

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 652/Kol/2020
Assessment Years: 2012-13

Income Tax Officer, Ward-6(1), Kolkata	Vs	M/s. Outcome Buildcom Pvt. Ltd. 63, Radha Bazar Street Kolkata -700001 [PAN : AABCO6168M]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Manoj Kataruka, A/R
Revenue by :	Shri G. Hukugha Sema, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 13/04/2023
घोषणा की तारीख /Date of Pronouncement: 03/07/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeal filed by the revenue pertaining to the Assessment Year 2012-13 is directed against order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by Learned Commissioner of Income Tax (Appeals) - 7, Kolkata [in short "ld. CIT(A)"] dated 28/08/2020.

2. The revenue raised the following grounds of appeal:-

"1. Whether on the facts and in the circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs 13,56,00,000/- made by the A.O. on account of share capital and premium in the course of assessment in absence of identity of the creditors, genuineness and creditworthiness of the entire transactions.

2. Whether on the facts and in the circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs 13,56,00,000/- made by the A.O. where no personal attendance was made by any director of the share allottee companies during the course of assessment proceedings and as such identity

& creditworthiness of the creditors and genuineness of the transactions could not be verified.

3. The principles which has been laid down by the Hon'ble Supreme Court in the case of Pr. CIT(Central) -1, Kolkata vs NRA Iron & Steel Pvt. Ltd. (412 ITR 161) suggests that "the assessee is under a legal obligation to prove the receipt of share capital/premium to the satisfaction of the AO, failure of which, would justify addition of the said amount to the income of the Assessee". In the facts and under the circumstances of the case, the assessee company has failed to do so other than submission of mere statements of various kinds. Thus, the decision of the Ld. CIT(A) is erroneous in holding that the raised share capital was not the assessee's own income.

4. The principles which has been laid down by the Hon'ble Supreme Court in the case of Pr. CIT(Central) -1, Kolkata vs NRA Iron & Steel Pvt. Ltd. (412 ITR 161) also suggests that the Assessing Officer is duty bound to investigate the credit-worthiness of the creditor/ subscriber, verify the identity of the subscribers, and ascertain whether the transaction is genuine, or these are bogus entries of name-lenders. In the facts of the case, in spite of best efforts made by the assessing officer, he could not verify the same as there was no response from the companies to whom shares were allotted on private placement basis. Thus, the decision of the Ld. CIT(A) is erroneous in holding that the raised share capital was not the assessee's own income.

5. The principles which has been laid down by the Hon'ble Supreme Court in the case of Pr. CIT(Central) -1, Kolkata vs NRA Iron & Steel Pvt. Ltd. (412 ITR 161) also suggests that if the enquiries and investigations reveal that the identity of the creditors to be dubious or doubtful, or lack credit-worthiness, then the genuineness of the transaction would not be established. In such a case, the assessee would not have discharged the primary onus contemplated by Section 68 of the Act. In the facts of the case, the Ld. CIT(A) completely ignored this aspect, thus he has erred in giving relief to the assessee.

6. On the facts of the present case, clearly the Assessee Company failed to discharge the onus required under Section 68 of the Act, the Assessing Officer was justified in adding back the amounts to the income of the assessee and the Ld. CIT(A) has erred in allowing relief to the assessee.

7. In absence of verification, Ld. CIT(A) should have remanded the matter to AO for fresh verification. Thus, he has violated the provisions of Rule 46A of the I.T. Rules.

8. *The appellant craves to add, alter, amend, delete or substitute any of the grounds and/or take additional grounds before or at any time of hearing of this appeal."*

3. Brief facts of the case are that the assessee is a private limited company engaged in the business of trading. Income of Rs. 1,660/- was declared in the e-return filed on 17/09/2012 for the Assessment Year 2012-13. Case selected for scrutiny through CASS followed by notice u/s 143(2) & 142(1) of the Act. On perusal of the balance sheet the Id. Assessing Officer noticed that the assessee has received share application money of Rs.13.56 Crores. The Id. Assessing Officer asked the assessee to prove the identity and creditworthiness of the applicants and genuineness of the transactions. Details filed by the assessee were not sufficient to satisfy the Id. Assessing Officer and he, based on the decision of the Tribunal in the case of *M/s. Bisakha Sales Pvt. Ltd. vs. CIT* held that the assessee was unable to explain the source of share application money of Rs.13.56 Crores, and thus made addition u/s 68 of the Act at Rs. 13.56 Crores. Income assessed at Rs.13,56,09,200/-.

