

**आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्रीरविशसूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्यकेसमक्ष  
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM  
**आयकर अपील सं./IT(SS)A 01/RPR/2022**  
**Cross Objection No. 02/RPR/2023**  
(Arising out of IT(SS)A No. 01/RPR/2022)  
(Assessment Years:2018-19)

Dy. Commissioner of Income Tax (Central Circle-I), Raipur, (C.G.)	V s	M/s Merigold Impex, 35/75, Punjabi Colony, Katora talab, Raipur, (C.G.)
<b>PAN: AASFM6747N</b>		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

**आयकर अपील सं./ITA 17/RPR/2022**  
**Cross Objection No. 03/RPR/2023**  
(Arising out of ITA 17/RPR/2022)  
(Assessment Years:2018-19)

Dy. Commissioner of Income Tax (Central Circle-I), Raipur, (C.G.)	V s	Shri Gurpreet Singh Bhatia, 1/2/1, Old bus stand road, Rajnandgaon, (C.G.)
<b>PAN: AASPB5363R</b>		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारितकीओरसे /Assessee by	:	Shri Praveen Jain, CA
राजस्वकीओरसे /Revenue by	:	Shri Debashish Lahiri, CIT-DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	07-09-2023
घोषणाकीतारीख/ <b>Date of Pronouncement</b>	:	27-10-2023

**आदेश / ORDER**

**Per Arun Khodpia, AM:**

The captioned appeals are filed by the revenue against the order of Ld. CIT (A)-3, Bhopal, for the AY 2018-19, both dated 16/12/2021, arose out of order of Ld. AO u/s 153A r.w.s. 143(3) dated 28/12/2019 and dated

30/12/2019. The Cross Objections are filed by the assessee against both the impugned appeals.

**Ground of appeal in the respective appeals and CO's are as under:**

**Merigold Impex : IT(SS)A 01/RPR/2022: AY 2018-19 by Revenue**

1. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in deleting addition made to the income of assessee on protective basis.
2. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in holding that partnership capital infused in the hands of assessee firm from companies/ partners as genuine.
3. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in ignoring the detailed finding in assessment order that ultimate source of infusion of partnership capital in the name of Kolkata based companies was cash deposited in various other shell companies as discussed on page 29 and other pages of assessment order.
4. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in ignoring the findings discussed in detail to prove that the Kolkata based companies which are partners in assessee firm, are shell companies with no business and no credit worthiness to infuse partnership capital.
5. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in admitting the new theory submitted by assessee for the first time before him that the source of money in the hands of assessee was withdrawal of capital from M/s Plutus Venture, a partnership firm of the group, a claim never made before the AO during assessment proceedings.
6. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in accepting the plea of assessee about source of money received from M/s Plutus Ventures in complete disregard to conditions prescribed under provision of rule 46A(1). Since, the conditions prescribed under this rule are not fulfilled, the CIT(A) erred in accepting additional evidence.
7. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in not providing reasonable opportunity of being

heard to the AO as provided under rule 46A(3) of IT rules 1964 to examine and rebut the claim of assessee lodged before CIT(A) for the first time.

8. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in deleting the addition of Rs. 4,89,58,000/- made by the Assessing Officer on account of unexplained cash credit u/ts 68 of income Tax Act, 1961 made on protective basis and substantial addition in hands of partners
9. The appellant craves right to add, amend or alter the grounds of appeal during or before the date of hearing of appeal.

**Merigold Impex : CO 02/RPR/2023: AY 2018-19 by assessee**

1. That the approval by Ld. Joint CIT u/s 153D and other provisions of Income Tax is not proper and based on presumptions. Hence, entire assessment proceedings is void and same may kindly be quashed.
2. That the AO passing the Assessment Order did not have proper jurisdiction. Hence, entire assessment is void and bad in law.
3. That assessee Firm is yet to start commercial operation, no Income, whether taxable or exempt, has been earned and no expenses have been incurred of revenue nature, there is no question of assessee earning undisclosed income. Thus, addition made is bad in law, against law of natural justice and uncalled for.
4. That the Order passed by Ld. AO u/s 143(3) is opposed to both law and facts.
5. The appellant reserves the right to add, amend, alter and delete the ground(s) of appeal at the time of hearing the appeal.

**Shri Gurpreet Singh Bhatia : ITA 17/RPR/2022: AY 2018-19 by revenue****Grounds of Appeal**

1. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in deleting addition made to the income of assessee on protective basis in hands of assessee and substantial addition in hands of partners.
2. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in holding that partnership capital infused in the hands of assessee firm from companies/partners as genuine.
3. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in ignoring the detailed findings in assessment order that ultimate source of infusion of partnership capital in the name of Kolkata based companies was cash deposited in various other shell companies as discussed on page 29 and other pages of assessment order.
4. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in ignoring the findings discussed in details to prove that the Kolkata based companies which are partners in assessee firm, are shell companies with no business and no credit worthiness to infuse partnership capital.
5. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in admitting the new theory submitted by assessee for the first time before him that the source of money in the hands of assessee was withdrawal of capital from M/s Plutus Venture, a partnership firm of the group, a claim never made before the AO during assessment proceedings.
6. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in accepting the plea of assessee about source of money received from M/s Plutus Ventures in complete disregard to conditions prescribed under provision of

rule 46A(I). Since, the conditions prescribed under this rule are not fulfilled, the CIT(A) erred in accepting additional evidence.

7. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in not providing reasonable opportunity of being heard to the AO as provided under rule 46A(3) of the IT rules 1964 to examine and rebut the claim of assessee lodged before CIT(A) for the first time.

8. Whether on the facts and in the circumstances of the case and in law, the Id.CIT(A) erred in deleting the addition of Rs.4,92,50,000/- made by the assessing Officer on account of unexplained cash credit u/s 68 of Income Tax act, 1961 made on protective basis and substantial addition in hands of partners.

9. The appellant craves right to add, amend or alter the grounds of appeal during or before the date of hearing of appeal.

**Shri Gurpreet Singh Bhatia : CO 03/RPR/2023: AY 2018-19 by assessee**

1. That the approval by Ld. Joint CIT u/s 153D and other provisions of Income Tax is not proper and based on presumptions. Hence, entire assessment proceedings are void and same may kindly be quashed.
2. That the AO passing the Assessment Order did not have proper jurisdiction. Hence, entire assessment is void and bad in law.
3. That the Order passed by Ld. AO u/s 143(3) is opposed to both law and facts.
4. The appellant reserves the right to add, amend, alter and delete the ground(s) of appeal at the time of hearing the appeal.

2. The issues involved in the present appeals are interconnected, interwoven, having common facts, therefore, these appeals are taken up under this common order for the sake of convenience and brevity.

3. The basis of addition and issue in the present appeal raised are emerged from the transaction in the assessee M/s Merigold Impex, which is a partnership firm, wherein a protective addition of Rs. 4,89,85,000/- has been made u/s 68 of the I.T. Act on account of receipt of partners capital during the relevant AY. The same addition has been imposed in the case of partners of the firm on substantive basis. Accordingly, first we shall be taking up the case of assessee firm M/s Merigold Impex and our findings rendered in the case of assessee firm shall be the deciding factor for the case of partner Shri Gurpreet Singh Bhatia.

4. The brief facts of the case borne from the records are that, a search u/s 142 of the Act, was conducted on 24/05/2017 on the various premises of Sona (Bhatia) group. Assessee firm's business premise was also covered under the said action. On verification of the records, Ld. AO has observed that, the assessee firm has received partners' capital during the financial year 2011-12 to 2016-17 and has found that the major portion of the introduction of partners' capital has come through Kolkata based companies, the details are as under:

S.no.	Name	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	
1	Accurate Ashray Pvt. Ltd.	87,700,000	23,300,000	16,500,000	59,650,000	(2,218,000)	700,000	-	187,850,000
2	Constitant Vinmay Pvt Ltd	5,000,000	-	-		(260,000)	730,000	-	5,730,000
3	Maharaja Tradecom Pvt Ltd	72,500,000	-	-	3,000,000	-	(2,025,000)	-	75,500,000
4	Muskan Dealers Pvt. Ltd.	9,000,000	48,850,000	18,000,000	7,500,000	-	50,000	8,450,000	91,850,000
5	Nawab Vvapar Pvt. Ltd.	-	-	83,800,000	-	-	(340,000)	-	83,800,000
6	Puja Dealcom Pvt. Ltd.	5,000,000	12,100,000	11,500,000	-	-	(140,000)	5,200,000	33,800,000
7	Puja Tie Up Pvt Ltd	20,100,000	-	-	-	-	-	8,100,000	28,200,000
8	Sethiya Services Pvt. Ltd.	-	-	-	5,950,000	-	-	6,835,000	12,785,000
9	Snowtops Pvt. Ltd.	-	-	-	-	-	-	8,600,000	8,600,000
10	Vikas Tradecom Pvt Ltd	62,200,000	13,900,000	10,000,000	-	-	50,000	11,800,000	97,950,000
11	Arcade Dealcom Private Limited	-	-	-	-	-	-	-	-
		261,500,000	98,150,000	139,800,000	76,100,000	-	1,530,000	48,985,000	626,065,000

4.1 Year wise total partnership capital introduced by Kolkata based paper companies in the firm is as follows:

<i><b>F. Y. IN WHICH AMOUNT CREDITED</b></i>	<i><b>AMOUNT(in Rs)</b></i>
<i>2011-12</i>	<i>261,500,000</i>
<i>2012-13</i>	<i>98,150,000</i>
<i>2013-14</i>	<i>139,800,000</i>
<i>2014-15</i>	<i>76,100,000</i>
<i>2015-16</i>	<i>0</i>
<i>2016-17</i>	<i>1,530,000</i>
<i>2017-18</i>	<i>4,89,85,000</i>
<i><b>Total</b></i>	<i><b>626,065,000</b></i>

4.2 In view of aforesaid calculations in information Ld. AO has discussed the modus operandi adopted by the Assessee's for laundering of undisclosed money through share premium/ share application/ partners' capital. Ld. AO also has broadly observed that:

- (a) Uncounted money received by Sona (Bhatia) group in the form of partnership capital firm Kolkata based shell companies.
- (b) Introduction of partnership firm was for the purpose of laundering of money.
- (c) Reasons, why M/s Merigold Impex should be considered as bogus/ papers firm:

- (i) The firm is not engaged in any business activity since in corporation
- (ii) No assessee has been created by the firm.
- (iii) No books of account of firm have been found.

Ld. AO also recorded the statement of issue Satpal Singh Bhatia, wherein no specific answers were offered by Mr. Bhatia.

- (d) Reasons why above-mentioned partnership capital introduced by Kolkata based company should be considered as unaccounted money of Sona (Bhatia) Group:

- (i) Any existence of above-mentioned partners company and no business activity.

Ld. AO has noted that during the pre-search investigation, discrete enquiries were made to verify the location in respect of partner companies but the company were not found at the address given in the return filed with ROC and at the given address none of the companies was found to doing any business, even people residing in nearby locality have not heard of this companies. Further, during the search action, the survey u/s 133(a) of I.T. Act, 1961 has been conducted at a shareholders premises to no signed or any existence of this company was reported by the authorised officers,

therefore, the authorization of survey could not be executed by the authorised officer statement of current and part directors of the said companies were also recorded on oath during the search and investigation to the directors are unable to explain of about any existence of companies on their registered offices. Even, Shri Satpal Singh Bhatia in his statement recorded u/s 132(a) of the I.T. Act, 1961 shown inability of existence of companies about their registered addresses.

(ii) Non creditworthiness of partners shown in the books of M/s Merigold Impex to show that the income declared by the partner companies in the financial year 2010-12 to 2015-16 were meagre or Nill, therefore, it was alleged by the Ld. AO that the partners are not having any creditworthiness to make such group concern. The income shown by some of these partners in return are summarized as under:

<i>Name of the Company</i>	<i>PAN</i>	<i>Financial Year Wise Total Income</i>					
		<i>2010 - 11</i>	<i>2011 - 12</i>	<i>2012 - 13</i>	<i>2013 - 14</i>	<i>2014 - 15</i>	<i>2015 - 16</i>
<i>M/s Nawab Vyapaar Private Limited</i>	<i>AACCN4666N</i>	<i>17722</i>	<i>10403</i>	<i>93288</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>M/s Accurate Ashray Private Limited</i>	<i>AAGCA9943F</i>	<i>1961</i>	<i>5571</i>	<i>8249</i>	<i>0</i>	<i>0</i>	<i>0</i>

<i>M/s Puja Dealcom Private Limited</i>	<i>AAECP3427F</i>	<i>17228</i>	<i>10442</i>	<i>65518</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>M/s VikashTradecom Private Limited</i>	<i>A.ACCV5138P</i>	<i>23845</i>	<i>42446</i>	<i>35118</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>M/s Puja Tie-up Private Limited</i>	<i>AAECP3414A</i>	<i>37542</i>	<i>40294</i>	<i>0</i>	<i>56106</i>	<i>0</i>	<i>0</i>
<i>M/s Muskan Dealers Private Limited</i>	<i>AAFCEM1245D</i>	<i>27213</i>	<i>10089</i>	<i>2389</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>M/s Snowtops Private Limited</i>	<i>AADCS5893H</i>	<i>305824</i>	<i>223770</i>	<i>8201</i>	<i>9867</i>	<i>11078</i>	<i>3459</i>
<i>M/s Sethia Services Private Limited</i>	<i>AAECS3890H</i>	<i>142550</i>	<i>98662</i>	<i>0</i>	<i>126</i>	<i>0</i>	<i>3512</i>
<i>MA Consistent Vinimay Private Limited</i>	<i>AADCC3479R</i>	<i>2491</i>	<i>5952</i>	<i>3232</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>MA Maharaja Tradecom Private Limited</i>	<i>AAFCEM5162R</i>	<i>77614</i>	<i>8952</i>	<i>2420</i>	<i>0</i>	<i>0</i>	<i>0</i>

4.3 Ld. AO observed that, as per above table it is clear that above mentioned partners of Merigold Impex are filing very nominal return income and no taxes have been paid by them. Balance sheet of these companies shows that they are just paper companies and they have raised funds by way of share capital entries from another set of non-existent companies. It is evident from the above mentioned return details that income declared by them are very nominal as compared to capital introduced by them in firm. These shareholders have no creditworthiness at all to make such a huge investment in the form of capital.

4.4 Ld. AO further observed that the firm M/s MerigoldImpex played a role of intermediary between the Kolkata Based paper / shell companies and individuals of Bhatia family. As per the table given above, Kolkata based companies have introduced approx Rs 69.10 Crore as Capital. Subsequently, other individual partners Le. family members of the group used to withdraw capital front time to time and route it to other uses. Analysis of balance sheet seized during the search shows that M/s Merigold Impex net partners' capital is very meager compared to money introduced by Kolkata based companies.

4.5 The Assessee Firm: During the year under consideration the assessee company has received Partners capital of Rs. 62,10,82,000/- as detailed in the order. The aforesaid share subscriber companies are private limited companies of Kolkata based. Some of the directors of share subscriber companies namely Kali Kant Chowdhury, Arihant fain and Chandresh Kumar fain are such directors who are under the control of operator Narendra Kumar fain. Whereas Sandeep Sharma is under the control of Anand Sharma/Janardan Chokhani who provided accommodation entries in this group in lieu of commission of 0.05%. These nine companies are part of list of paper companies involved in providing accommodation entries in the form of share capital/premium in this group.

4.6 Independent enquiries: During the course of assessment proceedings, in order to verify the identity, credit worthiness and genuineness of the transactions related to share application money, notices u/s 133(6) dated 09.10.2019 were issued to the following share applicant —

1	<i>M/s Nawab Vyapai2r Pvt Ltd</i>
2	<i>M/s Accurate Ashray Pvt Ltd</i>
3	<i>M/s Puja Dealcon Pvt Ltd</i>
4	<i>M/s Vikash Tradecom Pvt Ltd</i>
5	<i>M/s Puja Tie-up Pvt Ltd</i>
6	<i>M/s Muskan Dealers Pvt Ltd</i>
7	<i>M/s Snowtops Pvt Ltd</i>
8	<i>M/s Sethia Services Pvt Ltd</i>
9	<i>M/s Consistent Vinimay Pvt Ltd</i>
10	<i>M/s Maharaja Tradecom Pvt Ltd.</i>

4.7 Summons u/s 131 of IT Act, were also issued to directors of M/s Accurate Ashray Pvt Ltd and response they have submitted certain documents i.e., bank statements, P&L, balance sheet, computation of income, audit report etc.

4.8 Ld. AO conducted for the enquiries and after analysing has observed that almost all the investor companies are located in Calcutta and in large no. of cases the addresses are common. The directors are usually 2 to 4 and the members of the assessee group have become director in such sell companies. Ld. AO has produced various details pertaining to the investor companies such as share capital, reserves &

surplus, investments, income/turnover and profit (PBT) for the period from FY 2010-11 to 2017-18. Certain questions pertaining to share capital and share premium received from various partners were asked from the assessee, in response the assessee's representative has submitted its explanations. However, the explanations of the assessee were considered by the AO have not found the same satisfactory, therefore, has concluded that the existence of creditworthiness of the partners and genuineness of the transactions on the basis of facts and circumstances, co-relation between the amounts brought in and amounts withdrawn clearly shows that the individuals are the real beneficiary of unaccounted money, therefore, the partners contribution by the shell companies is treated as undisclosed income u/s 68 of the Act and addition in the hands of firm and partner are made.

5. Aggrieved with the aforesaid conclusion of the Ld. AO, the assessee has preferred the appeal before the Ld. CIT(A), wherein the contentions of the assessee have been accepted by the Ld. CIT(A) and the addition made by the Ld. AO was vacated.

6. Since, the addition made by the revenue u/s 68 in the present case is deleted by the Ld. CIT(A) now the revenue is in appeal controverting the finding of Ld. CIT(A).

7. Ld. CIT DR at the outset, reiterating the facts from the order of Ld. AO, has strongly supported the order of Ld. AO, has submitted that since the assessee has routed its own money in the garb of partners capital through Kolkata based shell companies, modus operandi of such companies, the assessee firm and the partners have been elaborately explained by the Ld. AO supported with facts, figures, flow charts, evidence and statements of the partners of the assessee firm. In view of such unambiguous facts and circumstances, the decision of Ld. CIT(A) is devoid of merits and liable to be set aside. Accordingly, it was the prayer that the additions made by AO deserves to be sustained.

8. In response, Ld. AR on behalf of the assessee has submitted that the response made before the Ld. AO were not considered in totality, the Ld. AO has harped upon the Modus Operandi of the parties concerned, thereby under his own preconceived information, presumptions, surmises has summarily rejected the contentions of the assessee which were totally based on facts supported with evidence. In the light of those facts showing the flow of fund from partnership firm M/s Plutus Ventures to partner Shri Satpal Singh Bhatia, thereafter to the Partner Companies who had finally invested amount in Merigold Impex i.e., the assessee firm. From Merigold Impex Mr. Gurpreet Singh Bhatia the partner has withdrawn his capital, it

is permissible under the law and, therefore, the entire flow of fund shows that the funds belong to Mr. Satpal Singh Bhatia, accordingly the same cannot be said to be un-accountant money of the assessee firm or its partners brought back in the garb of partners capitals through the shell Kolkata based companies. Ld. AO's apprehensions that the companies which are the partners in the assessee firm are having meagre income or nil income and having no creditworthiness only a presumption, though not relevant in these particular case since the flow of fund itself proves that the explained accounted money has been received in the coffers of the partnership firm and, therefore, no question with regard to genuineness or creditworthiness of such receipts can be doubted. In order to show the flow funds, Ld. AR has submitted that before us the chart showing flow of funds, the same is extracted as under:

AY 2018-19

Assessee	Source	Source of Source	Source of Source of Source	Source of Source of Source of Source
		84.50		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Muskan Dealers P. Ltd (A-1)	Satpal Singh Bhatia (A-2)	Plutus Ventures (A-4)
Partner's Capital Withdrawal (Rs. 2,21,50,000/- Dated 04.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028383 Dated 03.04.2017)	Sale of Share of Group Co. (Sona Beverages P. Ltd) Rs. 8646000/- Dated 30.03.2017, PNB Katora Talab Branch Raipur 3246002100018429	Partner's Capital Withdrawal (Rs. 13,00,00,000/- Ac no. 50200011390856, HDFC Bank, Sewree Mumbai Dated 27.03.2017.)	
		52.00		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Puja Dealcom P. Ltd (A-5)	Satpal Singh Bhatia (A-2)	Plutus Ventures (A-4)
Partner's Capital Withdrawal (Rs. 2,21,50,000/- Dated 04.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028417 Dated 03.04.2017)	Sale of Share of Group Co. (Sona Beverages P. Ltd) Rs. 5895000/- Dated 30.03.2017, PNB Katora Talab Branch Raipur 3246002100018429	Partner's Capital Withdrawal (Rs. 13,00,00,000/- Ac no. 50200011390856, HDFC Bank, Sewree Mumbai Dated 27.03.2017.)	
		118.00		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Vikash Tradecom P. Ltd (A-6)	Satpal Singh Bhatia (A-2)	Plutus Ventures (A-4)
Partner's Capital Withdrawal (Rs. 2,00,00,000/- Dated 04.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028408 Dated 03.04.2017)	Sale of Share of Group Co. (Sona Beverages P. Ltd & Beyant Holding and Finance Ltd) Rs. 4585000 and Rs. 8387500 respectively, PNB Katora Talab Branch Raipur 3246002100018429 Dated 30.03.2017	Partner's Capital Withdrawal (Rs. 13,00,00,000/- Ac no. 50200011390856, HDFC Bank, Sewree Mumbai Dated 27.03.2017.)	
		81.00		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Puja Tieup P. Ltd (A-7)	Satpal Singh Bhatia (A-2)	Plutus Ventures (A-4)
Partner's Capital Withdrawal (Rs. 2,00,00,000/- Dated 04.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028392 Dated 03.04.2017)	Sale of Share of Group Co. (Sethia Services P. Ltd) Rs. 1,22,00,000/- Dated 30.03.2017, PNB Katora Talab Branch Raipur 3246002100018429	Partner's Capital Withdrawal (Rs. 13,00,00,000/- Ac no. 50200011390856, HDFC Bank, Sewree Mumbai Dated 27.03.2017.)	
		86.00		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Snowtops P. Ltd (A-9)	Muskan Dealers P. Ltd (A-1)	Satpal Singh Bhatia (A-2)
Partner's Capital Withdrawal (Rs. 2,21,50,000/- Dated 04.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028347 Dated 03.04.2017)	Sale of Share of Group Co. (Sona Beverages P. Ltd) Rs. 1,22,00,000/- PNB, Katora Talab Branch Raipur Ac No. 3246002100028383 Dated 30.03.2017	Sale of Shares of Group Company Rs. 1,50,00,000/- Dated 30.03.2017 Ac No 3246002100018429 PNB Katora Talab Branch Raipur	
		68.35		
Gurpreet Singh Bhatia	Merigold Impex (A-C)	Sethia Services P. Ltd (A-9)	Nawab Vyapaar P. Ltd (A-10)	Gurpreet Singh Bhatia (A-12)
Partner's Capital Withdrawal (Rs. 71,00,000/- Dated 12.04.2017, Account no 3246002100020868 PNB Katora Talab Branch Raipur)	Partner's Capital Infusion (Thr. PNB, Katora Talab Branch Raipur Ac No. 3246002100028444 Dated 12.04.2017)	Sale of Share of Group Co. (Sona Power P. Ltd) Rs. 71,00,000/- PNB, Katora Talab Branch Raipur Ac No. 3246002100028338 Dated 11-04-2017	Sale of Shares of Group Company Rs. 76,25,000/- Dated 29.03.2017 Ac No 324600010007777 PNB Katora Talab Branch Raipur	

9. Ld. AR further drew our attention to various replies submitted that before the Ld. AO, wherein all such details pertaining to source of funds in the hands and also source of source have been furnished. Copies of reply dated 11/12/2019, 12/12/2019, 16/12/2019, 24/12/2019(2) are furnished before us in assessee's paper book.

10. Ld. AR took us to the order of Ld. CIT(A), wherein all the details were submitted and on the basis of such details after considering the facts and evidence Ld. CIT(A) has decided the issue in para 3.1.2 and 3.1.3 of the order, relevant portion of the finding para's of the Ld. CIT(A) are extracted as under:

**3.1.2** *I have considered the facts of the case, plea raised by the appellant and findings of the Id. AO. After due verification of various records filed by the appellant, following facts regarding the issue involved in the present appeal are found: -*

*(i) A capital of Rs. 4,92,50,000/- was introduced by six different partners during the year under consideration. The capital of Rs. 2,65,000/- was also withdrawn by M/s Sethia Services Pvt Ltd, therefore, the net capital of Rs. 4,89,85,000/- was introduced in AY 2018-19. The details of net capital introduced is as under: -*

S. No	Name of the partner	Net capital introduced in AY 2018-19 (in Rs.)
1	M/s MUSKAN DEALERS PRIVATE LIMITED	84,50,000/-
2	M/s PUJA DEALCOM PRIVATE LIMITED	52,00,000/-
3	M/s VIKASH TRADECOM PRIVATE LIMITED	1,18,00,000/-
4	M/s PUJA TIE-UP PRIVATE LIMITED	81,00,000/-
5	M/s SNOWTOPS PRIVATE LIMITED	86,00,000/-
6	M/s SETHIA SERVICES PRIVATE LIMITED	68,35,000/-
	Total	4,89,85,000/-

(ii). The Id. A.O. has established that the companies appearing at serial no. 1 to 6 of the above table are shell companies and they have been used for infusion of unaccounted income of persons of Bhatia Group in form of partner's capital in appellant firm through above mentioned companies and subsequently such amount has been withdrawn by the individual partners of the appellant firm.

(iii). The Id. AO has also held that the appellant has not done any activity since its incorporation and showed Nil income.

(4). Out of above amount credited in the bank account of appellant the amount was paid to one of the partner Shri Gurpreet Singh Bhatia in the following manner:

Date	Amount	Remarks
04.04.2017	2,21,50,000/-	FCU 473810
04.04.2017	2,00,00,000/-	FCU 473808
12.04.2017	71,00,000/-	FCU 473812
Total	4,92,50,000/-	

(v). *On further perusal of submission of the appellant and other relevant material on record, the appellant had received money in the following manner:*

(1). *Shri Satpal Singh Bhatia had withdrawn his capital amounting to Rs.13,00,00,000/- on 27.03.2017 from M/s Plutus Venture, a partnership Firm of the group. The relevant entries in the bank account of M/s. Plutus Venture (HDFC Bank, Nariman Point, Mumbai, A/c No. 50200011390856) is found duly reflected. There was balance of Rs.33,63,34,141/- on 27.03.2017.*

(2). *Shri Satpal Singh Bhatia purchased shares of M/s Sethia Services Pvt. Ltd. from M/s Puja Tieup Pvt. Ltd. and paid Rs. 1,00,00,000/- on 30.03.2017 which is duly reflected in the bank account of M/s Puja Tieup Pvt Ltd (PNB, Phool Chawk, Raipur, A/c. No.3246002100028392). Out of this amount, Rs.81,00,000/- has been given to appellant on 30.04.2017 by M/s Puja Tieup Pvt Ltd.*

(3). *Shri Satpal Singh Bhatia purchased shares of M/s Sona Beverages Pvt. Ltd. from M/s Muskan Dealers Pvt. Ltd. and paid Rs. 86,46,000/- (Rs. 6,55,000/- + Rs. 79,91,000/-) on 30.03.2017 which is*

*iv). Regarding introduction of capital of Rs.4,89,85,000/- by various partners, following facts are found:*

(1) *M/s. Plums Ventur is a partnership firm of Bhatia Group who is engaged in trading and investment in shares and securities. During the A.Y. 2017-18, this concern has shown total income at Rs.94,56,110/- and exempt income at Rs.158,40,28,346/-. This is a genuine concern, and it has huge accumulated fund.*

(2) *The appellant received net capital of Rs. 4,21,50,000/- during AY 2018-19 through various partner companies to whom fund was provided by Shri Satpal Singh Bhatia by withdrawing his capital from M/s. Plums Venture. Remaining amount of Rs.68,35,000/- was received through its partners namely M/s Nawab Vyapaar Pvt. Ltd. and M/s Sethia Services Pvt. Ltd. who have received fund from Shri Gurpreet Singh Bhatia (one of the partners in appellant firm).*

(3) *The appellant has bank account in Punjab National Bank, Phool Chawk, Raipur. Its Bank account No. is 3246002100020868. Amount of Rs.4,92,50,000/- has been credited in this account in the following manner:*

<b>Date</b>	<b>Amount(Rs.)</b>	<b>Amount transferred by</b>	<b>Remarks/Narration</b>
03.04.2017	84,50,000/-	Muskan Dealers	
03.04.2017	86,00,000/-	Snow Tops	
03.04.2017	52,00,000/-	Puja Dealcom Pvt. Ltd.	Transfer from A/C 3246002100028417
03.04.2017	1,18,00,000/-	Vikas Tradecom Pvt. Ltd.	Transfer from A/C 3246002100028408
03.04.2017	81,00,000/-	Puja Tieup	
12.04.2017	71,00,000/-	Sethia Services	
<b>Total</b>	<b>4,92,50,000/-</b>		

*duly reflected in the bank account of M/s Muskan Dealers Pvt. Ltd. (PNB, Phool Chawk, Raipur, A/c. No.3246002100028383). Out of*

*this amount, Rs.84,50,000/- has been given to appellant on 03.04.2017 by M/s Muskan Dealers Pvt. Ltd.*

*(4) Shri Satpal Singh Bhatia purchased shares of M/s Sona Beverages Pvt. Ltd. & M/s Beyant Holding & Finance Limited from M/s Vikas Tradecom Pvt. Ltd. and paid Rs. 1,29,72,000/- (Rs. 83,87,500/- [ for shares of M/s Beyant Holding & Finance Limited + Rs. 45,85,000/-[for shares of M/s Sona Beverages Pvt. Ltd]) on 30.03.2017 which is duly reflected in the bank account of M/s Vikas Tradecom Pvt. Ltd. (PNB, Phool Chawk, Raipur, A/c. No.3246002100028408). Out of this amount, Rs.1,18,00,000/- has been given to appellant on 03.04.2017 by M/s Vikas Tradecom Pvt. Ltd.*

*(5) Shri Satpal Singh Bhatia purchased shares of M/s Sona Beverages Pvt. Ltd. from M/s Puja Dealcom Pvt. Ltd. and paid Rs. 58,95,000/- on 30.03.2017 which is duly reflected in the bank account of M/s Puja Dealcom Pvt. Ltd. (PNB, Phool Chawk, Raipur, A/c. No.3246002100028417). Out of this amount, Rs.52,00,000/- has been given to appellant on 03.04.2017 by M/s Puja Dealcom Pvt. Ltd.*

*(6) Shri Satpal Singh Bhatia purchased shares of M/s Sona Beverages Pvt. Ltd. from M/s Muskan Dealers Pvt. Ltd. and paid Rs. 1,50,00,000/- on 30.03.2017 which is duly reflected in the bank account of M/s Muskan Dealers Pvt. Ltd. (PNB, Phool Chawk,*

*Raipur, A/c. No.3246002100028383). M/s Muskan Dealers Pvt. Ltd. purchased shares of M/s Sona Beverages Pvt. Ltd. from M/s Snowtops Pvt. Ltd. and paid amount of Rs. 1,22,00,000/-(PNB, Phool Chawk, Raipur, A/c No. 3246002100028347.Rs.86,00,000/- has been given to appellant on 03.04.2017 by M/s Snowtops Pvt. Ltd.*

*(7). Shri Gurpreet Singh Bhatia received sum of Rs.9,12,00,000/- from M/s. Plutus Venture on 22.03.2017 which is duly credited in the bank account of Shri Gurpreet Singh Bhatia 22.03.2017 (PNB, Phool Chowk, Raipur A/c No 3246000100073732) and purchased shares of M/s Sona Power Pvt. Ltd. from M/s Nawab Vyapaar Pvt. Ltd. and paid Rs. 76,25,000/- on 29.03.2017 which is duly reflected in the bank account of M/s Nawab Vyapaar Pvt. Ltd. (PNB, Phool Chawk, Raipur, A/c. No.3246002100028338). M/s Nawab Vyapaar Pvt. Ltd. purchased shares of Sona Power Pvt. Ltd. from M/s Sethia Services Pvt. Ltd. and paid amount of Rs. 71,00,000/-(PNB, Phool Chawk, Raipur, A/c. No.3246002100028444). Out of this amount, Rs.71,00,000/- has been given to appellant on 12.04.2017. However, sum of Rs. 2,65,000/- was lateron withdrawn by M/s Sethia Services Pvt Ltd by M/s Sethia Services Pvt. Ltd.*

**3.1.3** *From the above discussion and factual matrix of the case, it is evidently clear that the appellant has fully explained source of source of infused funds by partners. The funds introduced by the said 6 companies/partners have been initially sourced from M/s Plutus Venture which is a genuine concern and has earned income of Rs. 158.40 crores during AY 2017-18. Thus, the Id AO was not justified in making addition by simply presuming that the funds have been introduced by Kolkata based shell companies.*

*The Id AO ought to have considered and should have stretched his enquiry till the end of tail and bring all the key facts to light, which were already on record of the AO. Accordingly, the appellant has proved creditworthiness of the investor, genuineness of the transaction and identity of the investor a/w nature and source of money as per provisions of section 68 of the Act. Thus, protective addition made by the AO amounting to **Rs. 4,89,85,000/-** is **deleted**. Therefore, appeal on these grounds is **allowed**.*

11. With aforesaid submissions, Ld. AR has argued that once, each and every transaction for the source of funds and source of source from where the funds were infused as partner capital in the assessee company has been explained, the identity, creditworthiness of investors and genuineness of the transactions, therefore, have also been fully satisfied, thus, the onus cast upon assessee u/s 68 has been duly discharged. Baked with such contentions it was the prayer of the Ld AR that the Ld. CIT(A) has correctly appreciated the facts and evidence of the case and accordingly the decision granted by the Ld. CIT(A) should have been sustained.

12. We have considered the rival contentions, perused the material available on record and orders of the revenue authorities. Admittedly under the factual matrix of the present case, Ld. AO has observed and concluded that since the major portion of the partners capital in the

assessee firm are receive from Kolkata based companies, which were investigated prior to the search operations conducted on the premises of Sona (Bhatia) Group including the assessee firm. From such pre search investigation certain facts were surfaced, according to which the companies which have become the partners in the assessee firm were found to be with meagre income or no income, the financials of such partner companies were also analysed and as recorded by the Ld. AO that these companies are just paper companies, who have raised the funds by way of share capital entries from another set of non-existent companies, accordingly, the partner companies were considered as having no creditworthiness to make such huge investment in the form of capital. It is also observed by Ld. AO that the assessee firm itself also have filed its return with nominal income, no taxes have been paid. Ld. AO has explained the flow of transactions by way of a flow chart and also explained the *Modus operandi* of such partner companies to bringing in the money in the form of partners' capital. Ld. AO further observed that the assessee company during the period from FY 2011-12 to 2017-18 has received partners capital to the tune of Rs. 62,10,82,000/-. Capital subscriber companies are Pvt. Ltd. companies based at Kolkata. Some of the directors of share subscriber companies namely, Kali Kant Choudhary, Arihant Jain and Chandresh Kumar Jain are the directors, who are under the control of operator Mr. Narendra Kumar Jain. Whereas Sandeep

Sharma is under the control of Anand Sharma/Janardan Chokhani, who provided accommodation entries in this group in lieu of commission of 0.05%. It is also mentioned that these Nine Companies are part of list of paper-based companies involved in providing accommodation entries in the form of share capital/ premium in this group. When the independent inquiries are conducted on such partners companies by issuing notices u/s 133(6) and, thereafter, commission u/s 131(1)(d), it is revealed that most of the notices u/s 133(6) were returned with the remark has "Left", no reside in given address, NF, incomplete address, receiver has gone to Kunkuri, not known etc and for rest of notices replies were not submitted. Summons u/s 133 of the I.T. Act were also issued to the directors of Accurate Ashray Pvt. Ltd. After such inquiries, it was the conclusion of Ld. AO that the partner companies are with insignificant financial but have made huge investments, no-one were found at the address available with the department and also the genuineness of the transactions were found to be doubtful, accordingly the addition was made.

13. On perusal of the assessment order, response of the assessee and finding of the Ld. CIT(A), it is evident that the Ld. AO was focused on the activities of the partner companies their financial standings and on the pre search investigation information. In the present case since source of funds, its flow and receipt in the hands of the assessee firm has been duly

explained by the assessee supported with documentary evidence which were duly examined and explained with due deliberations by the Ld. CIT(A) in his order under the finding paras and accordingly it is accepted that the assessee has proved the creditworthiness of the investors, genuineness of the transactions and identity of the investors. Ld. AO's observations and conclusions were found to be based on information already available with him though investigation, under the preconceived presumptions Ld. AO has not considered the fact that accountant and explained money of Mr. Satpal Singh Bhatia through a series of sources have been finally arrived in the books of the partnership firm. The Ld. CIT(A) has abundantly explained the entire receipt of Rs. 4,92,50,000/- by the assessee firm explaining details of each and every partner company a/w transaction details through Banking Channels, such details are already extracted herein above under findings by the Ld CIT(A). Ld CIT(A) have also observed that the Ld AO ought to have considered and should have stretched his enquiry till the end of tail and bring all the key facts to light, which were already on the records of the Ld AO.

14. Regarding the contentions raised by the revenue pertaining to violation of provisions of Rule 46A of Act by the Ld CIT(A) that the information and additional evidences were accepted by the CIT(A), the AO has not provided with reasonable opportunity of being heard to examine

and rebut the claim of the assessee lodged before the CIT(A), it is apparent from the order of Ld. CIT that the AO vide notice dated 12/02/2021 was asked to confirm facts having a bearing on statutory validity of the appeal but the AO has failed to submit any report. It is also mentioned that in absence of any specific request from the Ld. AO it is presumed that the Ld. AO does not want to attend the hearings. On perusal of the copies of replies by the assessee it is apparent that all the information relied upon by the CIT(A) with respect to flow of the source of funds were submitted before the AO and the same fact has been noted by the Ld. CIT(A) in finding para 3.1.3 mentioning that all the key facts were already on the records of the AO. During the hearing of the present appeals also the department have not brought to our attention any of such specific information or evidence which have additionally been submitted before the Ld. CIT(A), but the same were not made available to the AO during the assessment proceedings, thereby we can hold the appellate proceedings liable to be quashed on account of violation of Rule 46A. Under such facts and circumstances, we cannot subscribe to the contention raised by the revenue in this context, therefore, such contentions of the revenue are rejected.

15. In the view of aforesaid facts and circumstances of the case, we find that the observations of the Ld. CIT(A) are on merits of the facts,

substantiated with elaborated details of the transactions, explaining flow of fully accounted funds. Accordingly, the findings of the Ld. CIT(A) are worth to be concurred with, and we do so. In the result appeal filed by the Revenue in IT(SS)A 01/RPR/2022, stands dismissed.

16. Since, the appeal of the revenue in IT(SS)A 01/RPR/2022 of the Revenue is dismissed by us, in terms of our aforesaid observations, the CO No. 02/RPR/2023 filed by the assessee to support the order of the Ld. CIT(A) a/w other legal contentions raised therein happen to be academic, thus, the same are not adjudicated and left open.

17. The addition in the case of Merigold Impex in IT(SS)A 01/RPR/2023 have been deleted by us, and on the foundation of such protective addition substantive addition was made in the hand of Mr. Gurpreet Singh Bhatia, which was deleted by the Ld CIT(A) and the revenue is in appeal in ITA No. 17/RPR/2022 and the assessee has filed the Cross Objection vide CO No. 03/RPR/2023. Our decision rendered in case of Merigold (supra) will *mutatis mutandis* apply on these two appeals in the case of Shri Gurpreet Singh Bhatia, consequently, the appeal of the revenue and CO of the assessee are dismissed.

18. In the combined result IT(SS)A No. 01/RPR/2022 and ITA No. 17/RPR/2022 of revenue and CO No. CO No. 02/RPR/2023 and 03/RPR/2023 of the assessee are dismissed in terms of our observations herein above.

Order pronounced in the court on 27/10/2023.

**SD/-  
(RAVISH SOOD)**

न्यायिकसदस्य / JUDICIAL MEMBER

**SD/-  
(ARUN KHODPIA)**

लेखासदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 27/10/2023

Vaibhav

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्डफाईल / Guard file.

//True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकरअपीलीयअधिकरण, रायपुर/ITAT, Raipur