			20,00,000.00	20,00,000.00 Cr
Hoogly Jute Mills (Bobbili) Pvt. Ltd.			25,00,000.00	25,00,000.00 Cr
Kamyabi Commercial Pvt.Ltd.			15,00,000.00	15,00,000.00 Cr
Liberal Merchants Pvt. Ltd.			20,00,000.00	20,00,000.00 Cr
Manokamna Merchants Pvt. Ltd.			9,00,000.00	9,00,000.00 Cr
Matrix Distributers Pvt. Ltd.			28,00,000.00	28,00,000.00 Cr
MIDNIGHT AGENCIES PVT.LTD.	10,00,000.00 Cr			10,00,000.00 Cr
Minolta Vyapar Pvt. Ltd.	18,00,000.00 Cr			18,00,000.00 Cr
Motorex Fin. Pvt. Ltd., Kolkata	10,00,000.00 Cr			10,00,000.00 Cr
Muskan Distributers Pvt. Ltd.			32,00,000.00	32,00,000.00 Cr
Natraj Vincom Pvt. Ltd.			9,00,000.00	9,00,000.00 Cr
Navratan Vinimay Pvt. Ltd.			34,00,000.00	34,00,000.00 Cr
NILHAT PROMOTERS & FISCAL PVT.LTD			17,00,000.00	17,00,000.00 Cr
Panther Vanijya Pvt. Ltd., Kolkata	10,00,000.00 Cr			10,00,000.00 Cr
Punya Lether Pvt. Ltd.	15,00,000.00 Cr			15,00,000.00 Cr
Rajhans Dealers Pvt. Ltd.			15,00,000.00	15,00,000.00 Cr
RAMDOOT VANIJYA PVT LTD	12,47,729.20 Dr		22,47,729.20	10,00,000.00 Cr
Shubh Labh Printers Pvt. Ltd.	28,00,000.00 Cr	28,00,000.00	25,00,000.00	25,00,000.00 Cr
Sthirlaxmi Mercantile	15,00,000.00 Cr			15,00,000.00 Cr
Truevally Merchants Pvt. Ltd.			59,00,000.00	59,00,000.00 Cr
Truevally Vyapaar Pvt. Ltd.			16,00,000.00	16,00,000.00 Cr
Uplink Marketing Pvt. Ltd.			9,00,000.00	9,00,000.00 Cr
Winsher Merchants Pvt. Ltd.			25,00,000.00	25,00,000.00 Cr
Wonderland Merchants Pvt. Ltd.			10,00,000.00	10,00,000.00 Cr
YULAN MARKETING PVT.LTD			16,00,000.00	16,00,000.00 Cr
Grand Total	1,33,52,270.80 Cr	68,00,000.00	4,25,47,729.20	4,91,00,000.00 Cr

It was the submission that all such information was available before the authorities below while adjudicating the matter.

10. To strengthen the contention raised in revised ground no 1, Id. AR relied upon the judgment of ITAT, Kolkata Bench in ITA No. 1931/Kol/2016 in the case of M/s Paramic Goods Pvt. Ltd. dated 27th July, 2018 wherein it has been held as under:-

"8. We have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that the claim of having received the amount in question towards share capital and share premium during the earlier F.Y. 1999-2000 relevant to A.Y. 2000-01 and not during the year under consideration was not accepted by the A.O. during the course of assessment proceedings in the absence of documentary

evidence filed by the assessee to support and substantiate the same. During the course of appellate proceedings before the Ld. CIT(A), the assessee company however filed such documentary evidence as additional evidence to support and substantiate its claim that the amount in question on account of share capital and share premium having been received in the earlier year and not in the year under consideration, the addition made by the A.O. by treating the same as unexplained cash credit during the year under consideration was not sustainable. The said documentary evidence filed by the assessee was forwarded by the Ld. CIT(A) to the A.O. along with the submission made by the assessee for his verification and comments. As per the direction of the Ld. CIT(A), the A.O. verified the documentary evidence filed by the assessee and found the same to be in order. He also verified the claim of the assessee company from the share subscriber companies and found that the entire share capital along with share premium amounting to Rs. 54.35 crores was actually received by the assessee company during the F.Y. 1999-2000 relevant to A.Y. 2000-01. Keeping in view this categorical finding given by the Assessing Officer in his remand report after verifying the claim of the assessee company from the relevant documentary evidence as well as from the share subscriber companies, the Ld. CIT(A) held that the amount in question towards share capital and share premium having been received by the assessee company in the earlier year, the same could not be treated as unexplained cash credit for the year under consideration. To arrive at this conclusion, the Ld. CIT(A) relied on the following judicial pronouncements:

"i. In CIT v. Usha Stud Agricultural Farms Ltd. 301 ITR 384 (Delhi) it was held in para (6) of the order:

