

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

1. ITA No. 5778/Mum/2019 (A.Y.2014-15)
2. ITA No. 866/Mum/2020 (A.Y.2015-16)

Mukta Agriculture Ltd.

A-401, Pearl Arcade,
Off J. P. Road, Dawood Baug
Lane, Andheri (W)
Mumbai-400 058

PAN: AAGCP1709E

..... Appellant

Vs.

DCIT (CC) 4 (3)

R. No. 1921, 19th floor,
Air India Building,
Nariman Point,
Mumbai-400 021

..... Respondent

3. ITA No. 6567/Mum/2019 (A.Y.2014-15)
4. ITA No. 1008/Mum/2020 (A.Y.2015-16)

DCIT (CC) 4 (3)

R. No. 1921, 19th floor,
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..... Appellant

Vs.

Mukta Agriculture Ltd.

A-401, Pearl Arcade,
Off J. P. Road, Dawood Baug
Lane, Andheri (W)
Mumbai-400 058

PAN: AAGCP1709E

..... Respondent

Appellant by : Shri Nishikant Gandhi & Vishnu
Agrawal
Respondent by : Smt. Riddhi Mishra (CIT-DR)
Date of hearing : 07/06/2023
Date of pronouncement : 24/07/2023

ORDER

PER GAGAN GOYAL, A.M:

These appeals by assessee and cross appeals by revenue are directed against the order of Ld. CIT (A) – 52. Mumbai dated 27.01.2017 and 27.12.2017 u/s. 250 of the Income Tax Act, 1961 (in short ‘the Act’) for A.Y. 2014-15 and 2015-16 respectively.

2. The assessee has raised the following grounds of appeal in ITA No. 5778/Mum/2019 for AY 2014-15:-

1. *The Ld. CIT (A) erred in upholding the validity of assessment made u/s. 143(3) of the Act.*
 1. *i. In doing so, the Ld. CIT (A) did not appreciate that the proceedings u/s. 143(2) of the Act which were abated pursuant to proceedings initiated u/s. 153C of the Act could have*

revived only if the proceedings initiated u/s. 153C of the Act have been annulled in appeal or any other legal proceedings and will stand revived with effect from the date of receipt of such annulment by the Pr. CIT or CIT which facts are totally missing in the appellant's case.

2. The Ld. CIT(A) erred in holding that the assessment made was in accordance with law even if no opportunity was given to the appellant to cross examine the persons whose statements were relied upon in drawing the adverse inference.

3. The Ld. CIT (A) erred in confirming the action of the AO in rejecting the books of account and estimating profit for the year at Rs.23, 89,245/- being 1% of turnover on the ground that the appellant was a penny stock / paper company and it was not engaged in any real business activity ignoring the past history of the case.

3. i. In doing so, the Ld. CIT (A) did not appreciate that

a. the AO has rejected the books of account and estimated the profit on a ground other than the ground on which show cause was given, which has rendered action of the AO as bad in law,

b. the AO could not have rejected the books of account without establishing the defects, incompleteness and inaccuracies in the accounts of the appellant as required u/s. 145(3) of the Act, and

c. the AO, in rejecting the book results, has neither made any enquiry worth the name with regard to purchases and sales disclosed in the Statement of Profit & Loss nor has proved the transactions to be sham or not bonafide.

3. ii. In any event, the Ld. CIT(A) did not appreciate that the AO could not have separately assessed the other operating income of Rs. 9,78,917/- credited to the Statement of Profit & Loss in as much as he has rejected the book results and estimated profit for the year at Rs. 23,89,245/- being 1% of the turnover.

4. The Id.CIT (A) erred in confirming the addition u/s. 68 of the Act to the extent of Rs. 6, 95, 00,000 /-subjects to verification by the AO.