3.1. Aggrieved the assessee carried the matter in appeal before the Id. CIT(A) and filed complete details including audited financial statement, bank statement and income tax returns of the share applicants. On the strength of these documents and the settled judicial precedents, the assessee was able to satisfy Id. CIT(A), who deleted the addition u/s 68 of the Act and final finding of the Id. CIT(A), reads as under:-

“4.12. There is no evidence adduced on record to show by the AO that the identities of the share applicants are not proved and/or that the subscription made by them to the share capital of the appellant was not genuine and/or the source of investment was not fully explained to the satisfaction of the AO. Further, the Hon'ble Jurisdictional High Court in the case of CIT vs. Dataware Private Ltd. [ITAT No. 263 of 2011 dated 21.09.2011] wherein while examining the issue of addition of share application money received by the assessee therein u/s 68 of the Act, it was held that after getting the PAN number and getting the information that the creditor is assessed under the Act, the Assessing Officer should enquire from the Assessing Officer of the creditor as to the genuineness of the transaction and whether such transaction has been accepted by the Assessing Officer of the Creditor but instead of adopting such course, the Assessing Officer himself could not enter into the return of the creditor and brand the same as unworthy of credence. In view of the foregoing, the AO is directed to delete the impugned amount of 13,56,00,000/- made u/s 68 of the Act. These grounds are allowed.”

4. Aggrieved the revenue is now in appeal before the Tribunal.
5. The ld. D/R vehemently argued supporting the order of the ld. Assessing Officer stating that the share applicants are not having regular means of income, poor turnover and meagre income and transactions in the bank statements indicate that there is regular rotation of funds which shows that share applicants are accommodation entry providers.
6. On the other hand, the ld. Counsel for the assessee, vehemently argued supporting the detailed finding of the ld. CIT(A) and judgments and decisions referred therein and stated that the share applicants had sufficient capital and reserve to explain the source of investment made in the equity shares. It was also submitted that all the alleged share applicants are regularly assessed to tax and they have also been scrutinised by the revenue authorities for the very same assessment year. Reliance was placed on the decision of this Bench of

the Tribunal in the case of *M/s. Sreenath Holding Pvt. Ltd. vs. ITO in ITA No. 2390/Kol/2019; Assessment Year 2012-13, order dt. 26/02/2020.*

7. We have heard rival contentions and perused the material placed before us. The sole grievance of the revenue is that the Id. CIT(A) has erred in deleting the addition of Rs.13.56 Crores made by the Id. Assessing Officer towards unexplained share application money was received against issue of equity shares from the following companies:-

1. *Apricot Securities Pvt. Ltd.*
2. *Mindtrack Securities Pvt. Ltd.*
3. *Ortem Estates Pvt. Ltd.*
4. *Fort Conclave Pvt. Ltd.*

7.1. Further we notice that the assessee has filed the following details to explain the identity and creditworthiness of the share applicants and genuineness of the transaction:-

<i>Apricot Securities Pvt. Ltd.</i>	<ul style="list-style-type: none"> • Reply filed before the AO in response to summons u/s 131. • Certificate explaining source of funds • copy of the bank statement highlighting the figures • copy of allotment letter • copy of the share application forms • copy of the return filing acknowledgement for Assessment Year 2012-13 • copy of the audited accounts • details of investments • copy of the assessment order u/s 144 for AY 2012-13
<i>Mindtrack Securities Pvt. Ltd.</i>	<ul style="list-style-type: none"> • Mast data of the company • Reply filed before the AO in response to summons u/s 131. • Certificate explaining source of funds