'(6) Here, the CIT(A) has deleted the addition of Rs. 15 lacs mainly on the ground that this credit balance of Rs. 15 lacs is being reflected in the accounts of the assessee over the past four to five years or so and hence this was not a fresh credit entry of the previous year under consideration and these credit entries were already made and accounted for in the A.Ys 1995-96 and 1997-98 which were introduced in the form of advance against breeding stallions owned by the assessee and thus these credit entries did not relate to the year under consideration for being considered under section 68 of the Act. Since it is a finding of fact recorded by the CIT(A) that this credit balance appearing in the accounts of the assessee, does not pertain to the year under consideration, under these circumstances, the A.O. was not justified in making the impugned addition under section 68 of the Act and as such no fault can be found with the order of the Tribunal which has endorsed the decision of the CIT(A)."

ii. In *CIT v. Parameshwr Bohra* 301 ITR 404 (Rajasthan) it was held in para (5) of the order:

'(5) On the merit of the additions made in the income of the assessee, there is a clear finding, and about which there is no dispute, that the amount added in the income of the assessee as unexplained investment or cash credit in the A.Y. 1993-94 was the same amount which was credited in the books of account of the assessee for previous year ending on 31st March, 1992. The Tribunal has categorically come to a finding, and that finding is not under challenge, that this is not a case of cash credit entered in the books of account of the assessee during the year but it is a case in which the assessee has invested the capital in the business and this amount was shown as a closing capital as on 31st March, 1992 and on 1st April, 1992 it was an opening balance. Considering this aspect, the Tribunal has come to the conclusion that what was already credited in the books of account ending on 31 March, 1992 for financial year 1991- 92 relevant to A.Y. 1992-93 cannot be an unexplained cash credit or investment in the books of account maintained for the financial year 1992-93, the accounting period of which ends on 31st March, 1993 so as to warrant its consideration as unexplained investment or cash credit for its relevant A.Y. 1993-94. It does not require any elaborate argument that a carried forward amount of the previous year does not become an investment or cash credit generated during the relevant year 1993-94.'

*"9. As held by the Hon'ble Delhi High Court in the case of Usha Stud Agricultural Farms Ltd. (supra) as well as by the Hon'ble Rajasthan High Court in the case of Parmeshwar Bohra (supra), **the amount received by the assessee in the earlier year and not in the year under consideration and duly credited in the books of account of the assessee for such earlier year cannot be added under section 68 as unexplained cash credit for the year under consideration. In our opinion, the ratio of the said two judicial pronouncements is squarely applicable to the facts of the present case and the Ld. CIT(A) was fully justified in deleting the addition made by the A.O. under section 68 during the year under consideration by treating the amount in question towards share capital and share premium which was received by the assessee company in the earlier year and not in the year under consideration. At the time of hearing before us, the learned DR has not disputed this factual position or even the applicability of the ratio of the said two judicial pronouncements relied upon by the Ld. CIT(A) while deleting the addition made by the A.O. under section 68.**"*

11. The Id. AR further relied on the order of ITAT, Kolkata, B - Bench in the case of M/s Gupta Ispat Pvt. Ltd. in ITA No. 1971/Kol/2018 dated 20.10.2022 wherein it has been observed as under:-

“8. We have heard the rival submissions, carefully perused the material available on record. It is an undisputed fact that assessee had received advance from M/s Ram Kumar Rajendra Kumar & Co. Pvt. Ltd. of Rs. 2.25 Cr. in the F.Y 2008-09 duly reported in its audited financial statements placed on record. Assessee has issued its equity shares to the said company against capitalizing the advance of Rs.2,21,00,000/- in the year under consideration and has returned the balance of Rs. 4 lakh. It is also noted from the perusal of the two summons issued u/s. 131 of the Act dated 23.02.2015 that there was no such requirement from the Id. AO to produce the director of the shareholder companies. It was only the director of the assessee who were called for personal attendance and produce the required details and documents which were complied by the assessee. The shareholder company is one of the group companies having a common director namely Shri Raj Kumar Gupta. We note that all these verifiable facts have been duly considered by the Ld. CIT(A) and has granted relief after his due verification and examination. Considering the facts and circumstances of the case and the corroborative material placed on record in the paper book, we do not find any reason to interfere with the findings given by the Id. CIT(A) who upheld the deletion of addition made by the Ld. AO of Rs.2,21,00,000/-. Accordingly, the grounds raised by the revenue are dismissed.”

12. It was the submission of the Id. AR that because the share application and premium money were actually received in F.Y 2008-09, 2009-10 and only allotment was done in F.Y 2010-11 relevant to A.Y 2011-12, thus the very foundation of the invocation of section 68 of the Income Tax Act, 1961 is contrary to the mandate of section 68 itself.