4.1. In doing so, the Ld.CIT (A) erred in

a. not appreciating that the AO has not made any enquiry in the course of assessment proceedings & has also not made proper enquiry in the course of remand proceedings as was directed to him,

b. ignoring the decision of the Guwahati High Court & of the MP High Court relied upon by the appellant in support of the proposition that the income returned & capital of the share applicants is not the only criteria to judge creditworthiness,

c. laying down a basis/formula for the above addition which is not supported by any express provision of law,

d. following the principles laid down by the Apex Court in the case of NRA Iron & Steel Pvt. Ltd. [412 ITR 161 (SC)] and by the Delhi High Court in the case of D. K. Garg [84 taxmann.com 257] without appreciating that the facts of the said cases are totally distinguishable with the facts of the appellant,

e. not appreciating that identity, genuineness & creditworthiness of the persons from whom the share capital of Rs. 6,95,00,000/- was received stood fully established in as much as notice u/s. 133(6) of the Act issued in the course of remand proceedings were served on them and they have not only confirmed the transactions but have also furnished their relevant bank statements, balance sheet and acknowledgement for having filed return of income, and

f. not appreciating that the appellant being a widely held public limited company its onus under the provisions of section 68 of the Act was fully discharged having regard to the principles laid down by the Apex Court in the case of Lovely Exports Pvt. Ltd. [216 CTR 195(SC)] and Stellar Investment Ltd. [(2011) 115 Taxman99 (SC)].

3. Brief facts of the case are that assessee company filed its return of income on 31.11.2014 declaring total income of Rs. 17,48,510/-. Assessee filed a revised return on 31.03.2015 declaring the same income; however there was no reason on record for revising the return of income. Consequently, case of the assessee was selected for scrutiny and a notice u/s. 143(2) was issued on 28.08.2015.

4. In addition to the facts above, it is pertinent to mention that a search and seizure u/s. 132 of the Act was carried out in the case of Raj Kumar Kedia Group on 13.06.2014 by the DDIT (Inv.), Unit-3(3), Delhi. The main allegation against the group was that it is engaged in providing various types of accommodation entries to large number of beneficiaries all over the country. One of various types of accommodation entries provided by R.K. Kedia group is that of bogus LTCG by pre-arranged trading in shares of various non-descript listed companies, which are under the control and management of the syndicate of entry operators.

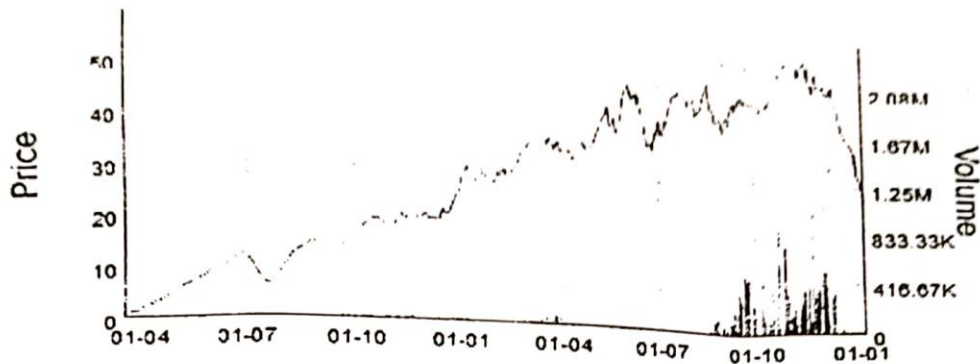
5. In the light of above, the case of assessee was centralized to the charge of DCIT, Central Circle - 4(3) The case of the assessee was assigned to this Circle as per order u/s 127(2) passed by the PCIT-10, Mumbai vide order PCIT-10/u/s.127/53/2/2016-17-/1430 dated 16.09.2016.