	<ul style="list-style-type: none"> • copy of the bank statement highlighting the figures • copy of allotment letter • copy of the share application forms • copy of the return filing acknowledgement for Assessment Year 2012-13 • copy of the audited accounts • details of investments • ix) copy of the assessment order u/s 143(3)/ for AY 2012-13
Ortem Estates Pvt. Ltd.	<ul style="list-style-type: none"> • Reply filed before the AO in response to summons u/s 131. • Certificate explaining source of funds • copy of the bank statement highlighting the figures • copy of allotment letter • copy of the share application forms • copy of the return filing acknowledgement for Assessment Year 2012-13 • copy of the audited accounts • details of investments • copy of the assessment order u/s 143(3) for AY 2012-13
Fort Conclave Pvt. Ltd.	<ul style="list-style-type: none"> • Reply filed before the AO in response to summons u/s 131. • Certificate explaining source of funds • copy of the bank statement highlighting the figures • copy of allotment letter • copy of the share application forms • copy of the return filing acknowledgement for Assessment Year 2012-13 • copy of the audited accounts • details of investments • copy of the assessment order u/s 144 for AY 2012-13

8. On going through the finding of the Id. Assessing Officer, we notice that all these details were filed before the Id. Assessing Officer also. As per the provisions of Section 68 of the Act, the assessee needs to explain the nature and source of credit appearing in its books of

accounts to the satisfaction of the Id. Assessing Officer. In this case, assessee has demonstrated successfully the nature of the alleged sum received during the year and the source of the said sum being received from the share applicants is named above along with complete evidences to explain the same. The Id. Assessing Officer has not pointed out any specific error in all these documents and it is judicially well settled that where an assessee has discharged the primary onus cast upon it, it is the turn of the Assessing Officer to find out errors or shortcomings in such details filed by the assessee. But since the Id. Assessing Officer has not found any such discrepancy in the details filed by the assessee and when all the share applicants are duly assessed to tax and they have also passed through scrutiny proceedings for the very same assessment year i.e., 2012-13, there remains no reason to invoke provisions of Section 68 of the Act. We find support from the decision of the Tribunal in the case of *ITO vs. M/s. Happy Structure Pvt. Ltd. in ITA No. 1977/Kol/2016, order dt. 22/05/2019*, which has been relied upon by this Tribunal in the case of *M/s. Sreenath Holding Pvt. Ltd. (supra)*.

9. Similar view was also taken by this Tribunal in the recent decision in the case of *ITO vs. Inset Commercial & Trading Co. (P). Ltd. in ITA No. 650/Kol/2020, order dt. 06/02/2023*, wherein under identical circumstances, it was held as under:-

“7. We have heard the rival contentions and perused the material available on record and have given our thoughtful consideration to the elaborate observations and findings given by the Ld. CIT(A) while giving relief to the assessee. At the outset, we note that notices u/s. 133(6) of the Act were issued by the Ld. AO to all

the nine subscribers, who had replied giving all the details and documents required by the Ld. AO along with confirming the transaction of they making investment in the share capital of the assessee. We also take note of the undisputed fact of assessments/intimations issued by the department for all the share subscribers, which testifies the identity of these nine share subscribers.

7.1. From the perusal of the paper book and the documents placed therein, it is seen that all the share applicants are (i) income tax assessees, (ii) they are filing their income tax returns, (iii) share application form and allotment letter is available on record, (iv) share application money was made by account payee cheques, (v) details of the bank accounts belonging to share applicants and their bank statements, (vi) in none of the transactions there are any deposit of cash before issuing cheques to the assessee, (vii) all the share applicants are having substantial creditworthiness represented by their capital and reserves.

7.2. We also take note of the elaborate and well reasoned findings and decisions arrived at by the Ld. CIT(A) by taking into consideration all the details and documents placed on record. The relevant findings and decisions from para 5.8 are extracted as under:

"5.8. Basically the law requires documentary evidences on record in dealing with the issue of authenticity. It is not the case of the AO that necessary documentary evidences are not on record but the only major reliance placed on his action is based on non attendance of the directors of the subscriber companies before him u/s 131 of the Act. It is no longer res integra that such non attendance should be considered as a factor which should be used by the AO in coming to an adverse conclusion against the appellant. On an overall analysis of the issue, I find that the AO has not made out his case with cogent material on record that the appellant could come under the purview of [section 68](#) of the Act with regard to share capital as reflected in the balance sheet when there is no finding with any cogent material evidence that the same was actually bogus in nature. It is accordingly observed that creditworthiness of the share subscribers to make investment in the share capital of the appellant company cannot be a disputed matter as per material facts on record. The aforesaid facts underlined by evidences clearly prove the identity of the share applicants, their creditworthiness and source of funds, as well as the genuineness of the transactions being investments in the share capital issued by the appellant, which was subscribed to by each of them. Thus, it is proved beyond any doubt or dispute that the share applicants are actually found to have subscribed to the share capital issued by the appellant during the year under consideration as clearly evident not only from their respective books of accounts but also from their audited accounts filed with the income tax authorities in relation to their own income tax assessments and the sources of such funds are also explained by each of the share applicants in their