13. On the contrary, Ld CIT DR on the revised ground no 1 regarding date of receipt of amounts of share capital in the earlier AY 2010-11 has submitted that since the assessee has not assailed this ground before the

Ld CIT(A), the matter should be restored to the file of Ld CIT(A) for fresh adjudication of the same on merits after proper verification of facts and in case required a remand report on the issue shall be called for from the concerned AO.

14. We have heard the rival contentions, carefully perused the material available and pressed into our service by the respective parties. Prima facie, as per the information and evidence produced before us, apparently it is the fact that the amounts towards share capital and share premium were received in the years earlier than the assessment year 2011-12 which is under consideration before us. According to the judicial findings and ratio decided in the case of *Usha Stud Agricultural Farms Ltd. (supra)* as well as by the Hon'ble Rajasthan High Court in the case of *Parmeshwar Bohra (supra)*, since the receipt of the alleged bogus share capital and premium pertains to a different year than that of the year in which the said amount were added by invoking provisions of section 68, the addition made by AO and confirmed by Ld CIT(A) is bad in law.

15. However, since the issue raised in ground 1 was never raised by the assessee before the Ld CIT(A) which is evident from the additional ground no 2 of the assessee which is "***That the proceeds of Share Application Money received in PY 2008-2009 and PY 2009-2010, emanates for the Assessment order for AY 2011-2012 but was not made a specific ground before the Id. CIT(A).***" Also, Ld CITDR have prayed before us that in the interest of natural justice the ground which was never raised before the Ld CIT(A), it would be just

and proper to restore it back to the files of Ld CIT(A) for fresh adjudication of the same. With a thoughtful consideration to the facts brought before us which were not discussed before the Ld CIT(A), we are of the considered opinion that the matter needs to be examined by the Ld CIT(A) for adjudicating the same afresh, Ld AO shall also be put to notice to verify the facts and place a remand report before the Ld CIT(A) to assist in the matter. Reasonable opportunity of being heard shall be granted to the assessee during the appellate proceedings before the Ld CIT(A). With these directions the issue is restored back to the files of Ld CIT(A) for fresh adjudication. In the result revised ground no 1 of the assessee is partly allowed for statistical purpose.

16. Revised Ground No. 2 : Regarding adding and confirming an addition of Rs. 24,550/- as commission expense.

As revised ground no one is restored to the files of Ld CIT(A) in terms of our observations in the foregoing para's, revised ground no 2 which is interlinked with the Ground no 1, is also restored to be dealt together by the Ld CIT(A) afresh.

Revised Ground No. 3 :

3. That in facts and circumstances of the case, the Ld. AO erred in law by initiating the proceedings under section 147 of the Act instead of completing the assessment under section 153A/ 153C of the Act.

17. During the proceedings of the hearing, the Ld AR of the assessee has preferred not to press this ground and has endorsed to this effect on

physical copy of the grounds submitted before us, thus Revised Ground No 3 of the assessee is dismissed as withdrawn.

Revised Ground no. 4 : That the Ld. AO erred in the very invocation of section 148 as the reason to believe suffered from factually incorrect/ irrelevant information and borrowed satisfaction while failing the basic test as laid down in several judicial precedence.

18. Ld. AR was on the validity of reopening of the case u/s 148 of the Act. In this respect Ld AR had drawn our attention to the copies letters wrote by Ld AO to the Asstt. Director of Income Tax (Inv)-2, Raipur on 14.03.2018 (extracted here under), with a grievance that the satisfaction recorded by the Ld AO was not on the concrete facts but merely on the basis of information passed on by the investigation wing. Ld AO himself in his letter has categorically mentioned that *“Copy of statement of Shri Vinod Kumar Jajoo, on the basis of which you are of the opinion that share capital / premium of Rs. 4,91,00,000/- was raised / received through Kolkatta based company, but in the statement there is no where mention of M/s S.R.Ingots (P) Ltd. Thus from your letter dated 27.02.2018, it appears that you have only passed information but the material facts on the basis of which reason could be recorded is entirely absent.”*

LWS



Government of India
Ministry of Finance: Department of Revenue
Office of the Assistant Commissioner of Income-tax, Central-I,
Aayakar Bhawan, Civil Lines, Raipur (C.G.) Ph. & Fax:- 0771-2331059
Email:Raipur.dcit.cen1@incometax.gov.in

F. No. ACIT(Central-1)/RPR/Sharing of Information/2017-18/ Date: 14.03.2018

To

855 - The Asstt. Director of Income Tax(Inv)-2,
Raipur.

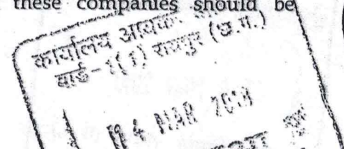
Sir,

Subject: Sharing of information for initiating appropriate action in the case of
M/s S.R. Ingots (P) Ltd (AAICS5559D0 for the A.Y. 2011-12- Matter- reg

Please refer to your letter F.No. ADIT(INV)-2/RAIPUR/SHARING
INFORMATION/17-18/2080 dated 27.02.2018 addressed to the Income Tax Officer-
1(1), Raipur on the above subject.

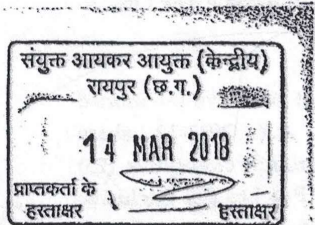
On going through your aforesaid letter, it is noticed that you have mentioned
that during the financial year 2010-11 relevant to the A.Y. 2011-12, share
capital/premium of Rs. 4,91,00,000/- was raised/received through twentyfive (25)
Kokkata based shell companies namely (1) Apurva Barter Pvt Ltd (2) Exclusive
Barter Pvt Ltd (3) Hooghly Jute Mills (Bobbili) Pvt Ltd (4) Kamyabi Commercial Pvt
Ltd (5) Liberal Merchants Pvt Ltd (6) Manokamna Merchants Pvt Ltd (7) Matrix
Distributors Pvt Ltd, (8) Midnight Agencies Pvt Ltd (9) Minolta Vyapar Pvt Ltd (10)
Motorek Finance Pvt Ltd (11) Muskan Distributors Pvt Ltd (12) Natraj Vincom Pvt
Ltd (13) Navratan Vinimay Pvt Ltd (14) Nilhati Promoters & Fiscal Pvt Ltd (15)
Ramdoot Vanijya Pvt Ltd (16) Panther Vanijya Pvt Ltd (17) Punya Leather Pvt Ltd
(18) Subh Labh Prints Pvt Ltd (19) Sthirlaxmi Mercantile Pvt Ltd (20) True Valley
Vyapar Pvt Ltd (22) Uplink Marketing Pvt Ltd (23) Winsher Merchants Pvt Ltd (24)
Wonderland Merchants Pvt Ltd (25) Yulan Marketing Pvt Ltd

13/26
13/26
21
M.S.S.
However in subsequent para, you have gave findings based upon statement
of Shri Vinod Jajoo, which states that the aforesaid companies are managed and
controlled by Shri Vinod Jajoo for which commission of 0.1% was charged by him.
However your letter is silent about findings on companies mentioned at Sl. No. (2), 4,
5, 8, 10, 11, 12, 13, 14, 15, 16, 19 & 3. Koel Tradecom Pvt Ltd. You have not given any
findings as to why share capital received from these companies should be
considered for addition to the total income.



Further to state that you have also attached copy of statement of Shri Vinod Jajoo, on the basis of which you are of the opinion that share capital/premium of Rs. 4,91,00,000/- was raised/received through Kolkata based company, but in the statement there is no where mention of M/s S.R.Ingots (P) Ltd. Thus from your letter dated 27.02.2018, it appears that you have only passed information but the material fact on the basis of which reason could be recorded is entirely absent. Being conducting ADIT, all the material facts are in your possession and the same has not been forwarded to this office as on date. Therefore, you are requested to forward certified copy of the material facts, evidences and specific findings on share application money in the case of M/s S.R.Ingots (P) Ltd, which lead you to believe that accommodation entry has been taken by the M/s S.R.Ingots (P) Ltd (AAICS5559D) for the A.Y. 2011-12. Last but not the least, if any other issue detected for A.Y. 2011-12, which in your opinion is likely to be considered for addition, the details findings with material facts on the same may also be forwarded to this office for consideration.

Your reply to this office should reach to this office well before the limitation date i.e. 31.03.2018, so that interest of the revenue could be protected.



Yours faithfully,

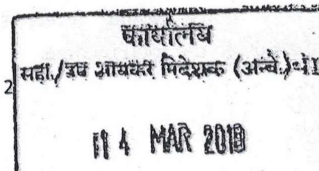
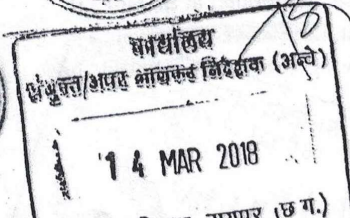
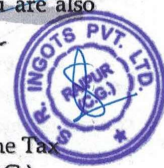
(Piyush Pathi)
Asstt. Commissioner of Income Tax
Central Circle -1, Raipur (C.G.)

Copy for information to the:

- 896 1. Jt. Commissioner of Income Tax (Central), Raipur.
897 2. Jt. Director of Income Tax (Inv), Raipur.
898 3. Income Tax Officer-1(1), Raipur. You are requested to forward the assessment folder for A.Y. 2011-12 along with assessment records for all other A.Ys. Please note that in the absence of case record for A.Y. 2011-12, the vital information which is useful for recording reason for reopening of the case u/s 148 of the Act could not be incorporated in the reason for reopening. You are also requested to migrate the PAN to this office.



Asstt. Commissioner of Income Tax
Central Circle -1, Raipur (C.G.)



19. Ld AR further, drew our attention to the copy of another letter of by Ld AO to The Asstt. Director of Income Tax (Inv)-2, Raipur on 16.03.2018, referring his letter dated 14.08.2018 in the same context, again requesting

that his office has not received the required information till date and in absence of the proper reasoning for recording the satisfaction note for reopening the case for AY 2011-12 is not getting strength. Copy of letter dated 16.03.2018 is extracted here under:-



Government of India
Ministry of Finance: Department of Revenue
Office of the Assistant Commissioner of Income-tax, Central-I,
Aayakar Bhawan, Civil Lines, Raipur (C.G.) Ph. & Fax:- 0771-2331059
Email:Raipur.dcit.cen1@incometax.gov.in

F. No. ACIT(Central-1)/RPR/Sharing of Information/2017-18/ Date: 16.03.2018

To

316 The Asstt. Director of Income Tax(Inv)-2,
Raipur.

Sir,

Subject: Sharing of information for initiating appropriate action in the case of M/s S.R.Ingots (P) Ltd (AAICS5559D0 for the A.Y. 2011-12- Matter- reg

Please refer to this office letter of even number dated 14.03.2018 on the above subject.

In this connection it is to state that your compliance in respect of deficiencies pointed out in the aforesaid letter in respect of M/s S.R.Ingots (P) Ltd, PAN. AAICS5559D) for A.Y. 2011-12 has not been received in this office till date and in the absence of the same proper reasoning for recoding the satisfaction note for reopening of the case for A.Y. 2011-12 is not getting strength. Looking to the limitation date i.e. 31.03.2018 and in order to protect the interest the Revenue, compliance in the matter is highly required.

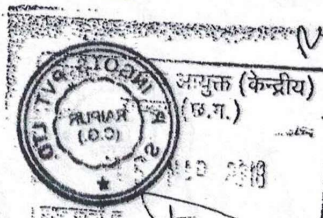
Therefore you are requested to make necessary compliance immediately/by return of DAK.

Yours faithfully,

(Piyush Tripathi)
Asstt. Commissioner of Income Tax
Central Circle -1, Raipur (C.G.)

Copy for information to the:

- 317-1. Jt. Commissioner of Income Tax(Central), Raipur.
318-2. Jt. Director of Income Tax(Inv), Raipur.



Asstt. Commissioner of Income Tax
Central Circle -1, Raipur (C.G.)








20. Ld AR further drew our attention to the form for recording reasons for initiating proceedings under section 148 and for obtaining the approval of the Pr. Commissioner of Income Tax (Central), the same is extracted here under:

FORM FOR RECORDING THE REASON FOR INITIATING PROCEEDING UNDER SECTION 148 AND FOR OBTAINING THE APPROVAL OF THE Pr. COMMISSIONER OF INCOME TAX(Central)

1	Name & address of the assessee	M/s S.R. Ingots Pvt Ltd Plot No. 19-20, Phase-I, Siltara, Raipur (C.G.)
2.	PAN	AAICS559D
3.	Status	Co
4.	Ward/Circle	Central Circle-1, Raipur
5.	A.Y in respect of which it is proposed to issue notice u/s 148	2011-12
6	The quantum of income which has escaped assessment	Rs. 2,41,00,000/-
7	Whether the assessment is proposed to be made for the first time, if the reply is in The affirmative, please state (a) Whether any voluntary return has already been filed and (b) If so, the date of filling the said return	Yes Yes 28.09.2011
8	Whether the provision of section 147(a) or 147(b) are applicable or both the section are applicable	147(b)
9	If the answer to item 8 is in negative, please state. (a) The income originally assessed (b) Whether it is a case of under assessment at too low a rate, assessment which has been made the subject of excessive relief or allowing of excessive loss or depreciation.	N.A.
10	Whether the provision of section 150(1) are applicable. If the reply is in the affirmative, the relevant facts may be stated against item No. 11 and it may also be brought out that provision of section 150(2) would not stand in the	No



way of initiation proceedings u/s 147.		(382)
11	Reasons for the belief that income has escaped assessment	As per Annexure
	Dt. 16.03.2018	 (Piyush Tripathi) Asstt. Commissione of Income Tax(CC)-1 Raipur
12	Comments of the Jt. Commissioner of Income-Tax(Central), Raipur	I have gone through the reasons recorded & the facts of the case. & a company has received some amount as per the enquiries of Inv. & it appears the a company's own unaccounted money routed back. So therefore satisfied that this is a fit case for reopening u/s 147 of the I.T. Act 
13	Whether the Commissioner of Income Tax(Central) is satisfied on the reason recorded by the AO that it is a fit case for the issue of a notice u/s 148.	I have gone through the reasons recorded by the AO. I am satisfied that it is a fit case for issuing notice u/s 148 of the I.T. Act 
		26/3/18 

initiation proceedings u/s 147.		(438)
	Reasons for the belief that income has escaped assessment	As per Annexure
	Dt. 16.03.2018	 (Piyush Tripathi) Asstt. Commissione of Income Tax(CC)-1 Raipur
12	Comments of the Jt. Commissioner of Income-Tax(Central), Raipur	
13	Whether the Commissioner of Income Tax(Central) is satisfied on the reason recorded by the AO that it is a fit case for the issue of a notice u/s 148.	

ANNEXURE

WHERE REGULAR ASSESSMENT WAS MADE U/S 14(3)/147 AND PERIOD OF 4 YEAR HAVE EXPIRED FROM END OF ASSESSMENT YEAR

Name of the Assessee	M/s S R INGOTS PRIVATE LIMITED
Address of the Assessee	Plot No.-19-20, Phase-I, Siltara, Raipur(C.G.)-492001
PAN	AAICS5559D
Assessment Year	2011-12
Details of Assessing officer having jurisdiction over the Assessee	Asstt. Commissioner of Income Tax, Central Circle-1, Raipur

Reasons for reopening of the assessment in case of M/s S R INGOTS PRIVATE LIMITED for AY 2011-12 u/s 147 of the Act.

SIGN HERE

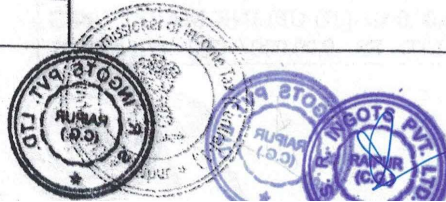
1	Brief details of the Assessee:	The status of the assessee is a company. The assessee company involves in the business of manufacturing industry (Steels). There are four directors in assessee company namely (i) Ravi Singhal, PAN: AJGPS4045J (ii) Sunil Singhal, PAN: AJJPS3210Q (iii) Sanjay Goyal, PAN: ADCPG9839J and (IV) Sandeep Kumar Agrawal, PAN: ACJPA2836K during the year under consideration. Shri Sandeep Kumar Agrawal was filed return of income of the assessee company during the year under consideration as a capacity of director. The assessee company filed return of income for A.Y.-2007-08 to 2016-17 as per database available in e-filing portal and returns were processed. As per database available manual scrutiny assessment for A.Y.-2010-11 and scrutiny under CASS have been completed for A.Ys.-2012-13, 2013-14 & 2014-15 respectively.
2	Brief details of information collected/received by the AO:	The assessee is one of the concern of Singhal Group of cases, Raipur in which Search has been conducted. Information in respect of share capital/premium

	<p>received by the assessee was received from ADIT(Inv)-2, Raipur vide his letter F.No.ADIT(INV)-2/RAIPUR/SHARING INFORMATION/17-18/2080 DT. 27.02.2018. As per information during the financial year 2010-11 relevant to A.Y.-2011-12 share capital/premium amounting to Rs. 4,91,00,000/- was raised/recieved by the assessee company through 25 Kolkata based shell companies. Briefs of share allotted companies with their investment are as under:-(1) APURVA BARTER PVT LTD. RS. 19,00,000/-(2) EXCLUSIVE BARTER PVT LTD. RS. 20,00,000/-(3) HOGHLY JUTE MILLS(BOBBILI) P.LTD. RS. 25,00,000/-(4)KAMYABI COMMERCIAL PVT. LTD. RS. 15,00,000/-(5) LIBERAL MERCHANTS PVT LTD RS. 20,00,000/-(6)MANOKAMNA MERCHANTS PVT LTD. (7) MATRIX DISTRIBUTORS PVT LTD RS. 28,00,000/-(8) MIDNINH AGENCIES PVT LTD. RS. 10,00,000/-(9) MINOLTA VYAPAAR PVT LTD RS. 18,00,000/-(10) MOTOREK FINANCE PVT LTD RS. 10,00,000/-(11) MUSKAN DISTRIBUTORS PVT LTD RS. 32,00,000/-(12) NATRAJ VINCOM PVT LTD RS. 9,00,000/-(13) NAVRATAN VINIMAY PVT LTD RS. 34,00,000/-(14) NILHATI PROMOTORS & FISCAL PVT LTD RS. 17,00,000/-(15) RAMDOOT VANIJYA PVT LTD RS. 10,00,000/-(16)PANTHERVANIJYA PVT LTD RS. 10,00,000/-(17)PUNYA LEATHER PVT LTD RS. 15,00,000/-(18) SUBH LABH PRINTS PVT LTD RS. 25,00,000/-(19) STHIRLAXMI MERCANTILE PVT LTD. RS. 15,00,000/-(20) TRUEVALLEY MERCHANTS PVT LTD RS. 59,00,000/-(21) TRUEVALLEY VYAPAR PVT LTD RS. 16,00,000/-(22) UPLINK MARKETING PVT LTD RS. 9,00,000/-(23) WINSHER</p>
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441

	MERCHANTS PVT LTD RS. 25,00,000/- (24) WONDERLAND MERCHANTS PVT LTD RS. 10,00,000/- and (25) YULAN MARKETING PVT LTD RS. 16,00,000/- totaling of Rs. 4,91,00,000/-. The ADIT had made opinion on the basis of statement given by Shri Vinod Kumar Jajoo, who is the controller and the directors of these companies. The ADIT has also stated that the share capital/ premium introduced by these companies in other group concerns of Singhal Group have already disclosed the share premium brought in the books of accounts.
Analysis of information collected/received:	ADIT(Inv)-2, Raipur had already made inquiry in respect of these 25 companies. Much inquiry has already been completed by him. In his support he has forwarded the statement of Shri Vinod Kumat Jajoo, who is the controller of these companies. As per his information these 25 companies are shell companies
Enquiries made by the AO as sequel to information collected/received	The case is covered u/s 132(1) of the IT Act. The issue of share capital/premium is already examined by the ADIT(Inv)-2, Raipur. He has been requested to give a detailed findings in respect of share capital/premium vide this office letter F.No. ACIT(Central-1)/RPR/Sharing of Information/2017-18 dated 14.03.2018 & 16.03.2018. The reply of the ADIT(Inv)-2, Raipur will further strengthen his earlier findings forwarded vide his letter F.No. ADIT(INV)-2/RAIPUR/SHARING INFORMATION/17-18 dated 27.02.2018.
Finding of the AO:	The case is covered u/s 132(1) of the IT Act. The issue is related to introduction of share capital by shell companies. Much work would have been done by the ADIT(Inv)-2, Raipur. In order to protect the interest of the revenue, as already



		stated ADIT(Inv)-2, Raipur has been requested to give a detailed findings in respect of share capital/premium vide this office letter F.No. ACIT(Central-1)/RPR/Sharing of Information/2017-18 dated 14.03.2018 & 16.03.2018.
6	Basis of forming reason to believe and details of escapement of income	As per information received from ADIT(inv)-2, Raipur the assessee has received share capital/premium of Rs. 4,91,00,000/- through four (25) Kolkata based shell companies as stated in Sl. No. 2. These companies were managed and controlled by Shri Vinod Kumar Jajoo and in his statement he had admitted that these companies were used for accommodation entries for providing share premium for which commission @ 0.1% charged by him. Thus the company has routed its unaccounted money through these shell companies in the guise of share capital in the books of accounts.
7	Escapement of income chargeable to tax in relation to any assets (including financial interest in any entity) located outside India.	Rs. 4,91,00,000
8	Finding of the AO on true and full disclosure of the material facts necessary for assessment under proviso to section 147:	As per Sl. No. 6
9	Applicability of the provisions of section 147/151 to the facts of the case:	

In this case a return of income was filed u/s 143(1) for the year under consideration on 28.09.2011. Since, 4 year from the end of the relevant year has expired in this case, the requirement to initiate proceeding u/s 147 of the Act are reason to believe that income for the year under consideration has escaped assessment because of failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for the assessment year under consideration. It is pertinent to mention here that reason to believe that income has escaped assessment for the year under consideration has been recorded above(para 6). I have carefully considered the



assessment records and it is found that no scrutiny assessment u/s 143(3)/147 has been made in this case and have noted that the assessee has not fully and truly disclosed the following material facts necessary for his assessment for the year under consideration:

Statement given u/s 131(1A) of the IT Act by Shri Vinod Kumar Jajoo, the controller of these companies affirmed that these 25 companies namely (1) APURVA BARTER PVT LTD. RS. 19,00,000/- (2) EXCLUSIVE BARTER PVT LTD. RS. 20,00,000/- (3) HOGHLY JUTE MILLS (BOBBILI) P.LTD. RS. 25,00,000/- (4) KAMYABI COMMERCIAL PVT. LTD. RS. 15,00,000/- (5) LIBERAL MERCHANTS PVT LTD RS. 20,00,000/- (6) MANOKAMNA MERCHANTS PVT LTD. (7) MATRIX DISTRIBUTORS PVT LTD RS. 28,00,000/- (8) MIDNIGH AGENCIES PVT LTD. RS. 10,00,000/- (9) MINOLTA VYAPAAR PVT LTD RS. 18,00,000/- (10) MOTOREK FINANCE PVT LTD RS. 10,00,000/- (11) MUSKAN DISTRIBUTORS PVT LTD RS. 32,00,000/- (12) NATRAJ VINCOM PVT LTD RS. 9,00,000/- (13) NAVRATAN VINIMAY PVT LTD RS. 34,00,000/- (14) NILHATI PROMOTORS & FISCAL PVT LTD RS. 17,00,000/- (15) RAMDOOT VANIJYA PVT LTD RS. 10,00,000/- (16) PANTHER VANIJYA PVT LTD RS. 10,00,000/- (17) PUNYA LEATHER PVT LTD RS. 15,00,000/- (18) SUBH LABH PRINTS PVT LTD RS. 25,00,000/- (19) STHIRLAXMI MERCANTILE PVT LTD. RS. 15,00,000/- (20) TRUEVALLEY MERCHANTS PVT LTD RS. 59,00,000/- (21) TRUEVALLEY VYAPAR PVT LTD RS. 16,00,000/- (22) UPLINK MARKETING PVT LTD RS. 9,00,000/- (23) WINSHER MERCHANTS PVT LTD RS. 25,00,000/- (24) WONDERLAND MERCHANTS PVT LTD RS. 10,00,000/- and (25) YULAN MARKETING PVT LTD RS. 16,00,000/- totaling of Rs. 4,91,00,000/- were used for accommodation entries for providing share premium for which commission @ 0.1% charged by him. Thus the company M/s S.R. Ingots Pvt Ltd has routed its unaccounted money through these shell companies in the guise of share capital in the books of accounts.

It is evident from the above facts that the assessee had not truly and fully disclosed material facts necessary for his assessment for the year under consideration thereby necessitating reopening u/s 147 of the Act.

Considering the above facts and circumstances of the case, I have reason to believe that the above income of the assessee chargeable to tax has escaped assessment for failure on the part of the assessee to disclose fully and truly all the material facts in the return of income necessary for assessment and the case is required to be reopened u/s 147 of the Act.



(PIYUSH TRIPATHI)

Assistant Commissioner of Income Tax,
Central Circle-1, Raipur (C.G)

Telephone No.0771-2331059

Email: Raipur.dcit.cen1@incometax.gov.in



21. From the above form dated 16.03.2018, as indicated by Ld AR, it is apparent that the satisfaction recorded was based on information received by the Ld AO from ADIT(Inv)-2. Further, it was the allegation of Ld AR that the information sought by Ld AO vide his letter dated 14.03.2018 and

16.03.2018 from the ADIT(Inv)-2 Raipur for recoding the reason to believe were never received by the Ld AO and the satisfaction recorded by the authorities was without basis and without application of mind, thus the assessment reopened by invoking provisions of section 148 was void ab initio and deserves to be quashed.

22. Ld CITDR, on this issue of reopening of assessment after witnessing the copies of documents instrumental in the process of recording of reasons for reopening as pressed into service by the Ld AR as obtained from the department, has submitted that the issue regarding reopening was objected by the assessee before the Ld CIT(A) also and the same contention of the assessee was dismissed. However, the documents procured and produced by the Ld AR, which were admittedly are the part of assessment of records were not discussed by the Ld CIT(A) and there was no observation on the same by Ld CIT(A), the same also needs to be adjudicated by the Ld CIT(A).

23. We have considered the rival contentions, perused the material available on records. Since the matter is being restored back to the files of Ld CIT(A) for fresh adjudication as per our observations here in above, revised ground no 4 is also remanded back to Ld CIT(A) for fresh adjudication of the issues after taking into consideration the documents submitted before us as discussed in the forgoing paras. In the result Revised Ground no 4 of the assessee is partly allowed.

Revised Ground no 5 and 6 and additional ground no 1 and 2 are not argued hence not adjudicated separately, however the same are connected, therefore, are also restored to the files of Ld CIT(A). In totality the entire case and issues raised by assessee are remitted back to the files of Ld CIT(A) for fresh adjudication with proper application of the extant law, relevant judicial pronouncements and with proper appreciation of the facts.

24. In the result, appeal of the assessee is partly allowed.

Order pronounced in the court on 09/06/2023.

Sd/-

Sd/-

(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 09/06/2023

Ganesh Kumar, P.S(on tour)

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur

		Date	Initial	
1.	Draft dictated on			Sr.PS
2.	Draft placed before author			Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the Sr.PS			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			