6. Shri R.K. Kedia in his statement admitted that the assessee company is under the control and management of Shri Krishan Kumar Khadaria of Mumbai,

who is a close friend of him and is in the same business of providing accommodation entries. That booking for bogus prearranged LTCG was done through the scrip of Assessee Company. Shri Manish Arora, who is the main employee of Shri Raj Kumar Kedia who keeps records of unaccounted transactions of Shri Raj Kumar Kedia has also admitted that the shares of assessee company were jacked up and Shri Kedia manages & arranges sale & purchase of shares in the scrip of assessee company. Further, Shri Natwar Lal Daga, who is also an entry operator based in Mumbai and is, helping Shri Raj Kumar Kedia admitted while replying the Q.21 during the course of his statement recorded on oath u/s. 132 of the IT Act, on 13.06.2014 that he had arranged investors for preferential issue in the assessee company on the instructions of Shri Krishan Kumar Khadaria.

7. Relevant findings pertaining to the matter as observed by the AO vide page 13 to 15 of assessment order is reproduced herein below:-

- ✓ **B-1** It has been gathered that the scrip was listed around 10 in March, 2013. From this price of 10 the share price was escalated to 473.5 on 5/6/2014 i.e. in one year. The volume of trade has increased only after the prices had escalated to desired levels. The daily trading details in shares of the company is available on official website of BSE. Based on this data, a graphical presentation of price & volume movement of the shares of the company from 19/03/2013 to 30/11/2014 is as under:



The manipulation in the market price of the shares of the company is evident from the above graphical presentation as also on perusal of daily trade records of the scrip.

B-2 Shri R.K.Kedia in his statement admitted that the assessee company is under the control and management of Shri Krishan Kumar Khadaria of Mumbai, who is a close friend of him and is in the same business of providing accommodation entries. That booking for bogus prearranged LTCG was done through him the scrip of assessee company. Shri Manish Arora, who is the main employee of Shri Raj Kumar Kedia who keeps records of unaccounted transactions of Shri Raj Kumar Kedia has also admitted that the shares of assessee company were jacked up and Shri Kedia manages & arranges sale & purchase of shares in the scrip of assessee company. Further, Shri Natwar Lal Daga, who is also an entry operator based in Mumbai and is helping Shri Raj Kumar Kedia, admitted that he had arranged investors for preferential issue in the assessee company on the instructions of Shri Krishan Kumar Khadaria.

B-3 During the course of search, statement of Sh. Krishan Kumar Khadaria has been recorded. However, it is seen from his statement that he could not give any logical explanation as to why the companies in which he is promoter and director, experienced such a huge rise in price of their shares. No attempt of justification in the form of financial strength and/or any sort of potential future prospects/publicity of the companies was made by Sh Krishan Khadaria. When confronted, Sh Khadaria simply explained away such observations by merely submitting that there was no single share transaction belonging directly or indirectly to him in these scrips. In view of this, as discussed earlier, there is no rationale behind such abnormal price rise in the shares of these companies, except a controlled arrangement of manipulated price rise in order to provide profitable exit to the beneficiaries/preferential allottees by providing them accommodation entries of bogus LTCG.

B-4 During the course of search, the investigation wing detected that the activities of agriculture at Rajasthan, as claimed by the assessee company was not real, since no details of any warehouse could be furnished. Moreover, the parties transacting with Pearl Electronics and Pearl Agriculture are found to have no creditworthiness or are under the control of same group. Such arrangement is done in order to show some genuine business activity in these companies, which is not actually the case. No prudent investor would invest in the shares of such a company unless some prearranged desired capital or loss is ensured to such investor. **It is found that there are no substantial**

business transactions taken place in M/s. Pearl Agriculture Ltd. and that trading in its shares has been manipulated for providing profitable exit to various beneficiaries by availing them bogus LTCG. The relevant year wise data is placed as under:

F.Y.	Turnover (in Rs)	PBT (in Rs)
2007-2008	Incorporated in August, 2011	
2008-2009		
2009-2010		
2010-2011		
2011-2012	0	0
2012-2013	40,08,60,057	5,00,475

From the above tabular statement it is clearly seen that there was no reason to support the sharp rise in the price of the shares of the assessee company other than manipulative trading.