replies addressed to the AO. However, the AO had not brought these indisputable facts on record but acted on his whims and fancies. It is observed that the burden which lay on the appellant, in relation to [section 68](#) of the Act, has been duly discharged by it and nothing further remains to be proved by it on the issue. Since the conditions precedent for discharging of burden of proof under the provisions of [section 68](#) of the Act is met with adequate evidence, the addition made under such pretext deserves to be deleted. In this respect it is imperative to refer to the decision of the jurisdictional High Court in the case of [CIT vs. Sagun Commercial \(P\) Ltd.](#) [ITA No. 54 of 2001 dated 17.02.2011) wherein it was held as follows:

"After hearing the learned advocate for the appellant and after going through the materials on record, we are at one with the Tribunal below as well as the Commissioner of Income-tax (Appeals) that the approach of the Assessing Officer cannot be supported. Merely because those applicants were not placed before the Assessing Officer, such fact could not justify disbelief of the explanation offered by the assessee when details of Permanent Account Nos. payment details of shareholding and other bank transactions relating to those payments were placed before the Assessing Officer. It appears that the Tribunal below has recorded specifically that the Assessing Officer totally failed to consider those documentary evidence produced by the assessee in arriving at such conclusion. We, therefore, find no reason to interfere with the decision passed by the Commissioner of Income-tax (Appeals) and the Tribunal below and answer the questions formulated by the Division Bench in the affirmative and against the Revenue. The appeal is, thus, dismissed."

7.4. Before arriving at our finding, we refer to the following judicial precedents to buttress our observations and conclusions :

i) The decision of Hon'ble Jurisdictional High Court of Calcutta in the case of [CIT v. Dataware Pvt. Ltd.](#) in ITAT No. 263 of 2011 dated 21.09.2011 wherein Hon'ble jurisdictional High Court held that "After getting the PAN number and getting the information that the creditor is assessed under the Act, the Assessing officer should enquire from the Assessing Officer of the creditor as to the genuineness" of the transaction and whether such transaction has been accepted by the Assessing officer of the creditor but instead of adopting such course, the Assessing officer himself could not enter into the return of the creditor and brand the same as unworthy of credence."

ii) Decision of Hon'ble Madras High Court in the case of [CIT v. Creative World Telefilms P. Ltd.](#) (2011) 333 ITR 100 (Mad) wherein it was held as under:

"In the case in hand, it was not disputed that the assessee had given the details of name and address of the shareholder, their PAN/GIR number and had also given the cheque number, name of the bank. It was expected on the part of the Assessing Officer to make proper investigation and reach the shareholders. The Assessing Officer did nothing except issuing summons which were ultimately returned back with an endorsement "not traceable". The Assessing Officer ought to have found out their details through PAN cards, bank account details or from their bankers so as to reach the shareholders since all the relevant material details and particulars were given by the assessee to the Assessing Officer. In the above circumstances, the view taken by the Tribunal could not be faulted. No substantial question of law was involved in the appeal."

iii) Judgment of Hon'ble Jurisdictional High Court in the case of [Exoimp Resources \(India\) Ltd. vs. CIT](#) (supra), wherein it was held as follows:

"It is incumbent upon the Assessing Authority to examine the explanation of the creditor and arrive at a conclusion as to whether the explanation was satisfactory. The conclusion arrived by the Assessing Authority is to be communicated to the assessee if such explanation is not considered satisfactory. If thereupon the assessee submits any comments or furnishes further information, in that event, the Assessing Authority has to examine the same and arrive at his own conclusion. The inbuilt safeguard provided in [section 68](#) cannot be ignored by the Assessing Authority at his sweet will. The Assessing Authority can add the share capital as undisclosed income if no explanation is offered by the assessee. But since the details/explanations were offered, it was incumbent on the Assessing Authority to examine the same and arrive at a cogent conclusion. Assessing Officer having failed to discharge such obligation the addition is not sustainable in law., case of [CIT vs. Lovely Exports Ltd.](#) (2008) 216 CTR 195 (SC) that where share application money."

7.5. In the course of assessment proceeding, Ld. AO directed the assessee to produce the director of the assessee and also the directors of the subscriber companies along with relevant documentary evidence and details which was not complied with in full. Ld. Counsel submitted that mere non-appearance of directors of subscriber companies is no basis for invoking provisions of section 68 of the act for which he placed reliance on the decision of Hon'ble Supreme Court in the case of *CIT v. Orissa Corporation (P) Ltd.* (1986) 159 ITR 78 (SC) wherein it was held as under:

"In this case the assessee had given the names and addresses of the alleged creditors. It was in the knowledge of the Revenue that the said creditors were income-tax assesseees. Their index number was in the file of the Revenue. The Revenue, apart from issuing notices under [section 131](#) at the instance of the assessee, did not pursue the matter further. The Revenue did

not examine the source of income of the said alleged creditors to find out whether they were credit-worthy or were such who could advance the alleged loans. There was no effort made to pursue the so called alleged creditors. In those circumstances, the assessee could not do any further. In the premises, if the Tribunal came to the conclusion that the assessee had discharged the burden that lay on him then it could not be said that such a conclusion was unreasonable or perverse or based on no evidence. If the conclusion is based on some evidence on which a conclusion could be arrived at, no question of law as such arises.

The High Court was, therefore, right in refusing to refer the questions sought for. Decision of the High Court affirmed."

8. We notice that all the details were very much placed before the Assessing Officer but while framing the assessment, no efforts have been made by the Assessing Officer to examine the correctness of various proof, filed by the assessee by carrying out any investigation. Merely for non-appearance of the directors of the subscribing companies, the ld. Assessing Officer disregarded all these documents which have been placed before various statutory authorities including Registrar Of Companies, Income Tax Department and Banks. The assessee by way of filing all these documents which are necessary to prove identity, creditworthiness and genuineness of the alleged transaction, has discharged the initial burden casted upon it under the provisions of [section 68](#) of the Act. Unless and until, the assessing authority finds any lacuna or adversity or defect in the said documents, the burden to prove remains on the Revenue authorities. In the instant case, ld. Assessing Officer failed to discharge the burden and summarily disregarded the documents filed by the assessee by merely referring to some decisions and not going into the facts of the case except referring to the price per share.

9. We further observe that provision for examining the source of source under the provisions of [section 68](#) of the Act has been brought in by [Finance Act 2012 w.e.f. 01.04.2013](#) as per which "where an assessee is a company (not being a company in which public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee company shall be deemed to be not satisfactory unless: a) the person being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited and b) such explanation in the opinion of the Assessing Officer has been found to be satisfactory." Since the instant appeal pertains to assessment year 2012-13, and the said amendment brought in by [Finance Act 2012](#) is effective from 01.04.2013, it is not applicable on the case before us. Even otherwise, it is not in dispute that the assessee has filed all the relevant documents of the share subscriber companies and further, in order to prove the source of source, copies of bank statements, audited balance sheets of all the nine subscriber companies are placed on record.

10. As far as the decision of Coordinate bench of ITAT, Kolkata in the case of Bishakha Sales Pvt. Ltd. (supra) referred by the Assessing Officer in making the addition, in our view, it does not support the addition as the said decision is delivered in the context of proceedings u/s 263 of the Act on the issue of enquiry regarding huge premium received on share application.

11. Further, in respect of ground nos. 3, 4 and 5, reference to the judgment of Hon'ble Supreme Court in the case of NRA Iron & Steel Pvt. Ltd. (412 ITR 161) is found to be distinguishable on facts in as much as in the said decision, Ld. AO has made extensive enquiries and some of investors were found to be non-existent. Upon going through the facts involved in that judgment, it is noted that, in the decided case the AO had made extensive enquiries and from that he had found that some of the investor companies were non-existent, which is certainly not the case before the undersigned. In the decided case, certain investor companies also failed to produce their bank statements proving the source for making investments in assessee company. In the facts of the present case however not only have the shareholders furnished their bank statements and investment schedules to establish the source of funds but they have also furnished their respective sources of funds in response to notices issued by the AO u/s. 133(6) of the Act.

