

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.70/RPR/2018

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Sumit Global Pvt. Ltd.
C/o Kanha Electricals & Electronics,
Nanhu Nagar, Vijay Nagar,
P.O. Kirodimalnagar, Raigarh (C.G.)
PAN : AAOCS8271J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1,
Raigarh (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Veekaas S Sharma, C.A.
Revenue by : Shri Satya Prakash Sharma, Sr.DR

सुनवाई की तारीख / Date of Hearing : 11.09.2023

घोषणा की तारीख / Date of Pronouncement : 29.11.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income-Tax (Appeals)-1, Jabalpur (Camp: Bilaspur), dated 23.03.2018, which in turn arises from the order passed by the A.O. u/s. 143(3) of the Income-tax Act, 1961 (for short 'Act'), dated 27.12.2016 for A.Y. 2014-15. The assessee company has assailed the impugned order on the following grounds of appeal before us:

"1. That under the facts and the law, the learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 1,87,00,000/- made by the learned Assessing Officer u/s. 68 on account of share application money and premium received from two share applicants, namely M/s. Eagle Commotrade Pvt. Ltd., at Rs. 1,01,00,000/-; and M/s. Krishnakali Distributors Pvt. Ltd., at Rs. 86,00,000/- total Rs.1,87,00,000/- without having any adverse material on record and rejecting the supporting sand explanations filed before him.

Prayed that Appellant discharged the burden of proving identification, credit-worthiness and genuineness of transaction, addition of Rs.1,87,00,000/- be deleted.

2. That under the facts and the lad, the learned Commissioner of Income Tax (Appeals) further erred in maintaining the addition of Rs.1,87,00,000/- u/s. 68 made by the learned Assessing Officer observing that source of source was not proved.

Prayed that details of source of source was submitted before the Hon'ble CIT(A) which was in the possession of the appellant. The addition be deleted."

2. Succinctly stated, the assessee company which had not carried out any business during the year under consideration, had e-filed its return of income for A.Y.2014-15 on 30.09.2014 declaring an income of Rs. Nil. The return of income

filed by the assessee company was processed u/s.143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment u/s. 143(2) of the Act for verification of three issues, viz. (i) large share premium received during the year; (ii) low income shown in comparison to high loans/advances/investment in shares; and (iii) investment in unlisted equities during the year.

3. During the course of the assessment proceedings, the A.O observed that the assessee company which though had not carried out any business during the year under consideration had received a substantial amount of share capital/premium aggregating to an amount of Rs.4,13,41,500/- from the following 19 persons/companies:

1.	Anjan Rani Capital	Rs.4,99,500/-
2.	Ankush Goyal Capital	Rs.2,49,300/-
3.	Darshana Devi Capital	Rs.2,49,300/-
4.	Daya Ram Sidar Capital	Rs.3,99,600
5.	Dinesh Patel Capital	Rs.2,49,300/-
6.	Eagle Commotrade Pvt Ltd.	Rs.1,79,49,600/-
7.	Ganeshvani Infrabuild Pvt. Ltd.	Rs.24,99,300/-
8.	G S Mittal Capital	Rs.4,99,500/-
9.	Krishnakali Distributors Pvt. Ltd.	Rs.1,45,99,800/-
10.	Mahesh Kumar Sharma Capital	Rs.4,99,500/-
11.	Prahlad Kumar Capital	Rs.1,99,800/-
12.	Praveen Kumar Capital	Rs.5,49,900/-
13.	Ramesh Pal Goyal Capital	Rs.2,49,300/-
14.	Ram Kishore Capital	Rs.9,99,900/-
15.	Ram Lal Patel Capital	Rs.4,99,500/-
16.	Sanjeev Chouhan Capital	Rs.2,99,700/-
17.	Sita Ram Goyal Capital	Rs.2,49,300/-
18.	Smt. D Mohini Capital	Rs.2,99,700/-
19.	Suman Chouhan Capital	Rs.2,99,700/-

Accordingly, the A.O. called upon the assessee company to furnish the details of the shareholders and substantiate their creditworthiness as well as the genuineness of the transaction of receipt of share capital/ premium from them. As the assessee failed to furnish the requisite details, the A.O. issued notice u/s. 133(6) of the Act to two share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. Insofar as the notice issued u/s. 133(6) of the Act by the A.O. to M/s. Eagle Commotrade Pvt. Ltd. was concerned; the same was received back unserved, while no reply was received in the case of M/s. Krishnakali Distributors Pvt. Ltd. The A.O. brought the aforesaid fact to the notice of the assessee company and directed it to furnish the requisite details to support the authenticity of its claim of having received share capital/premium from the aforementioned companies. In reply, the assessee company, inter alia, filed copies of the return of income, computation of income, balance sheet, and bank statements of the aforementioned share subscriber companies. As the assessee had taken recourse to dilatory tactics, the A.O. called upon it to explain why the entire amount of share capital/premium of Rs.4,13,41,500/- may not be treated as an unexplained cash credit u/s. 68 of the Act. Also, the A.O. brought up the fact that the notice issued u/s. 133(6) of the Act to the aforementioned share subscriber companies were either returned unserved or not complied with to the notice of the assessee and, thus, called upon it to produce the directors of the said companies for necessary examination before him so that the identity and creditworthiness of the share

subscriber companies, along with genuineness of the transaction of receipt of share capital/premium from them could be proved. In the absence of necessary compliance by the assessee company of the aforesaid directions despite reminders, the A.O observed that it was incomprehensible that the assessee company, which had neither commenced its business nor commanded good financials, would have received a substantial amount of share capital/premium. Referring to the return of income and balance sheet of two share subscriber companies, viz., (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd., the A.O observed that the substantial investment that was made by the said companies was not commensurate with their taxable income, as under:

Name of the Company	Amount invested as share application	Return income
M/s Eagle Commotrade Pvt. Ltd.	1,79,49,600/-	Rs.44,757/-(AY 2012-13) Rs.1,07,663/-(AY 2013-14) Rs. 3,95,930/-(AY 2014-15)
M/s Krishnakali Distributors Private Ltd.	1,45,99,800/-	Rs.2,09,228/-(AY 2012-13) Rs.89,742/-(AY 2013-14) Rs. 1,01,451/-(AY 2014-15)

Further, the A.O in order to verify the authenticity of the assessee's claim for having received share capital/premium from the aforementioned investor companies, deputed his Inspector to conduct spot enquiries at their respective addresses at Kolkata (WB). The Inspector, vide his report dated 08.12.2016, stated that as the

aforementioned companies were not functioning from the addresses that were provided to him, they appeared to be bogus companies.

4. Backed by the aforesaid facts, the A.O held a conviction that the assessee company, despite the sufficient opportunity, had failed to discharge the onus that was cast upon it as regards proving the identity and creditworthiness of the share subscriber companies, as well as genuineness of the transaction of receipt of share capital/premium from them. The A.O. fortified his aforesaid conviction by the fact that the notices issued to the Kolkata-based investor companies u/s. 133(6) of the Act either remained unserved or were not complied with. Also, the fact that the assessee company had, despite specific directions, failed to produce before him for necessary examination the directors of the Kolkata-based investor companies, which, as per the report of the Inspector, were not available at their respective addresses as was provided by the assessee company, had weighed in the mind of the A.O while dubbing the transactions of receipt of share capital/premium by the assessee company as a sham. Accordingly, the A.O., backed by his aforesaid observations, held the entire amount of share capital/premium of Rs.4,13,41,500/- as unexplained cash credit u/s. 68 of the Act.

5. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals). It was, inter alia, the claim of the assessee that, it had during the year under consideration, only received an amount of Rs.1.87 crore (approx.) towards share application money, while the balance amount was received in the preceding years.

Backed by its aforesaid contention, it was the claim of the assessee company that no addition with respect to the share application money that it had received in the preceding years, could have been made by the A.O u/s. 68 of the Act while framing the assessment in its case for the year under consideration. Apropos the share application money of Rs.1.87 crore that was received by the assessee from the aforesaid two share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.: Rs.1,01,00,000/-; and (ii) M/s. Krishnakali Distributors Pvt. Ltd.: Rs.86,00,000/-, the assessee company, under Rule 46A of the Income Tax Appellate Tribunal Rules, 1963, placed on record certain additional documentary evidence in its attempt to support the authenticity of the transactions of receipt of share capital/premium from the aforementioned share subscriber companies. Considering the aforesaid additional documentary evidence and the claim of the assessee company that only an amount of Rs.1.87 crore (supra) of share capital/premium was received during the year under consideration, the CIT(Appeals) called for a remand report from the A.O. After considering the remand report of the A.O and the rejoinder of the assessee company, the CIT(Appeals) found favor with the claim of the assessee company that share application money of Rs.2,26,41,500/- (out of Rs.4,13,41,500/-) was received by it in the earlier years. Considering the aforesaid facts, the CIT(Appeals) vacated the addition of Rs.2,26,41,500/- with a direction to the A.O. to take necessary action in the respective assessment years in which the assessee company had received the aforementioned amounts.

6. Apropos the share application money of Rs.1.87 crore that was received by the assessee company during the year under consideration from the aforementioned share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd., the CIT(Appeals) after duly considering the additional evidence that was filed under Rule 46A before him, observed that as the assessee company had both in the course of the assessment proceedings as well as before him failed to offer an explanation as regards the source of the sum that was received by the share applicant companies, which in turn was invested towards share capital/premium with the assessee company, therefore, the same had rightly been held by the A.O as unexplained cash credit u/s. 68 of the Act. Accordingly, the CIT(Appeals) being of the view that the assessee company had failed to discharge the onus that was cast upon it u/s. 68 of the Act, therein, sustained the addition of Rs.1.87 crore made by the A.O observing as under:

“6.1.3 Decision:- I have carefully considered the submission put forth 86 the documents furnished on behalf of the appellant, perused the facts of the case and the observation of the AO both in the impugned assessment order, remand report & rejoinder thereon and other material evidences brought on record and these grounds of appeal relating to the addition of Rs.4,13,41,500/- made on account of unexplained share application money and premium received are decided as under:-

1. Admittance of Additional evidences —

(i) The assessee has filed the following papers as additional evidences:-

1. Share Application a/c for AY 2013-14, 2012-13, 2011-12

2. Company master data of Eagle Commotrade Pvt. Ltd. as obtained from MCA site

3. ITR, Audited Balance Sheet & Profit & Loss a/c of Eagle Commotrade Pvt. Ltd. for AY 2013-14 & 2012-13

4. Master data of M/s Krishnakali Distributors Pvt. Ltd.
5. ITR, Audited report of Krishnakali Distributors Pvt. Ltd. for AY 2012-13 & 2013-14
6. Compilation of source of source
7. Details of share application money received and year of allotment
8. Account copy of share applicants for earlier years 9. Audited a/c of Ganeshvani Infra build Pvt. Ltd. & ITR for AY 2014-15

(ii) In the remand report dated 07.03.2018, the AO has not raised any specific objection on the admission of the additional evidences.

(iii) For this reason and in the interest of justice the additional evidences filed by the assessee are admitted and the appeal is decided after considering these additional evidences.

2. In GOA nos. 1 to 3 , the Addition of Rs. 4,13,41,500/- made on account of unexplained share application money and share premium received by the assessee company. My decision on the issue is as under:-

(i) As per the Ld. AR the assessee has received the share application money from individuals and three companies as per detail given hereinafter:

<u>Assmt. Year</u>	-	<u>Amount (Rs.)</u>
2011-12	-	63,00,000/-
2012-13	-	8,75,000/-
2013-14	-	1,63,50,000/-
2014-15	-	1,87,00,000/-

Total	-	4,22,25,000/-

(-) Allotted in earlier years: (Rs. 2,00,000/- & Rs. 6,75,000/-)	-	8,75,000/-

		4,13,50,000/-
(-) Amount returned	-	8,500/-

Amount of shares allotted this year	-	4,13,41,500/-
		=====

(ii) On the basis of the above chart the Id AR submitted that since the assessee has received share application money of Rs. 1,87,00,000/- only during the previous year relevant to assessment year 2014-15 and share application money of Rs. 2,26,41,500/- was received in earlier assessment years, hence the addition of Rs. 2,26,41,500/- (4,13,41,500 — 1,87,00,000) cannot be made to the income of this assessment year. The Id AR further submitted that in view of hon'ble Supreme Court's decision in the case of CIT v Parmeshwar Bohra [2008] 301 ITR 404 the opening credit balance cannot be added to the income of the assessee by applying the provision of section 68 of the Income Tax Act, 1961.

(iii) Whether the assessee has received share application of Rs. 2,26,41,500/- in assessment year prior to assessment year 2014-15 or not is a matter of verification. Accordingly, the AO is directed to verify the correctness of the figures given in para (i) above. In case if the contention of the assessee is correct then the AO cannot add this amount to the income of the assessee in this assessment year in that

case the AO is directed to take necessary action in the respective assessment year to inquire about the share capital in those years. With this direction the addition of Rs. 2,26,41,500/- is deleted for statistical purpose

(iv) The assessee has received share application of Rs. 1,87,00,000/- during the previous year relevant to assessment year 2014-15 from the following companies :-

12. M/s. Eagle Commotrade Pvt. Ltd. 1,01,00,000/-

13. M/s. Krishnakali Distributors Pvt. Ltd. 86,00,000/-

Total - 1,87,00,000/-

(i) The assessee in respect of share application money of Rs. 1,01,00,000/- received from M/s Eagle Coomtrade Pvt Ltd. has filed the following papers during the assessment proceedings and as additional evidence:-

1. Copy of account of shareholder in the books of appellant –

2. Copy of account of appellant in the books of M/s. Eagle Commotrade Private Limited

14. Bank account of appellant with following banks:

- HDFC Bank, Raigarh
- Punjab National Bank, Angul

15. Bank statement of M/s. Eagle Commotrade Pvt. L with following banks:

- HDFC Bank, Kolkata
- ICICI Bank, Kolkata

16. Company master data on 07.02.2018

17. Audit Report & final accounts of M/s. Eagle Commotrade Pvt. Ltd. for AY 2014-15

18. ITR for A.Y. 2014-15

19. ITR for A.Y. 2013-14 along with audited Balance Sheet and Profit & Loss Account

20. ITR for A.Y. 2012-13 along with audited Balance Sheet and Profit & Loss Account

(v) The assessee in respect of share application money of Rs. 86,00,000/- received from M/s Krishnakali Distributors Pvt Ltd has filed the following papers during the assessment proceeding and as additional evidence :-

1. Copy of accounts
2. Bank account of share applicants with following banks:
HDFC Bank, Kolkata
3. ITR for AY 2014-15
4. Company Master data as on 30/09/2017 taken from MCA site
5. Audi Report & Financials for AY 2014-15
6. ITR, Audited Balance Sheet & P & L a/c for AY 2013-14
7. ITR, Audited Balance Sheet & P & L a/c for AY 2012-13

(vi) After considering the submission including the supporting documents furnished, I find that though the assessee has filed the above papers however it has failed to establish in the assessment proceeding as well as appellate proceeding the source of sum received by the share applicant companies, For this reason the explanation given by the Id AR is not acceptable and 'addition of Rs. 1,87,00,000/- on account of share application money received during the year under consideration from M/s. Eagle Commotrade Pvt. Ltd. and M/s. Krishnakali Distributors Pvt. Ltd. is confirmed. Thus, these grounds of appeal is partly allowed."

7. The assessee, being aggrieved with the order of the CIT(Appeals), has carried the matter in appeal before us.

8. At the threshold of hearing of the appeal, Shri Veekaas S. Sharma, Ld. Authorized Representative (for short 'AR') for the assessee company took us through the facts of the case. Adverting to the addition of Rs.1.87 crore (supra), i.e., the amount of share application money received by the assessee company during the year under consideration from the aforementioned share subscriber companies, the Ld. AR took us through a "Chart", placed on Page 34 of APB, which is culled out as under:

Compilation of Source of Source of Share Application Money										
Fund received in the books of Appellant										
1	From Eagle Commotrade Pvt. Ltd.		Ref. code in A/c	Pg. No.	Source for Eagle Commotrade Pvt. Ltd.			Ref. code in bank stat.	Pg. No.	Remarks
	Date	Amount			Date	Amount	Fund Received from			
	11.04.2013	3,00,000	1		02.04.2013	35,00,000	Royd Street Kolkata	1A		
	24.04.2013	30,00,000	2		24.04.2013	50,00,000	Apex Energy Pvt. Ltd.	2A		
	03.05.2013	20,00,000	3		03.05.2013	20,00,000	Season Trade Co. Ltd.	3A		
	17.05.2013	20,00,000	4		16.05.2013	40,00,000	Apex Energy Pvt. Ltd.	4A		
	04.06.2013	13,00,000	5		03.06.2013	13,00,000	Link Like Real	5A		
	06.06.2013	15,00,000	6		06.06.2013	15,00,000	Akaar Vincom	6A		
	Total	1,01,00,000				1,73,00,000				
2	From Krishnakali Distributors Pvt. Ltd.		Ref. code in	Pg. No.	Source for Krishnakali Distributors Pvt. Ltd.			Ref. code in bank	Pg. No.	Remarks
	Date	Amount			Date	Amount	Fund Received from			
	03.04.2013	25,00,000	7		03.04.2013	74,00,000	Nancy Real Estate	7A		
	05.04.2013	17,00,000	8		04.04.2013	65,00,000	Nancy Real Estate	8A		
	11.04.2013	41,00,000	9		10.04.2013	41,00,000	Nancy Real Estate	9A		
	03.05.2013	3,00,000	10		23.04.2013	2,19,343	Royd Street Kolkata	10A		
	Total	86,00,000				1,82,19,343				

	1,01,00,000
	86,00,000
Total Application Money in AY 2014-15	1,87,00,000

Apart from that, the Ld. A.R came up with his novel alternative contention and submitted that as the entire amount of share application money of Rs.1.87 crore (supra) that was received by the assessee company during the year under consideration from the aforementioned share applicant companies was immediately on the same date transferred to the real beneficiary company, viz. M/s Rashi Steel

& Power Ltd. by projecting the same as an investment towards share capital/premium with the latter; therefore, the aforementioned amount could not be treated as unexplained cash credit u/s. 68 of the Act in the hands of the assessee company. Elaborating further on his aforesaid contention, the Ld. AR submitted that the amount of Rs.1.87 crore (supra) that the assessee company had paid to M/s. Rashi Steel & Power Ltd. had, thereafter, been assessed as the latter's income from undisclosed sources via an order passed by the ITO, Ward-21(1), New Delhi u/s. 143(3) of the Act dated 29.12.2016. The Ld. AR had drawn our attention to the aforesaid order passed u/s. 143(3), dated 29.12.2016 in the case of M/s. Rashi Steel and Power Ltd. for A.Y.2014-15, Page 15-33 of APB. The Ld. AR, in order to buttress his claim and dispel all doubts as regards his aforesaid claim, had drawn our attention to Page 27 of APB, wherein there was a specific reference of receipt of an amount of Rs.2.59 crore (approx.) by M/s. Rashi Steel and Power Ltd from the assessee company, which formed part of the addition of Rs.35.63 crore (approx.) that was made in the hands of the latter u/s. 68 of the Act.

9. Backed by the aforesaid facts, the Ld. AR submitted that now, when the amount of Rs.1.87 crore (supra) that was received by the assessee company from the share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd., had been held by the department as the unexplained income of M/s. Rashi Steel and Power Ltd., therefore, the addition of the same amount in the hands of the assessee company would result in double taxation, which was not permissible under the law. The Ld. AR, in support of his

aforesaid contention, had relied on the judgment of the **Hon'ble Supreme Court in the case of CIT Vs. Daulat Ram Rawatmull, 1972 CTR 411 (SC)** and order of the **ITAT, Raipur** in the case of **Deputy Commissioner of Income Tax Vs. Singhania Buildcon (P) Ltd., ITA No.133/RPR/2016 dated 23.09.2021**. Also, the Ld. AR had pressed into service the judgment of the **Hon'ble Supreme Court** in the case of the **State of Uttar Pradesh & Anr. Vs. Raza Buland Sugar Co. Ltd. (1979) 118 ITR 50 (SC)**. It was, thus, the claim of the Ld. AR that now when the assessee company had only facilitated routing the money from the aforementioned share subscriber companies, viz., (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. to the real beneficiary, i.e. M/s. Rashi Steel and Power Ltd, and the same had been assessed in the hands of the latter as its undisclosed income; therefore, there was no justification for the A.O. to have held the said amount as an unexplained cash credit u/s. 68 of the Act in the hands of the assessee company.

10. The Ld. AR, in order to buttress his claim that the assessee company had only acted as a facilitator for transferring funds to M/s. Rashi Steel and Power Ltd., Bilaspur, had pressed into service the observations recorded by the A.O, i.e., ITO, Ward-2, Raigarh, while framing the assessment vide order passed u/s. 143(3) of the Act, dated 31.03.2016, in the case of the assessee company for A.Y 2013-14, wherein he had observed that the assessee was a briefcase company, only arranging funds for M/s. Rashi Steel and Power Ltd. through its director, Shri Rakesh Jindal, i.e., a common director in both companies.

11. Per contra, the Ld. Departmental Representative (for short 'DR) relied on the orders of the lower authorities.

12. We have heard the Id. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

13. As observed by us hereinabove, the CIT(Appeals) had approved the treating of the share capital/premium of Rs.1.87 crore (supra) received by the assessee company from the aforementioned share subscriber companies as unexplained cash credit u/s. 68 of the Act, inter alia, for the reason that the assessee company had failed to substantiate the source of the sum that the share applicant companies had received, which in turn was invested with the assessee company as share capital/premium. Admittedly, as per the mandate of Section 68 of the Act, i.e., post-amended vide the Finance Act, 2012 w.e.f. 01.04.2013, where the sum credited in the books of the assessee company consists of share application money, share capital, share premium, or any such amount by whatever name called, an additional onus is cast upon the assessee company, as per which the person being a resident in whose name such credit is recorded in the books of the assessee company is required to offer to the satisfaction of the A.O an explanation about the "nature" and "source" of such sum so credited. For the sake of clarity, Section 68 of the Act (post-amended) is culled out as follows:

“68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year :

Provided that where the assessee is a company (not being a company in which the 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 aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of [section 10](#).”

14. As is discernible from the orders of the lower authorities, no explanation as regards the “nature” and “source” of the investments made by the aforementioned share subscriber companies, viz., (i) M/s. Eagle Commotrade Pvt. Ltd.: Rs.1,01,00,000/-; and (ii) M/s. Krishnakali Distributors Pvt. Ltd.: Rs.86,00,000/- was filed by the assessee company. As regards the explanation with respect to the source of source of the share application money as had been filed before us by the assessee company, we find that to date the assessee had failed to come forth with any explanation as regards the “nature” of the amounts that were received by the share applicant companies, which, thereafter, had sourced their investment of Rs.1.87 crore (approx.) with the assessee company.

15. All that can be gathered from the details filed by the assessee before us, i.e., a “Chart” (Page 34 of APB), is a simpliciter reference of certain amounts that are claimed to have been received by the share applicant companies, viz., (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. from certain other companies, but there is no whisper about the “nature” of the said receipts. We, thus, in terms of our aforesaid observations, are of the considered view that as the assessee had failed to discharge the onus that was cast upon it as per the mandate of post-amended Section 68 of the Act, therefore, no infirmity emerges from the view taken by the lower authorities who had rightly held/sustained the same as unexplained cash credit u/s. 68 of the Act.

16. Adverting to the Ld. AR’s alternative novel claim that as the assessee had merely acted as a facilitator to route the money from the aforementioned share subscriber companies, viz., (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. to the real beneficiary, i.e. M/s. Rashi Steel and Power Ltd., which, thereafter, had been assessed as the latter’s income from undisclosed sources, the same, thus, could not have been assessed as unexplained cash credit u/s.68 of the Act in the hands of the assessee company, the same does not find favor with us.

17. At the threshold, we may herein observe that now, when the aforesaid sum is found to be credited in the books of the assessee company, which had been disclosed by the latter as an amount received by it as share application money from

the aforementioned share subscriber companies, then, the assessee company remains under a statutory obligation to substantiate the “nature” and “source” of the said sum credited as per the mandate of Section 68 of the Act, failing which, the same is to be treated as unexplained cash credit in its hand. Although we are principally in agreement with the Ld. AR that an income cannot be allowed to be doubly taxed, but are afraid that the said contention would by no means assist the case of the assessee company before us. We say so for the reason that it is not the case that M/s. Rashi Steel and Power Ltd. had admitted that the amount of Rs.1.87 crore (supra) received from the assessee company represented its own fund, for which the assessee company had merely acted as a facilitator for routing the same from the aforementioned share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. On the contrary, the Ld. DR had brought to our notice that M/s. Rashi Steel and Power Ltd. (supra) had assailed the addition of Rs.1.87 crore (supra) (included in Rs.35,63,74,944/-) made by the A.O in its case for the year under consideration and, thus, had carried the matter in appeal.

18. We, thus, in terms of our aforesaid observations, are of the considered view that as there is no material available on record that would conclusively prove to the hilt that the assessee company had merely acted as a facilitator for routing the unaccounted money of M/s. Rashi Steel and Power Ltd. to the latter's coffer; therefore, the said claim of the assessee cannot be accepted. We are of the considered view that as the aforesaid contention of the Ld. AR that it had merely

acted as a facilitator for routing the funds from the share subscriber companies, viz. (i) M/s. Eagle Commotrade Pvt. Ltd.; and (ii) M/s. Krishnakali Distributors Pvt. Ltd. to M/s. Rashi Steel and Power Ltd. is devoid and bereft of any merits, thus, the same does not merit acceptance.

19. We, thus, in terms of our aforesaid observations, find no infirmity in the view taken by the CIT(Appeals), who had rightly concluded that the amount of Rs.1.87 crore (supra) received by the assessee company in the garb of share application money was rightly held by the A.O as unexplained cash credit u/s. 68 of the Act, uphold the same. Thus, the **Grounds of appeal Nos. 1 & 2** raised by the assessee are dismissed in terms of our aforesaid observations.

20. In the result, the appeal of the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 29th day of November, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 29th November, 2023

****SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Commissioner of Income Tax (Appeals), Raipur (C.G.)
4. The Pr. CIT-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,

रायपुर / DR, ITAT, Raipur Bench, Raipur.

6. गार्ड फाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.