PART- C

Analysis of transactions carried out in the books of account of the company

From the evidences enumerated above, it is clear that the assessee company has been abused to generate illicit LTCG gain / Short Term Capital Loss by way of trading of its shares through various entry operators and intermediaries. The illicit LTCG gain / short term capital loss is being treated as undisclosed income in the hands of thousands of beneficiaries wherein such information has been communicated to the respective Assessing Officers. In several cases, the assesseees have come forward and admitted the truth of true nature of these transactions and offered the same for taxation which constitutes a strong corroborative evidence in support of the entire modus operandi. Now, the question is – what kind of transactions are carried out in penny stock companies themselves? On perusal of the evidences and the financials of such companies, it is seen that there is an enhancement of share capital by way of preferential shares / warrants. The cash generated from the same is diverted by way of investing it into some unknown paper company shares. As a result, this company has those unknown unlisted shares in its balance sheet as investment and the cash is diverted to some other paper company which claims to have sold these investments. Thereafter, some form of trading is shown in the company which may be into unlisted shares or some other commodity so as to have some financial statement for the company whose scrip is to be rigged on stock exchange.

8. Based on above observations, AO concluded that assessee is a listed company and involved in generating illicit LTCG /short term capital loss. Based on above findings, AO added back an amount of Rs. 22,62,50,000/- u/s. 68 received by the company under the head share capital during the year under assessment on the premise that preferential share allotment /warrants is merely a paper transaction and capital is being subscribed by dubious persons. AO further rejected the books of accounts of the assessee u/s. 145 and estimated the income at the rate of 1% i.e. Rs. 23, 89,245/- of total turnover i.e. Rs. 23, 89, 24,455/-. In addition to this, AO further added the income shown under schedule 13 as other income amounting to Rs. 9,78,917/-.

9. Assessee being aggrieved with this order of AO, preferred an appeal before the Ld. CIT(A)-52, Mumbai who in turn partly allowed the appeal by sustaining rejection of books of accounts (addition of Rs. 23,89,245/-), addition of other income (Rs. 9,78,917/-) and sustaining addition u/s. 68 to the extent of Rs. 6.95 crore. Assessee being further aggrieved with this order of Ld. CIT (A) passed u/s. 250 preferred this appeal before us.

10. We have thoroughly gone through the order of AO, order of Ld. CIT (A) and submissions of the assessee alongwith paper book filed. We observed that Assessee Company is a listed entity on the stock exchange, although based on the facts narrated (supra); it is an established fact that the entity was involved in the rigging/manipulation of share price. In these circumstances, assessee company is

a conduit for arranging long term capital gains exempted u/s. 10(38) and short term capital losses for various beneficiaries . In this circumstance as the identity of beneficiary are already there with the department, the question of identity, genuineness and creditworthiness for the purposes of section 68 cannot be raised in the case of Assessee Company.

11. it is a settled position of law that in such type of transactions unexplained income has to be taxed in the hands of beneficiaries consisting of amount of capital gains and if require the amount of investment made in the shares of assessee company. A substantial addition has to be made in the hands of beneficiaries and only a protective assessment can be made in the hands of company like assessee. In this process, by any reason if the department is not able to tax beneficiary then only a substantial addition can be made in the hands of assessee company. In this case, the only addition which is warranted in the hands of Assessee Company is amount of commission earned on arranging long term capital gains /short term capital losses. If investor in such type of company is able to prove its source of investment, then no addition can be made in the hands of assessee company being genuine transaction as identity, genuineness and creditworthiness is automatically established and in vice-versa position also amount of investment is taxable in the hands of investor, then also not taxable in the hands of assessee company, being double taxation. **In view of this, the addition made u/s. 68 amounting to Rs. 22, 62, 50,000/- is unwarranted. Hence, this amount of addition is directed to be deleted minus addition already,**

deleted by Ld. CIT (A) amounting to Rs. 15,67,50,000/-. Resultantly, ground no. 4 with its sub grounds is allowed.

12. Ground No. 3 with its sub-grounds pertains to rejection of books of accounts applying provisions of section 145(3) of the Act. We have gone through the order of AO, order of the Ld. CIT (A) and submissions of the assessee. It is observed that to reject books result, AO is duty bound to specify the defects in the books of accounts maintained by the assessee. We have gone through para C-2 vide page no. 17 of the assessment order wherein the AO has applied section 145(3) of the Act. For sake of ready reference, we are reproducing the relevant para of assessment order mentioned (supra) as under:-

Addition on account of bogus turnover on estimate basis @ 1%

C-2.1 As discussed in the modus operandi, the penny stock scrips are shown to carry out some form of trading in shares or other commodities so as to create some credentials in its books. The assessee company following this the same modus, has shown fictitious sales at Rs. 23.89 Crore out of bogus purchases booked at Rs. 22.73 crore. All these transactions and figures are fictitious, non genuine and manipulated with sole intention to record desired turnover so as to support the artificial spurt shown in the price of the penny stock at various timelines.

C-2.2 In view of the above discussion, the books of account of the assessee company for the year under consideration are hereby rejected u/s. 145 of the IT Act, since the same do not reflect true and correct trade results. Accordingly, the profit for the is estimated at Rs.23,89,245/- being 1% of total turnover of company shown under the head income from operation' at Rs. 23, 89 ,24,455/- during the year under assessment Since the assessee has furnished inaccurate particulars and concealed its income, penalty u/s. 271(1) (c) is hereby initiated for the same.

13. With reference to the above findings of AO in the assessment order, it is clearly established that AO was not able to make out the case as required to apply the provisions of section 145(3) of the Act. The findings of AO are cursory in nature may be relevant for other purposes, but to apply section 145, a detail reasoning with specific defects pointed out during the assessment proceedings has to be mentioned and then only provisions of section 145(3) can be applied and the same are missing in the present case.

14. In his order, Ld. CIT (A) confirmed the action of AO and held as under vide para 7.6 page 46 of the appeal order:-

7.6 The assessee has objected to the rejection of the books and estimation of an income on the ground that the reasons recorded in the show cause notice were different from the ones in the assessment order. It is observed that in the show cause notice the AO had pointed out that are no agricultural activities being carried out at Rajasthan and there is also no warehouse existing as was being claimed. It was also pointed out that the purchase/sale parties do not have any creditworthiness. Accordingly, the assessee was asked to show cause as to why it should not be treated as a paper concern with hardly any business activity. It is observed that in the assessment order, while rejecting the books, it has been mentioned that the purchases and sales shown are fictitious. Thus, it is noted that both in the show cause notice as well as the assessment order, the primary ground for rejection of books is that the sales/purchases of the assessee are fictitious and it is not carrying out any actual business activity. As noted earlier, the search action revealed that with certain parties, the assessee has entered into purchase transactions as well as sale transactions which made it obvious that the assessee had undertaken circular transactions to show fictitious turnover. It is also a fact that the assessee did not maintain any warehouse for storing the agricultural produce at Rajasthan which was being claimed by it. In view of such a factual position, the contention of the assessee of rejection of its books and estimation of its income in the assessment order on a ground which was different from the one mentioned in the show cause notice, is found to be erroneous and is therefore,

rejected. Accordingly, all the additional grounds of appeal raised by the assessee are dismissed.

15. The findings of the authorities below mentioned (supra) to justify rejection of books of accounts u/s. 145(3) clearly reflects that whatever may be the show cause issued or enquiry conducted leads to specific additions /disallowance u/s 37/69C, etc. Legal position with reference to rejection of books of accounts is altogether different whereas the case made by AO and further confirmed by the Ld. CIT (A) leads the matter towards specific disallowance /addition. We found that revenue is failed to bring material on record which justify rejection of books of accounts leading to application of GP rate @ 1% on total revenue. **In view of the above, we direct to delete the addition of Rs. 23,89,245/- being 1% of turnover and other operating income of Rs. 9,78,917/- (as the same is already part of revenue declared by the assessee) and returned income of Rs. 17,48,510/- declared by assessee is directed to be final figure. In the result, ground no. 3 with its sub grounds is allowed.**

16. As the matter has been discussed and adjudicated in detail on merits vide ground no. 3 & 4 (supra), now there is no need to adjudicate ground no. 1, 2 and 3 on technicalities of the matter raised by the assessee. Hence, ground no. 1, 2 and 3 left undecided being academic in nature now as ground no. 4 & 5 on the merits of the case has already been decided in favour of assessee and no substantial grievance left. In the result, ground no. 1, 2 and 3 are **dismissed**.

17. **In the result, appeal of the assessee is partly allowed.**

ITA No. 866/Mum/2019 (AY 2015-16)

18. Ground no. 2 raised by the assessee has already been discussed and adjudicated in detail vide ITA No. 5778/Mum/2019 for AY 2014-15 in para no. 11. Findings will apply mutatis mutandis here also as the facts of the case and applicable law is similar. **In the result, ground no. 2 with its sub grounds raised by the assessee is allowed.**

19. Ground no. 3 pertains to disallowance of expenses aggregating to Rs. 6, 28,842/- debited to the Statement of Profit and Loss for want of proof. We have gone through the order of AO, order of Ld. CIT(A) and submissions of the assessee on the same issue. Findings of AO and Ld. CIT(A) are being reproduced herein below for proper appreciation of the matter as under:-

Findings of AO

8. During hearing held on 04.10.2017, the assessee was required to show cause as to why the expenses debited to P&L should not be disallowed as there is no business activity during the previous year relevant to assessment year.

8.1 In response, the assessee vide letter dated 15.11.2017 submitted his explanation. The relevant portion of his reply is produced hereunder-

"Please note that during the year under scrutiny, the Company despite its efforts could not carry out its trading business. Merely because there is no income from the main objects, it cannot be considered that we did not carry on any business. The Company had to realise Rs. 15.62 crs, from its debtors against its trading business of earlier years & could realise Rs. 3.41 crs, during the year. We in the meantime deployed the funds either in fixed deposit or advancing loans and earned interest income which is reflected in profit & loss account. The expenditure which is mainly salary to staff, listing fees, RTA expenses &

general administrative expenses is in respect of business carried on as above and to maintain its corporate structure and is an allowable expenditure. It is submitted that we have not given up our business and there is temporary lull. We are required to have all the infrastructure to maintain business and collection of recoverable which would otherwise become bad.

It is, therefore, submitted that addition proposed by you is contrary to law & facts in this regard and the same is, therefore, objected to."

8.2 The reply of the assessee has been perused carefully and found not to be acceptable for the reason that assessee has failed to bring any documentary evidences on the record to corroborate his claim. Therefore, in the absence of documentary evidences, the expenses of Rs. 1, 66,529/-on account of "Compliance & Legal expenses", Rs.4, 10,618/- on account of "Legal & Professional Fee" and Rs. 51,695/- on account of "Publishing Charges" are hereby disallowed and added back to the total income of the assessee.

Finding of Ld. CIT(A)

7.2 The contentions of the assessee as well as the assessment order have been duly considered. It is observed that in course of the assessment proceedings, the assessee failed to furnish the documentary evidences in respect of its claim of expenses under the heads, 'Compliance & Legal Expenses, 'Legal & Professional fees' and 'publishing charges'. Even in the appellate proceedings, the assessee has failed to furnish the requisite evidences. The question of whether the business has ceased or there is only a temporary lull, is material only once it is proved that expenditure has actually been incurred. In the instant case, the assessee has failed to demonstrate that the said expenses have actually been incurred by submitting the necessary supporting evidences. Therefore, no infirmity is found in the action of the AO of making the said disallowance of the aggregate expenses of Rs. 6, 28,842/-. Accordingly, Ground No. 3 of the appeal is dismissed

20. After going through the findings of authorities below and considering the submissions of the assessee, we find it appropriate to restore the matter back to the file of AO. As assessee is alleging that all the documentary evidences were on record but not considered by the authorities below. In all fairness of the matter, we deem it fit that this issue should be re-examined by the AO in the light of documentary evidences to be produced by the assessee and keeping in view

the consideration of department about continuity of the business. **In the result, we direct the AO to re-examine the issue after giving assessee a proper opportunity of being heard within three months of receiving this order. In the result, Ground no. 3 raised by the assessee is allowed for statistical purposes.**

21. As the matter has been discussed and adjudicated in detail on merits vide ground no. 2 & 3 (supra), now there is no need to adjudicate ground no. 1 on technicalities of the matter raised by the assessee. Hence, ground no. 1 left undecided being academic in nature now as ground no. 2 & 3 on the merits of the case has already been decided in favour of assessee and no substantial grievance left. In the result, ground no. 1 is **dismissed**.

22. **In the result, the appeal of the assessee is partly allowed for statistical purposes.**

ITA No. 6567/Mum/2019 for AY 2014-15

&

ITA No. 1008/Mum/2020 for AY 2015-16

23. The revenue has raised the following grounds in AY 2014-15:-

1. "On the facts and circumstances of the case and in law, whether the Ld. CIT(A) was justified in deleting the addition of unexplained cash credit u/s. 68 to the extent of Rs. 15,67,50,000/- out of Rs. 22,62,50,000/- added by the Assessing Officer in computing the total income.

2. *On the facts and circumstances of the case and in law, whether the Ld. CIT (A) was justified in giving relief solely on consideration of identity and creditworthiness of the investor to preferential share capital whereas the addition u/s. 68 was made by the Assessing Officer by holding that the transaction of issuing and allotment of preferential share capital was not genuine."*

The appellant craves to leave, to add, to amend and /or to alter any of the ground of appeal, if need be.

The appellant, therefore, prays that on the ground stated above, the order of the Ld. CIT (A)-52 Mumbai, may be set aside and that of the Assessing Officer restored.

24. The revenue has raised the following grounds in AY 2015-16:-

1. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of unexplained cash credit u/s. 68 to the extent of Rs. 21,22,06,500/- out of Rs. 27,96, 10,000/- added by the Assessing Officer in computing the total income.*

2. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT (A) was justified in giving relief solely on consideration of creditworthiness of the investor to preferential share capital whereas the addition u/s 68 was made by the Assessing Officer by holding that the transaction of issuing and allotment of preferential share capital was not genuine."*

The appellant craves to leave, to add, to amend and /or to alter any of the ground of appeal, if need be.

The appellant, therefore, prays that on the ground stated above, the order of the Ld. CIT (A)-52 Mumbai, may be set aside and that of the Assessing Officer restored.

25. In both the years vide ITA No. 6567/Mum/2019 for AY 2014-15 and ITA No. 1008/Mum/2020 for AY 2015-16, similar ground were raised by the revenue. As the matter has already been decided in assessee's appeal vide ITA No. 5778/Mum/2019 and ITA No. 866/Mum/2020, no separate adjudication is required on the grounds raised by the revenue. Matter has been adjudicated in favour of assessee, **hence both the appeal of revenue are dismissed.**

26. **In the result, both the appeals filed by the assessee are partly allowed and partly allowed for statistical purposes respectively and both the appeals filed by the revenue are dismissed.**

Order pronounced in the open court on 24th day of July, 2023.

Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER
Mumbai, दिनांक/Dated: 24/07/2023
Sr. PS (Dhananjay)

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai