

IN THE INCOME TAX APPELLATE TRIBUNAL, "B" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
MS PADMAVATHY S, ACCOUNTANT MEMBER

ITA. No. 3500/MUM/2023
(A.Y.2009-10)

BestlinePropertiesPvtLtd. 301, Hemkunj Society, Liberty Garden, Cross Road.No.2, Malad (W), Mumbai- 400064.	Vs.	ITO-12(1)(3), Room No145A, 1 st Floor, Ayakar Bhavan, M.K.Road, Mumbai-400020.
PAN/GIR No. AACCB4394D		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri. Sanjay. N. Kapadia.AR
Revenue by	Shri. Ashish Kumar.Sr.DR

सुनवाई की तारीख/Date of Hearing	30.04.2024
घोषणा की तारीख/Date of Pronouncement	31.05.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre, Delhi, (NFAC)/ CIT(A) against the order u/sec 143(3) r.w.s 147 and U/sec250 of the Act. The assessee has raised the following grounds of appeal:

- Ld. CIT(A) erred in holding that, the Ld. AO has validly reopened the assessment proceedings u/s 148 of the act.*

2. Ld. CIT(A) erred in upholding addition of Rs.77,50,000/- made by Ld. AO u/s 68 of the act of share capital money received by the appellant from various companies.

3. The Ld. CIT(A) erred in sustaining the addition made by the Ld. AO without appreciating distinguishable facts of the appellant from that of the facts of ITAT judgement in case of Leena Power Tech Engineers Pvt Ltd.

4. The Ld. CIT(A) erred in sustaining the addition made by the Ld. AO without appreciating the facts that the Ld. AO has failed

- to provide opportunity for cross examining the persons whose statements were relied upon while framing the assessment

- to point out any error in the documentary related evidences identity, to genuineness and credit worthiness filed by the appellant during the course of assessment proceedings pertaining to the share applicant companies.

5. The appellant craves to add, amend, alter, substitute, and modify any or all the above grounds of appeal, if necessary, on the basis of submissions to be made at the time of personal hearing

2. The Brief facts of the case are that, the assessee company is engaged in the business of construction and development of properties. The assessee has filed the return of income for the A.Y. 2009-10 on 23.09.2009 disclosing a total income of Rs. Nil and the return of income was processed u/sec143(1) of the Act. Subsequently the case was reopened by issuing notice u/sec 148 of the Act on 27.03.2015 and the assessee was provided the copy of reasons for reopening of assessment and the assessee has filed the objections and were disposed off separately. The assessee has filed a letter dated 31.07.2015 to treat the return of income filed U/sec

139(1) of the Act on 23.09.2009 as due compliance to notice u/sec 148 of the Act. Further the Assessing Officer (AO) has issued notice u/sec 143(2) and U/sec 142(1) of the Act along with the questioner. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the details. The AO found that the assessee company in the F.Y.2008-09 has obtained share capital money from the 16 investors parties/companies. Further the AO observed that the reasons for reopening of assessment and was due to the search in the case of Shri Praveen kumar Jain & group concerns, where the group is engaged in the business of providing accommodation entries in the nature of bogus share capital/application money. The DGIT(Inv) found that the assessee is a beneficiary and has obtained the share application money from the four companies belong to the Jain group. The AO has called for the details/information to explain the transactions and produce the sources of funds with supporting evidences and bank statements of the investors.

3. Whereas the AO on perusal of the Audited financial statement found that the assessee during the said financial year has received share capital from 17 companies/investors and out of the said 17 companies, the AO has accepted the sources of shares application money of 9 companies. Further in respect of remaining 8 companies, the AO found that 4 companies transactions

covered on the basis of notice issued u/sec 148 of the Act. And the A.O in addition to 4 companies share application money which is disputed and also identified remaining 4 companies which have made share application for allotment of shares and in aggregate 8 companies credentials are doubted connected to the P.K. Jain Group as under:

<i>S.No</i>	<i>Name of Concern</i>	<i>Amount</i>
1	<i>Casper Enterprises Pvt Ltd</i>	<i>10,00,000</i>
2	<i>Nakshatra business P Ltd</i>	<i>15,00,000</i>
3	<i>Olive Overseas Pvt ltd</i>	<i>5,00,000</i>
4	<i>Vanguard jewels ltd</i>	<i>10,00,000</i>
5	<i>Fast Stone Trading Co. P Ltd</i>	<i>5,00,000</i>
6	<i>Kush Hindustan Entertainment ltd</i>	<i>7,50,000</i>
7	<i>Lexus Infotech Ltd</i>	<i>15,00,000</i>
8	<i>JPK Trading P. Ltd</i>	<i>10,00,000</i>
	<i>Total</i>	<i>Rs. 77,50,000</i>

4. The A.O to examine the genuineness of the transactions has called for the Audited financial statements of the investor companies and issued notice u/sec 133(6) of the Act on the investor companies. Some of the notices were returned un served by the postal authorities and in other cases no reply was received from the investor companies. In the assessee proceedings, in compliance to notices issued u/sec 142(1) of the Act, over a period of time, the assessee has submitted various details and explanations vide letter dated 7-09-2015, 10-02-2016, 19-02-2016, 08-03-2016 & 18-03-2016. The assessee company has submitted the details and explained the increase of

authorized share capital, the capital structure of equity shares issued at Rs10/- each paid up, the business activities, directors details and audited financial statements details But, the A.O was of the view that the assessee has not filed the requisite information and does not satisfy the identity and creditworthiness of the investors / shareholders and genuineness of transactions. The A.O finds that in spite of giving several opportunities to the assessee and the notice issued along with questionnaire were not complied, the A.O has deputed the inspector to the addresses provided by the investors and the report was called for.

5. Whereas the A.O has dealt on the information submitted by the assessee and wants to verify the identity of shareholders. The A.O observed that the creditworthiness and genuineness of the transaction were not proved. The A.O. also observed that in spite of providing ample opportunities the assessee has failed to prove the identity of the shareholders. In the course of the assessment proceedings, the assessee has filed letters referred above with the details of investors with copies of share application forms, balances sheet, bank statement highlighting the entries of the share application money. The A.O was not satisfied with the information submitted by the assessee company as per the books of accounts and observed that neither the shareholders came forward and produced the books of accounts nor any statement to

support their investments in the assessee company was furnished. Further, the report of the inspector also proved that the investors are not available at the addresses provided. The A.O considering the fact of non availability of the investors came to conclusion that the assessee has failed to prove the identity of shareholders. In respect of second ingredient of creditworthiness of the shareholders, the A.O observed that the information submitted by the assessee cannot be treated as the substantial evidence as they are not corroborated by the records or books of accounts of the shareholders.

6. The A.O also received the investigation report from DIT (Inv) -3, Mumbai, statement recorded u/sec131 of the Act in respect of P.K.jain. The A.O was not satisfied with the evidence that the investors have creditworthiness and therefore observed that the assessee has failed to substantiate the creditworthiness of the investor shareholders. Finally in respect of genuineness of transaction the A.O observed that the assessee has failed to substantiate the investor's identity, creditworthiness and the transactions were not explained corroborating with the books of accounts and are not duly supported with the investors accounts. The A.O considering the facts concluded that the share application money collected by the assessee does not satisfy the test of identity, genuineness and creditworthiness and the assessee has failed to substantiate the investments with evidences.

Hence, the A.O treated the investments of 8 companies aggregating to Rs.77.50 lakhs as unexplained cash credits u/sec68 of the Act and assessed the total income of Rs. 77,50,000/- and passed order u/s 143(3) r.w.s 147 of the Act dated 31.03.2016.

7. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). The CIT(A) has considered grounds of appeal, findings of scrutiny assessment. The assessee has filed the submissions on the disputed issue of validity of reassessment proceedings and the share application money referred at Page 7 to 20 Para 4 of the order read as under:

“4. Submission

Submissions made by the Appellant is summarised as under;

Ground 1

The learned assessing officer erred on facts and in law in making the impugned addition of 77,50,000/- being share capital of the appellant company.

Appellant Submission:

The Appellant company has discharged the onus cast upon it in law to establish the identity and credit worthiness of the shareholder who had subscribed to the share capital of the company, and the genuineness of the transactions. The addition made to income u/s 68 of the Act, is thus illegal, without jurisdiction, and requires to be deleted in entirety.

Ground 2

The re-opening is in valid in law and in facts because the notice U/s. 148 is served after 4 years from the end of relevant assessment years and no new material has come on record.

Appellant Submission:

Appellant hereby submit that there is no failure on our part to disclose full and true material facts. Disclosure in balance sheet with the return of income the Appellant has filed Audited Balance Sheet with the Audited figures of Relevant Assessment Year and Preceding Assessment Year. This amounts to true and full disclosure by the Appellant. Reliance is placed on CIT vs. Corporation Bank Ltd. (2002) 254 ITR 791 (SC).

Cases relied:

a) In the case of Yash Raj Films P. Ltd v ACIT and Others reported in 332 ITR 428 the Hon'ble Bombay High Court held as under:

Held, allowing the petition, that admittedly the question regarding allow ability of the sum in question as bad debt was specifically raised in the original assessment proceedings and on receiving explanation from the assessee the claim of the assessee was allowed. In these circumstances it could not be said that there was failure on the part of the assessee to disclose fully and truly all the material facts necessary for the purpose of assessment. Once it was held that there was no failure on the part of the assessee to disclose fully and truly all material facts necessary for the purpose of assessment, the notice issued beyond the period of four years from the end of the relevant assessment year could not be sustained.

b) In the case of Hindustan Lever Ltd vs R.B Wadkar, ACIT and others reported in 268 ITR 332 the Hon'ble Bombay High Court held as under:

Held that the notice was clearly beyond the period of four years. The reasons recorded by the Assessing Officer nowhere stated that there was failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment for that assessment year. Hence, the Assessing Officer had no jurisdiction to reopen the assessment proceedings. The notice was not valid and was liable to be quashed.

Ground 3

The learned assessing officer failed to appreciate that there is no documentary evidence against the appellant company to support such impugned additions.

The Ld. A.O. failed to appreciate that the statements of any person recorded U/s. 131 or otherwise do not trigger any adverse order against the appellant and in such case, the burden of proving what is alleged in the assessment order is on the Ld. A.O.

U/s. 131 or otherwise do not trigger any adverse order against the appellant and in such case, the burden of proving what is alleged in the assessment order is on the Ld. A.O.

Appellant Submission:

The Appellant hereby submits that they have produced all requisite details documents, like; PAN, balance-sheet, confirmation of account to substantiate the identity, creditworthiness and genuineness of lender company. All the transactions were done through banking channel and there is no cash deposit. The statement recorded at the back of the assessee, which were never share with the assessee by the AO and no opportunity of cross-examination were provided, thus such statement cannot be used against the assessee, thus the additions made on the basis of third party information is liable to be deleted.

Ground 4

The learned assessing officer ought to have appreciated that in the assessment U/s. 143(3) read with U/s. 147, the appellant company has fully discharged burden of proof, onus of proof and explained the source of share capital received from the alleged bogus shareholders by establishing the identity, credit worthiness and genuineness of transaction by banking instruments with documentary evidences.

Appellant Submission:

Appellant hereby submit that during the course of Assessment Proceeding vide submission dated 19/02/2016 has submitted following documents:

- a) Memorandum of Association and Article of Association of the alleged bogus Shareholders of the Company.*
- b) Balance Sheet and Profit and Loss A/c of the alleged bogus Shareholders of the Company.*
- c) PAN Card copy of the alleged bogus Shareholders of the Company.*

- d) *Share Application form duly received from the above mentioned allottees.*
-) *Confirmation Letter from the alleged bogus Shareholders of the Company.*
- f) *Our Bank Statement for the relevant period reflecting the Share Capital Subscription received from the alleged bogus Shareholders of the Company.*
- g) *Details and Information of the alleged bogus Shareholders of the Company as available on the website of Ministry of Corporate Affairs.*
- h) *Form No.23 duly filed with the ROC informing special resolution passed for increase in Authorized Capital.*
- i) *Form No.2 duly filed with the ROC showing Shares Allotment done to above referred alleged bogus Shareholders of the Company.*

Appellant hereby submit that above requisitioned documents were properly appreciated by the Ld. A.O. Thus, Appellant has discharged his onus of burden of proof by providing the identity, creditworthiness and genuineness of the transactions by providing copies above documents.

Ground 5

The learned assessing officer has failed to consider various applicable binding decisions.

Appellant Submission:

The Appellant submit that following applicable binding decision are ignored by Ld. A.O. while framing Assessment Order:

- a. *That the addition made to income is incorrect and is against law in view of the decision of The Hon'ble Apex Court in Commissioner of Income Tax vs Lovely Exports (P) Ltd., 216 CTR 195, subsequently followed and applied by The Hon'ble Delhi High Court in commissioner Of Income-Tax vs Stellar Investment Ltd (Delhi), wherein the Hon'ble Courts have held that where the share application money is alleged to have been received from alleged bogus shareholders, whose names are given to the AO, the Revenue should proceed to reopen the assessments of such shareholders in accordance with law.*

b. That the addition made to income is incorrect and is against law in view of the decision of The Full Bench of The Delhi High Court in Commissioner of Income Tax Vs. Sophia Finance Ltd., 205 ITR 98, wherein it is held that where the shareholders exist, no further enquiry need be made, and the amount invested is a capital receipt in the hands of the recipient company.

c. That the addition made to income is incorrect and is against law in view of the decision of The Hon'ble Bombay High Court in CIT Vs. M/s Creative World Telefilms Ltd., wherein it is held that no addition to income can be made where the assessee provides details, names, address, PAN, chq Nos, name of the banks of the shareholders, and the AO did nothing, except issue summons which were returned back with an endorsement 'not traceable', and fails to make proper investigation.

d. That the addition made to income is incorrect and is against law in view of the decision of The Hon'ble Karnataka High Court in Madhuri Investments Pvt. Ltd. Vs. ACIT, wherein it is held that addition to income on the basis that the share applicants did not appear and notices sent to them were returned with remarks "no such person" is incorrect and not sustainable. For Bootlina Preparties Pvt. Lte

e. That the addition made to income is incorrect and is against law in view of the decision of The Hon'ble Rajasthan High Court in Commissioner of Income Tax Vs. AKJ Granites (P) Ltd. 301 ITR 298 (Raj.) referring to the decision in the case of Barkha Synthetics Ltd. Vs. Asst. CIT (2005) 197 CTR (Raj.) 432, wherein it is held that where share applications are received and accompanied with share application money, no presumption can be drawn that the same belong to the assessee, and no amount can be assessed as undisclosed income of the assessee.

f. That the AO has made addition to income u/s. 68 of the Act on mere surmise and conjecture, in haste and without providing any reasonable opportunity to the assessee company to defend its case, vitiating the assessment, rendering it bad in law, liable to be quashed.

That the addition made to income in respect of share capital amount is on mere surmise and conjecture and disbelief, and thus illegal, unwarranted and untenable in

law, liable to be quashed / deleted, as the AO expressed satisfaction with regard to identity, credit worthiness and genuineness of the amount received and sought no further details, information, explanation from the assessee company and did not also make any further investigation from the shareholder.

8. The appellant also relies upon following decision of Supreme Court Commissioner of Income-Tax, ... vs Orissa Corporation (P) Ltd on 19 March 1986

Equivalent citations: 1986 AIR 1849, 1986 SCR (1) 979

It is held that, "when the assessee furnishes names and addresses of the alleged creditors and the GIR Numbers, the burden shifts to the Department to establish the Revenue's case and in order to sustain the addition the Revenue has to pursue the enquiry and to establish the lack of creditworthiness and mere noncompliance of summons issued by the AO under s. 131 by the alleged creditors will not be sufficient to draw an adverse inference against the assessee. In the case of six creditors who appeared before the AO and whose statements were recorded by the AO, they have admitted having advanced loans to the assessee by account payee cheques and in case the AO was not satisfied with the cash amount deposited by those creditors in their bank accounts, the proper course would have been to make assessments in the cases of those creditors by treating the cash deposits in their bank accounts as unexplained investments of those creditors under s. 69."

h. The recent decisions by the honourable Mumbai, ITAT in case of

a) Mumbai ITAT J - Bench Order in the Case of ITO 10(2)(3) vs J.J. Multitrade Pvt Ltd.

ITA No.2158/Mum/2014 A.Y.2007-08

ITA No.2159/Mum/2014 A.Y.2008-09

b) Mumbai ITAT E - Bench Order in the Case of M/s. SDB Estate Pvt Ltd vs ITO - (5)(3)(2)

ITA No.584/Mum/2015 A.Y.2008-09

Wherein it was held that "The assessee had filed evidence to support the receipt of share application money which was supported by copies of share application money, confirmation from shareholder and other documents. To

further support, the assessee has filed copy of its bank account to contend that there are no cash deposits or withdrawals. In view of the above stated legal position and in the light of reliable evidences brought on record by assessee to substantiate identity, genuineness and creditworthiness of shareholders, which have not been controverted by the Revenue, the additions made solely on the basis of general statement of Shri Mukesh Chokshi cannot be held to be justified and the same are accordingly ordered to be deleted. Decided in favour of assessee."

Applying the facts of the abovementioned judgements in our case, we have already submitted the relevant documents necessary to prove the identity, creditworthiness and genuineness of the transactions with the alleged bogus shareholders. There is no lacuna in the transactions with the alleged bogus parties. Thus, the share capital subscribed by the META V NEDAK alleged bogus shareholders during the year is completely verified by your honour and the identity, creditworthiness and genuineness of the transaction with the alleged bogus shareholders has already been proved by us before your honour.

In view of the above facts, the transactions related to share capital subscription by the above alleged bogus shareholders from the Appellant company should not be treated as unexplained cash credit u/s 68 of the Income Tax Act, 1961.

Appellant strongly rely upon order of CIT(A)-4, Mumbai where in similar issued was decided in favour of Appellant in Appeal No. CIT(A)-4/IT- 58/ITO-2(1)(4)/2015-16 in case of M/s. Good Value Stocktrade Pvt. Ltd. pronounced on 20/06/2016 wherein additions made u/s68 was entirely deleted holding the Appellant company has proved the genuineness of transactions, identity of investor and their creditworthiness.

Copy of this order is enclosed herewith.

Ground 6

The learned assessing officer failed to establish that there is any element of bogus and/or of structuring and/or of arrangement.

Appellant Submission:

The Appellant had filed evidence to support the receipt of share application money which was supported by copies of share application money, confirmation from shareholder and other documents. To further support, the Appellant has filed copy of its bank account to contend that there are no cash deposits or withdrawals. TAY DEPAN

In view of the above stated legal position and in the light of reliable evidences brought on record by assessee to substantiate identity, genuineness and creditworthiness of shareholders, which have not been controverted by the Revenue, the additions made solely on the basis of general statement of Shri Mukesh Chokshi cannot be held to be justified.

Ground 7

The learned assessing officer erred in not considering that the Appellant has not furnished any inaccurate particulars of Income and/or has not concealed any income.

Appellant Submission:

Appellant hereby submit that none of the information, explanation and documentary evidences requisitioned and submitted during the course of Assessment Proceeding are rebutted by the Ld. A.O.

Ground 8

The learned assessing officer failed to appreciate that the appellant company substantiated the details with the documentary evidences as extracted from the website of Ministry of corporate affairs, Government of India. In this assessment order, the learned assessing officer could not rebut any of the facts and documentary evidences submitted by the appellant company.

Appellant Submission:

V The Appellant has submitted all these documents. The Appellant also stated that the since the onus of proving cash credit in the books is rebuttable, the assessee has to discharge the initial onus by proving the identity of the creditor by filing the confirmatory letter and other relevant details. It is further stated that by filing the confirmatory letter; copy of ITR; copy of share application form and complete name and address of share applicants the Appellant has established the identity of the share

applicant and the genuineness of transaction that is routed through bank channel, hence, the transaction is established. In support of his contention Appellant relied upon the following case laws and stated that the issue in dispute is squarely covered by these decisions and requests to delete the addition in dispute. It is further stated that AO has nowhere been able to point out any defect or error in the said evidences

- Jurisdictional High Court decision in the case of Pr. CIT vs. Softline Creations Pvt. Ltd. (2016) 387 ITR 636 (Del.)

Jurisdictional High Court decision in the case of Pr. CIT vs. Green Valley Plywood Limited (ITA No. 358/2016 dated 1.6.2016)

- CIT vs. Fair Finvest Ltd. (2013) 357 ITR 146 (Del.)

- CIT vs. Goel Sons Golden Estate P Ltd. ITA No. 212/2012 dated 11.4.2012.

- CIT vs. Gangeshwari Metal (P) Ltd. (2014) 361 ITR 10 (Delhi) (HC)

- Pr. CIT vs. Rakam Money Matters P Ltd. (Delhi HC)

- CIT vs. Lovely Exports Pvt. Ltd. (2009) 319 ITR 5 (SC).

Ground 9

The assessment is concluded without granting the opportunity of cross examination of the persons whose statements are relied upon by the learned assessing officer.

Appellant Submission:

The Ld. A.O. has ignored the directions of Delhi High Court in W. P. No. 1357/2016 in case of Sabh Infrastructure Ltd. Vs. Asst. Com. of Income Tax), and the direction of Bombay High Court W. P. No. 176 of 2018 of in case of Mayurpankh Properties Pvt. Ltd. Vs. Income Tax Officer- 7(2) 1 & Another). It is held that,

"(iii) Where the reasons make a reference to another document whether as a letter or report, such document and/or relevant portions of such report should be enclosed along with the reasons."

The LD.A.O. has not enclosed such document and/or relevant portions of such report with the copy of reason recorded granted to us.

The cross examination is not granted to the appellant and this is clear violation of principle of natural justice.

Ground 10

Section 68 of the Income Tax Act, 1961 does not apply to the share capital subscription in the relevant assessment year.

Appellant Submission:

*It is submitted that the proviso to s. 68 of the Act has been introduced by the Finance Act, 2012 w.e.f. 1st April, 2013. Thus, it would be effective only from the asst. yr. 2013-14 onwards and not for the subject assessment year. The three essential tests while confirming the pre-proviso s. 68 of the Act viz., the genuineness of the transaction, identity and the capacity of the investor have all been proved by the Appellant. The apex Court in *Lovely Exports (P) Ltd. (supra)* in the context to the pre-amended s. 68 of the Act has held that where the Revenue urges that the amount of share application money has been received from bogus shareholders then it is for the ITO to proceed By reopening the assessment of such shareholders and assessing them to tax in accordance with law. It does not entitle the Revenue to add the same to the Appellant's income as unexplained cash credit.*

*The appellant relies on jurisdictional Bombay High Court decision in case of *Commissioner of Income Tax-1 Vs. Gagandeep Infrastructure Pvt. Ltd. (ITA- No.1613 of 2014)* (copy enclosed*

8. Whereas, the CIT(A) was not satisfied with the submissions and material information and has upheld the validity of assessment and affirmed the action of A.O. in sustaining the addition of share application money and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal with the Honble Tribunal.

9. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the addition u/sec 68 of the Act irrespective of the fact that the assessee has filed the details in respect of the share capital and submitted the confirmation of the share capital along with other financial details. Further, the Ld. AR submitted that the assessee maintains the regular books of accounts and has obtained share capital from investor companies who have having net worth. The assessee has furnished before the CIT(A), the confirmation of share capital investments, bank statement of both the assessee and loan creditors, audited financial statements to substantiate the genuineness, identity and creditworthiness of the share capital. The Ld.AR supported the submissions on the disputed issues with the evidences in the factual paper book and judicial decisions and prayed for allowing the appeal. Per Contra, the Ld. DR supported the order of the CIT(A) and submitted that the AO has made enquiry and issued notice u/s 133(6) of the Act and there was no proper response from the parties. Further there is no cooperation by the assessee in submitting the details of the investor companies.

10. We heard the rival contentions and perused the material on record and the judicial decisions. The sole disputed issue arises with respect to 8 investor companies who made investment in assessee company, where the assessee has received share application money at par Rs.

10/- paid up each share. The assessee has issued shares at par to 17 entities/companies and the AO has accepted the share capital application money in respect of 9 companies and remaining 08 companies which belongs to Praveen Kumar Jain Group were search u/sec132 of the Act was conducted on the group and the statements were recorded by the investigation wing that they are engaged in providing accommodation entries and no business activity is conducted. The A.O based on the statements recorded in the course of the search under 132(4) of the Act of the group has made addition of share capital in the hands of the assessee and over looked the various documentary evidences filed by the assessee in support of investments including the confirmation letters, PAN, income tax acknowledgement, directors report, audit report, balance sheet, bank statement, companies existence, certificate of incorporation and memorandum of Association etc. In spite of assessee filing all the details, prima-facie the A.O has not conducted any investigation or enquiry in respect of the information submitted by the assessee and relied only on the information of a third party whose statement was not cross examined or tested. We find that the CIT(A) has also overlooked the facts and the submissions of the assessee. Whereas, out of the 17 investor companies, the A.O has doubted only 08 entities belong to Praveen Kumar Jain group and has accepted the investments made by other 9 investor companies. The assessee prima-facie has complied with the ingredients

required u/s 68 of the Act of genuineness, identity and creditworthiness and the Ld.AR relied on the Catena of judicial decisions of Honble Supreme court, Honble High Court and Honble Tribunal referred in the CIT(A) submissions.

11. The Ld. AR contentions are that the AO has made addition only on the investment companies connecting to Shri Praveen Kumar Jain and its Group concerns. The A.O has only relied on the statement of Praveen Kumar and such statement was never confronted to the assessee nor opportunity of cross-examination was granted to the assessee. The Ld. AR emphasized that the assessee has discharged its obligation by submitting the financial statements of the investors, where the payments are made through the banking channels and genuineness of the transactions, identity and credit worthiness of the share holders have been proved in the assessment proceedings. The Ld.AR substantiated the facts and demonstrated the copy of canara bank statement for F,Y 2008-09 reflecting the credits of share application money received from 17 companies (which include disputed share application money received from 8 companies alleged as accommodation entries by the Assessing officer). The A.O. has accepted the remaining 9 companies share application money as undisputed. Whereas the alleged 8 companies are related to Mr P.K.Jain & Group concerns, and basis for reassessment proceedings in the assessee case. The assessee company in the F.Y.2008-09, in

particular allotted 14,75,000 equity shares of Rs.10/- paid up to these 16 companies as per the return of allotment in the Form No.2(pursuant to section 75(1) of the companies Act 1956) filed on line with the Registrar of Companies placed at page No. 3 of paper book. Further the Ld. AR has highlighted on the audited balance sheet of the 8 share holder companies and emphasizing on the Net Worth of these investor companies being very higher in comparison to share application money received in the F.Y.2008-09. The Ld.AR demonstrated (i) copy of PAN card (ii)copy of Share Application (iii) copy of Audited Financial Statements (iv) copy of Memorandum of Association & Articles of Association and (v) copy of Master Data from MCA(Ministry Of Corporate Affairs) with Directors /Signatory details and Company status of all the 8 companies i.e (i)M/s Casper Enterprises Pvt Ltd (Ostwal Trading India Pvt limited)(ii) M/s Nakshatra Business Pvt Ltd (Hema Trading Company Pvt Ltd) 3. M/s Olive overseas Pvt Ltd (Realgold Trading Co.Pvt Ltd) 4. Vanguard jewels Ltd (5) M/s Fast Stone Trading Co. Pvt Ltd (Atharv Business PvtLtd)(6).M/s Kush Hindustan Entertainment Ltd. (7)Lexus Infotech Ltd (Triangular Infocom Pvt Ltd) And (8) M/s JPK Trading Pvt Ltd(Duke Business Pvt Ltd) placed at Page 13 to page 679 of the voluminous paper book. The contentions of the Ld. AR that the substantial details and information are filed pertaining to these companies to satisfy the ingredients

of (i) Identity (ii) Creditworthiness and (iii) Genuineness required U/sec68 of the Act.

12. Further the assessee has cooperated and complied with the notices issued U/sec142(1) of the Act in the course of assessment proceedings and submitted various details and explanations vide letter dated 7-09-2015, 10-02-2016, 19-02-2016, 08-03-2016 & 18-03-2016 with the Assessing Officer in the reassessment proceedings which includes the address, pan and jurisdiction of the investor company, income tax return, application filed for allotment for equity share, annual report, directors report, profit and loss account, balance sheet, bank statement and copy of return of allotment. Whereas, the A.O has disbelieved the fact of identity, credit worthiness and genuineness of the transaction, where the payments are made through the banking channels. Further to substantiate the identity of the investors, the assessee has filed the details of the investor's master data i.e company identification numbers, incorporation dates with Registrar of Companies. Secondly on the genuineness of the transaction, the assessee has submitted the share application and the bank statements and finally the credit worthiness substantiated with Net Worth based on the Audited financial statements with the reserves & Surplus. The Ld. AR also emphasized on the facts, evidences and details filed before the Assessing officer placed at page 7 to 42 of the paper book. Further the Ld. AR submitted

that these shareholder/investor companies have made similar share capital investments in the other companies, were the relief was granted in the identical cases by Hon'ble Tribunal. The Ld.AR relied on the detailed submissions on facts and supported by the judicial decisions submitted in the appellate proceedings before the CIT(A) placed at Page 73 to 121 of the factual paper book. Further the Ld. AR emphasized that the CIT(A) has relied on the decision of the Coordinate Bench of the Honble Tribunal in the case of DCIT Vs. Leena Power Tech Engineers (P.) Ltd. (130 taxmann.com 341) (ITAT Mumbai) and has dismissed the assessee's appeal though the facts of the present case are distinguishable on various factors. The Ld.AR highlighted distinction on facts and merits of the assesses case with the above decision relied by the CIT(A) placed at page 1 to 3 of the paper book-II as under:

<i>Sr. No.</i>	<i>Issues & Particulars</i>	<i>In the case of Appellant</i>	<i>In the case of Dcit Vs Leena Power Tech Engineers Pvt Ltd</i>
1	<i>Type of Business</i>	<i>Company is engaged in the business of real estate development and construction.</i>	<i>Company is an investment company.</i>
2	<i>Nature of credits in the books</i>	<i>Amount received was share capital subscription at par and having no element of premium from 17 different companies out of which 8 companies</i>	<i>Amount received was towards application money with huge premium from various companies. (Para 12 and 22)</i>

		<i>are considered by the Ld. AO for additions.</i>	
3	<i>Identity, Genuineness and creditworthiness</i>	<i>The appellant filed several documents to proof identity, genuineness and creditworthiness such as PAN, bank statements, audited balancesheet, confirmation letters and affidavit etc as enlisted from page no. 7 to page no. 20 of CIT(A)'s order.</i>	<i>In absence of documentary evidences the criteria of identity, genuineness and creditworthiness could not be proved by the said assessee.</i>
4	<i>Documents party of</i>	<i>The appellant filed all requisite details like PAN, Balance-sheet, and confirmation of accounts of investor companies in order to substantiate identity, the creditworthiness and genuineness of investor companies in which no errors, defects or incompleteness was pointed out by the Ld. AO.</i>	<i>No such documents were made available by the assessee.</i>
5	<i>Covered by other ITAT orders</i>	<i>In the case following cases, the Hon'ble ITAT have accepted identity creditworthiness genuineness and of investor companies: *DCIT Vs M/s. D.N.H. Spinners Pvt.</i>	<i>No such contentions cases and submissions were made before the Hon'ble bench.</i>

		<p><i>Ltd.(ITA No.6315 & 6316/Mum/201 7)</i></p> <p><i>* Pride Purple Builders Pvt. Ltd. Vs DCIT (ITA No.283 & 284/PUN/2016)</i></p> <p><i>* ACIT Vs Flagship HousingDevelopment Pvt. Ltd.(Formally known Absolute Building Pvt. Ltd.) Co. as</i></p> <p><i>* Sahakar Global Ltd. Vs DCIT (ITA No. 5125 to 5127/Mum/201 7)</i></p>	
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13. We find that the investor companies cases were considered by the coordinate Bench of this Honble Tribunal, where the share application money has been accepted and the identity, creditworthiness and genuineness of the four companies are also verified and were considered in decision making. The Ld. AR has referred to the legal paper book on the decisions.

14. The Ld. AR has substantiated that the net worth of these companies are very high in comparison to investment of shares in F.Y 2008-09. The Ld. AR emphasized on the factual paper book evidences and status of the company from the MCA website. Further the LD. AR has submitted in the similar cases the Hon'ble Tribunal has accepted the facts of these investor companies of the assessee and has evaluated with regard

to identity, genuineness and creditworthiness as per the chart placed at Page 58 & 59 of the legal paper book as Under:

A.Y. 2009-10			
Appeal No. ITA/3500/MUM/2023			
LIST OF COVERED CASES			
SR. NO.	NAME OF SHAREHOLDERS	INVESTMENT (IN RS.)	COVERED BY
1	Casper Enterprises P. Ltd.	10,00,000	<ul style="list-style-type: none"> • DCIT Vs M/s. D.N.H. Spinners Pvt. Ltd.(ITA No.6315 & 6316/Mum/2017). • Pride Purple Builders Pvt. Ltd. Vs DCIT (ITA No.283 & 284/PUN/2016)
2	Nakshatra Business P. Ltd.	15,00,000	<ul style="list-style-type: none"> • DCIT Vs M/s. D.N.H. Spinners Pvt. Ltd.(ITA No.6315 & 6316/Mum/2017). • Pride Purple Builders Pvt. Ltd. Vs DCIT (ITA No.283 & 284/PUN/2016).
3	Olive Overseas P. Ltd. (Realgold Trdg. Co. P. Ltd)	5,00,000	<ul style="list-style-type: none"> • DCIT Vs M/s. D.N.H. Spinners Pvt. Ltd.(ITA No.6315 & 6316/Mum/2017). • ACIT Vs Flagship Housing Development Pvt. Ltd.(Formally known as Absolute Building Co. Pvt. Ltd.).
4	Vanguard Jewels Ltd.	10,00,000	<ul style="list-style-type: none"> • ACIT Vs Flagship Housing Development Pvt. Ltd.(Formally known as Absolute Building Co. Pvt. Ltd.). • Sahakar Global Ltd. Vs DCIT (ITA No. 5125 to 5127/Mum/2017).
5	Fast Stone Trading Co. Pvt. Ltd. (Atharv Business P. Ltd.)	5,00,000	<ul style="list-style-type: none"> • DCIT Vs M/s. D.N.H. Spinners Pvt. Ltd.(ITA No.6315 & 6316/Mum/2017).
6	Kush Hindustan Entertainment Ltd.	7,50,000	<ul style="list-style-type: none"> • ACIT Vs Flagship Housing Development Pvt. Ltd.(Formally known as Absolute Building Co. Pvt. Ltd.).
7	Lexus Infotech Limited	15,00,000	<ul style="list-style-type: none"> • ACIT Vs Flagship Housing

	(Trangular Inforcom P. Ltd.)		Development Pvt. Ltd.(Formally known as Absolute Building Co. Pvt. Ltd.). <ul style="list-style-type: none"> • ITO Vs M/s Viswa Vyapar Trading Pvt. Ltd (ITA NO.2888/MUM/2017).
8	JPK Trading P. Ltd. (Duke Business P. Ltd.)	10,00,000	<ul style="list-style-type: none"> • DCIT Vs M/s. D.N.H. Spinners Pvt. Ltd.(ITA No.6315 & 6316/Mum/2017). • Pride Purple Builders Pvt. Ltd. Vs DCIT (ITA No.283 & 284/PUN/2016). • ITO Vs M/s Viswa Vyapar Trading Pvt. Ltd (ITA NO.2888/MUM/2017).
	Total	77,50,000/-	

15. Further the Ld. AR has demonstrated the net worth of these investor companies based on the Audited Balance sheet for the Financial years (F.Y) 2006-07, 2007-08 &

2008-09 placed at Page 12 & 12A of the paper book

Balance Sheet extracts of shareholders companies							
	Casper Enterprises Pvt.Ltd.(Ostwal Trading India Pvt. Ltd.)			Nakshatra Business Pvt.Ltd.(Hema Trading Co.Pvt.Ltd.)			
Particulars	31/03/2009	31/03/2008	31/03/2007	31/03/2009	31/03/2008	31/03/2007	
Share Capital	4,611,500	4,611,500	4,611,500	20,000,000	20,000,000	20,000,000	
Reserves & surplus	11,517,600	12,950,517	11,999,702	5,726,942	4,590,644	3,326,373	
Networth	16,129,100	17,562,017	16,611,202	25,726,942	24,590,644	23,326,373	
Revenue	1,007,497,034	1,171,767,138	457,750,847	279,123,120	90,530,608	1,385,686	
PBT	1,552,854	2,439,714	932,480	1,739,588	1,782,265	874,231	
Share Application	1,000,000			1,500,000			
							2,500,000
	Olive Overseas Pvt.Ltd.(Realgold Trading Co.Pvt.Ltd.)			Vanguard Jewels Ltd.			
Particulars	31/03/2009	31/03/2008	31/03/2007	31/03/2009	31/03/2008	31/03/2007	
Share Capital	19,637,000	19,637,000	19,637,000	40,000,000	40,000,000	40,000,000	
Reserves & surplus	5,757,345	4,338,663	2,985,502	3,573,481	8,762,417	8,717,269	
Networth	25,394,345	23,975,663	22,622,502	43,573,481	48,762,417	48,717,269	
Revenue	53,438,522	32,519,032	1,247,900	1,757,995,535	391,638,989	1,097,309	
PBT	1,691,781	2,045,549	901,383	5,172,490	163,669	555,237	
Share Application	500,000			1,000,000			
							1,500,000
	Fast Stone Trading Co.Pvt.Ltd.(Atharv Business Pvt.Ltd.)			Kush Hindustan Entertainment Ltd.			
Particulars	31/03/2009	31/03/2008	31/03/2007	31/03/2009	31/03/2008	31/03/2007	
Share Capital	4,160,000	4,160,000	4,160,000	30,000,000	30,000,000	30,000,000	
Reserves & surplus	9,303,322	10,766,660	10,297,723	6,776,378	6,227,997	5,830,148	
Networth	13,463,322	14,926,660	14,457,723	36,776,378	36,227,997	35,830,148	
Revenue	614,895,766	886,511,259	405,043,833	2,045,728	1,568,883	1,516,009	
PBT	1,545,769	768,052	2,277,23	938,133	650,704	941,041	
Share Application	500,000			750,000			
							1,250,000
	Lexus Infotech Ltd.(Triangular Infocom Pvt. Ltd.)			JPK Trading Pvt. Ltd. (Duke Business Pvt.Ltd.)			
Particulars	31/03/2009	31/03/2008	31/03/2007	31/03/2009	31/03/2008	31/03/2007	
Share Capital	29,822,000	24,822,000	24,822,000	45,920,000	4,592,000	4,592,000	
Reserves & surplus	52,460,114	6,259,682	5,563,264	13,163,319	11,961,610	11,557,979	
Networth	82,282,114	31,081,682	30,385,264	17,755,319	16,553,610	16,149,979	
Revenue	6,133,314	4,682,529	2,773,785	777,113,769	1,318,786,782	479,892,289	
PBT	1,598,513	1,186,655	974,381	1,742,473	2,125,372	369,844	
Share Application	1,500,000			1,000,000			
							2,500,000
							7,750,000

Bestline Properties Pvt.Ltd.							
Statement of Capital, Reserve and Surplus of the allottee companies for year ended 31/03/2008							
A.Y.2009-10							
Sr. No.	Name of the Company	PAN	CIN	Paid up Capital	Reserve and Surplus	Shareholders Total Fund	Share Application money recd
1	Casper Enterprises Pvt. Ltd. (Ostwal Trading)	AAACO7955M	U51900MH2005PTC158499	46,11,500	1,29,50,517	1,75,62,017	10,00,000
2	Nakshatra Business Pvt. Ltd. (Hema Trading)	AABCH4279G	U51909MH2004PTC145254	2,00,00,000	45,90,644	2,45,90,644	15,00,000
3	Olive Overseas Pvt. Ltd. (Realgold Trading Co. Pvt. Ltd.)	AACCR4512K	U51909MH2003PTC139464	1,96,37,000	43,38,663	2,39,75,663	5,00,000
4	Vanguard Jewels Ltd.	AAACV3480A	U51398MH1997PLC107666	4,00,00,000	87,62,417	4,87,62,417	10,00,000
5	Fast Stone Trading Co. Pvt. Ltd. (Atharv Business Pvt. Ltd.)	AAACF9430A	U51909MH2005PTC158553	41,60,000	1,07,66,660	1,49,26,660	5,00,000
6	Kush Hindustan Entertainment Ltd.	AACCK3597M	U92111MH2003PLC143690	3,00,00,000	62,27,997	3,62,27,997	7,50,000
7	Lexus Infotech Ltd. (Triangular Infocom Pvt.Ltd.)	AAACL4646G	U74999MH1998PLC116845	2,48,22,000	62,59,682	3,10,81,682	15,00,000
8	JPK Trading Pvt. Ltd. (Duke Business Pvt. Ltd.)	AABCJ6245N	U00500MH2005PTC158500	45,92,000	1,19,61,610	1,65,53,610	10,00,000

16. The Ld. AR submitted that the assessee has substantiated with the information before the AO and further the identity, genuineness and creditworthiness is substantiated with financial statements and reserves and surplus. Further the assessee has utilised the share application money received wholly and exclusively for the purpose of business in the subsequent assessment years and the books of account are Audited under the provisions of companies Act and filling the return of income under the provisions of Income Tax Act. The CIT(A) has not considered the factual aspects and information submitted by the assessee satisfying the three ingredients of identity, creditworthiness and genuineness of the investor u/s 68 of the Act. We find the Jurisdictional Hon'ble High Court in the case of Pr. CIT vs. Ami Industries India Pvt Ltd., 2020, 116 taxmann.com 34 (Mumbai) dated 29.01.2020, where the similar facts of the present case were dealt by the Hon'ble Jurisdictional High Court at Para 14 to 24 which reads as under:

"14. Section 68 of the Act has received considerable judicial attention through various pronouncements of the Courts. It is now well settled that under Section 68 of the Act, the assessee is required to prove identity of the creditor; genuineness of the transaction; and credit worthiness of the creditor. In fact, in NRA Iron & Steel (P) Ltd (supra), Supreme Court surveyed the relevant judgments and culled out the following principles:-

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

The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and credit-worthiness

of the investors who should have the financial capacity to make the investment in question, to the satisfaction of the AO, so as to discharge the primary onus.

ii. The Assessing Officer is duty bound to investigate the credit-worthiness of the creditor / subscriber, verify the identity of the subscribers, and ascertain whether the transaction is genuine, or these are bogus entries of name-lenders.

iii. If the inquiries and investigations reveal that the identity of the creditors to be dubious or doubtful, or lack credit-worthiness, then the genuineness of the transaction would not be established.

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

15. It is also a settled proposition that assessee is not required to prove source of source. In fact, this position has been clarified by us in the recent decision in Gaurav Triyugi Singh Vs. Income Tax Officer-24(3)(1)2

16. Having noted the above, we may now advert to the orders passed by the authorities below.

17. In so far order passed by the Assessing Officer is concerned, he came to the conclusion that the three companies who provided share application money to the assessee were mere entities on paper without proper addresses. The three companies had no funds of their own and that the companies had not responded to the letters written to them which could have established their credit worthiness. In that view of the matter, Assessing Officer took the view that funds aggregating Rs. 34 Crores introduced in the return of income in the garb of share application money was money from unexplained source and added the same to the income of the assessee as unexplained cash credit under Section 68 of the Act.

18. In the first appellate proceedings, it was held that assessee had produced sufficient evidence in support of proof of identity of the creditors and confirmation of transactions by many documents, such as, share application form etc. First appellate authority also noted that there was no requirement under Section 68 of the Act to explain source of source. It was not necessary that share application money should be invested out of taxable income only. It may be brought out of borrowed funds. It was further held that nonresponding to notice would not ipso facto mean that the creditors had no credit worthiness. In such circumstances, the first appellate authority held that where all material evidence in support of explanation of credits

in terms of identity, genuineness of the transaction and creditworthiness of the creditors were available, without any infirmity in such evidence and the explanation required under Section 68 of the Act having been discharged, Assessing Officer was not justified in making the additions. Therefore, the additions were deleted.

19. In appeal, Tribunal noted that before the Assessing Officer, assessee had submitted the following documents of the three creditors:-

- a) PAN number of the companies;*
- b) Copies of Income Tax return filed by these three companies for assessment year 2010-11;*
- c) Confirmation Letter in respect of share application money paid by them; and*
- d) Copy of Bank Statement through which cheques were issued.*

20. Tribunal noted that Assessing Officer had referred the matter to the investigation wing of the department at Kolkata for making inquiries into the three creditors from whom share application money was received. Though report from the investigation wing was received, Tribunal noted that the same was not considered by the Assessing Officer despite mentioning of the same in the assessment order, besides not providing a copy of the same to the assessee. In the report by the investigation wing, it was mentioned that the companies were in existence and had filed income tax returns for the previous year under consideration but the Assessing Officer recorded that these creditors had very meager income as disclosed in their returns of income and therefore, doubted credit worthiness of the three creditors. Finally, Tribunal held as under:-

“5.7 As per the provisions of Section 68 of the Act, for any cash credit appearing in the books of assessee, the assessee is required to prove the following-

- (a) Identity of the creditor*
- (b) Genuineness of the transaction*
- (c) Credit-worthiness of the party*

(i) In this case, the assessee has already proved the identity of the share applicant by furnishing their PAN, copy of IT return filed for asst. year 2010-11.

(ii) Regarding the genuineness of the transaction, assessee has already filed the copy of the bank account of these three share applicants from which the share application money was paid and the copy of account of the assessee in which the said amount was deposited, which was received by RTGS.

(iii) Regarding credit-worthiness of the party, it has been proved from the bank account of these three companies that they had the funds to make payment for share application money and copy of resolution passed in the meeting of their Board of Directors.

(iv) Regarding source of the source, Assessing Officer has already made enquiries through the DDI (Investigation), Kolkata and collected all the materials required which proved the source of the source, though as per settled legal position on this issue, assessee need not to prove the source of the source.

(v) Assessing Officer has not brought any cogent material or evidence on record to indicate that the shareholders were benamidars or fictitious persons or that any part of the share capital represent company's own income from undisclosed sources.

Accordingly, no addition can be made u/s.68 of the Act. In view of above reasoned factual finding of CIT(A) needs no interference from our side. We uphold the same.”

21. From the above, it is seen that identity of the creditors were not in doubt. Assessee had furnished PAN, copies of the income tax returns of the creditors as well as copy of bank accounts of the three creditors in which the share application money was deposited in order to prove genuineness of the transactions. In so far credit worthiness of the creditors were concerned, Tribunal recorded that bank accounts of the creditors showed that the creditors had funds to make payments for share application money and in this regard, resolutions were also passed by the Board of Directors of the three creditors. Though, assessee was not required to prove source of the source, nonetheless, Tribunal took the view that Assessing Officer had made inquiries through the investigation wing of the department at Kolkata and collected all the materials which proved source of the source.

22. In NRA Iron & Steel (P) Ltd (supra), the Assessing Officer had made independent and detailed inquiry including survey of the investor companies. The field report revealed that the shareholders were either non-existent or lacked credit-worthiness. It is in these circumstances, Supreme Court held that the onus to establish identity of the investor companies was not discharged by the

assessee. The aforesaid decision is, therefore, clearly distinguishable on facts of the present case.

23. Therefore, on a thorough consideration of the matter, we are of the view that the first appellate authority had returned a clear finding of fact that assessee had discharged its onus of proving identity of the creditors, genuineness of the transactions and credit-worthiness of the creditors which finding of fact stood affirmed by the Tribunal. There is, thus, concurrent findings of fact by the two lower appellate authorities. Appellant has not been able to show any perversity in the aforesaid findings of fact by the authorities below.

22. Under these circumstances, we find no error or infirmity in the view taken by the Tribunal. No question of law, much less any substantial question of law, arises from the order of the Tribunal. Consequently, the appeal is dismissed. However, there shall be no order as to cost.

17. Whereas the assessee has substantiated its stand by submitting the details before the AO and CIT(A) and discharges the burden. Whereas, the A.O relied only on the statement of the group company key person and has not conducted any independent enquiry and made addition. It was also submitted that the statement relied by the AO on the key person which was retracted subsequently and was considered in the similar decisions of Honble Tribunal referred in the above paragraphs. Further, the assessee has cooperated in submitting the information before the assessment proceedings, whereas the A.O has ignored the information, evidences and audited financial statements and unilaterally made addition u/sec 68 of the Act. We considered the factual aspects and also the information that the transactions cannot be treated as unexplained cash credits as the assessee has obtained the share capital money through

banking channels in the current financial year and has substantiated the submissions with voluminous information which is not disputed. We considering the facts, circumstances and the ratio of judicial decisions referred in the submissions set-aside the order of the CIT(A) and direct the Assessing officer to delete the addition of share capital and allow these ground of appeal in favour of the assessee.

18. Since we have decided on the merits of the case, the grounds of appeal with respect to validity of reassessment proceedings raised by the assessee becomes academic and is left open.

19. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 31.05.2024.

Sd/-
(**PADMAVATHY S**)
ACCOUNTANT MEMBER

Sd/-
(**PAVAN KUMAR GADALE**)
JUDICIAL MEMBER

Mumbai, Dated: 31/05/2024

KRK

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,
Mumbai