12. We, therefore, respectfully following the judgment referred hereinabove by the Hon'ble Courts and also considering the facts and circumstances of the case, are of considered view that since the assessee has sufficiently explained the identity and creditworthiness of the share subscriber companies and the genuineness of the transaction of applying for the equity shares of the assessee company and since nothing contrary to the evidence filed by the assessee has been placed on record by the Revenue, except the reason that the directors of the share subscribing companies failed to appear to the notices issued u/s 133(6) of the Act, we find no reason to interfere with the meritorious finding of the CIT(A). We accordingly, dismiss the grounds raised by the revenue in this respect.

15. In the result, appeal of the revenue is dismissed."

10. The Id. D/R has relied on the judgment PCIT(Central)-1, Kolkata vs. NRA Iron & Steel Pvt. Ltd. (supra). We note that the Hon'ble Supreme Court in the said case has taken note of the observations made by the Supreme Court in the "the land mark case of Kale Khan Mohammed Hanif v. CIT [1963] 50 ITR 1 (SC) and Roshan Di Hatti v. CIT [1977] 107 ITR 938 (SC) laying down the proposition that the onus of proving the source of a sum of money found to have been received by an

assessee, is on the assessee. Once the assessee has submitted the documents relating to identity, genuineness of the transaction, and credit-worthiness, then the AO must conduct an inquiry, and call for more details before invoking Section 68. If the Assessee is not able to provide a satisfactory explanation of the nature and source, of the investments made, it is open to the Revenue to hold that it is the income of the assessee, and there would be no further burden on the revenue to show that the income is from any particular source."

Thereafter the Hon'ble Supreme court summed up the principles, which emerged after deliberating upon various case laws, as under :

"11. The principles which emerge where sums of money are credited as Share Capital/Premium are :

- i. The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and credit-worthiness of the investors who should have the financial capacity to make the investment in question, to the satisfaction of the AO, so as to discharge the primary onus.*
- ii. The Assessing Officer is duty bound to investigate the credit-worthiness of the creditor/subscriber, verify the identity of the subscribers, and ascertain whether the transaction is genuine, or these are bogus entries of name-lenders.*
- iii. If the enquiries and investigations reveal that the identity of the creditors to be dubious or doubtful, or lack credit-worthiness, then the genuineness of the transaction would not be established.*

In such a case, the assessee would not have discharged the primary onus contemplated by Section 68 of the Act."

The Hon'ble Supreme court, thus, has held that once the assessee has submitted the documents relating to identity, genuineness of the transaction, and credit-worthiness of the subscribers, then the AO is duty bound to conduct an independent enquiry to verify the same. However, as noted above, the Assessing Officer in this case has not made any independent enquiry to verify the genuineness of the transactions. The assessee having furnished all the details and documents before the Assessing Officer and the Assessing Officer has not pointed out any discrepancy or insufficiency in the said evidences and details furnished by the assessee before him. As observed above, the assessee having discharged initial burden upon him to furnish the evidences to prove the identity and creditworthiness of the share subscribers and genuineness of the transaction, the burden shifted upon the Assessing Officer to examine the evidences furnished and even made independent inquiries and thereafter to state that on what account he was not satisfied with the details and evidences furnished by the assessee and confronting with the same to the assessee. In view of this, even applying the ratio laid down by the Hon'ble Supreme Court in the case of *PCIT vs. NRA Iron and Steel Pvt. Ltd.*, impugned additions are not warranted in this case.

11. In view of the above discussion and consistent with the view taken by this Tribunal in identical cases referred *supra*, we find that the assessee has successfully proved the identity and creditworthiness of the share applicants and genuineness of the transactions of receiving share capital and share premium during the year and are thus inclined

15

to uphold the order of the ld. CIT(A) deleting the additions made u/s 68 of the Act and dismiss all the effective grounds raised by the revenue.

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

Order pronounced in the Court on 3rd July, 2023 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 03/07/2023

SC S.P.

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata