

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER****ITA No.1393/KOL/2018
Assessment Year: 2012-13**

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| Winsher Vinimay Pvt. Ltd. 6, Raghunandan Lane, Kolkata-700007. (PAN: AAACW8336N) | Vs. | Income Tax Officer, Ward-9(2), Kolkata. |
| (Appellant)(Respondent) | | |

Present for:

Appellant by : N o n e

Respondent by : Shri Bibekananda Madhu, JCIT, Sr. DR

Date of Hearing : 08.05.2024

Date of Pronouncement : 06.08.2024

ORDER**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. Commissioner of Income Tax (Appeals)-3, Kolkata (hereinafter referred to as "the Ld. CIT(A)" passed u/s 250 of the Income tax Act, 1961 (hereinafter referred to as the "Act") vide Appeal No. 1597/CIT(A)-3/Ward-9(2)/15-16/Kol dated 17.05.2018.

2. None appeared on behalf of the assessee at the time of hearing before us neither any application for adjournment has been filed on behalf of the assessee at the time of hearing. On more than six occasions and as per the requests of the assessee, adjournments were granted. On the last date of hearing i.e. on 27.02.2024, no one attended on behalf of the assessee at the time of hearing. Sufficient opportunity was afforded to the assessee but the assessee did not avail the same. However, it is observed that written submissions and paper book have been filed and vide letter dated 16/04/2024, the assessee has requested to treat the paper book already

submitted before the Tribunal on 29/01/2024 as the representation/appearance before the Tribunal and has also requested the Tribunal to rely on the written submissions. Ld. Sr. DR has also filed the written submissions. Therefore, after hearing the Ld. DR and considering the written submissions of the assessee as well as the Ld. Sr. DR, the appeal is being decided.

3. The grounds of appeal raised by the assessee read as under :

“1. For that the Ld. CIT(A)-3, Kolkata has erred in law as well as on facts of the case by not paying heed to the assessee’s grounds of appeal raised before his Honour and dismissing the grounds of appeal filed by the assessee against the addition of Rs.4,91,00,000/- u/s 68 of the I. T. Act, 1961 on the grounds which are not correct.

2. For that the observations and contentions of the Ld. CIT(A)-3/Kolkata while passing the order u/s 250 of the I. T. Act, 1961 regarding arbitrary disallowances and additions under different heads on the grounds which are not correct.

3. For that the appellant company craves leave to adduce, modify and or alter the grounds at or before hearing.”

4. Ground no. 3 is general in nature and does not require any separate adjudication.

5. The sole issue involved in ground nos. 1 and 2 of this appeal is regarding the confirmation of addition made by the AO on account of share capital along with share premium received during the previous year at Rs.4,91,00,000/-.

6. Briefly stated the facts of the case are that the assessee company e-filed its return of income for the impugned assessment year on 17.09.2012 declaring total income of Rs.3,518/-. The case was selected for scrutiny through CASS on the reason of large share premium received. Notices u/s 143(2) and 142(1) were issued but the assessee did not appear. Submissions in the form of hard copy of return, copy of audited accounts, acknowledgement of return etc. were filed. The Assessing Officer issued Summons u/s 131 of the Act to the directors of the assessee company for personal attendance but no compliance was made. Therefore, the AO passed the order u/s 143(3)

making the addition of Rs.4,91,00,000/- u/s 68 of the Act, which includes Rs.4,91,000/- of share capital money and Rs.4,86,09,000/- as share premium. The Assessing Officer was of the view that whenever a sum is credited in the books of the assessee, the onus lies on the assessee to prove the three ingredients of the identity of the creditor, the creditworthiness and genuineness of the transaction. The Assessing Officer relied upon the decision of the jurisdictional High Court in the case of CIT Vs. Precision Finance Pvt. Ltd. 208 ITR 463 (Calcutta), wherein it was observed that it was for the assessee to prove the identity of creditor, their creditworthiness and the genuineness of the transaction. If the identity of the creditors had not been established, the question of establishment of genuineness of the transaction or the creditworthiness of the creditors did not arise. It is not for the ITO to find out by making investigation from the bank accounts unless the assessee proved the identity of the creditors and their creditworthiness. As to how the onus can be discharged, the same would depend on the facts and circumstances of each case. It is expected of both the sides, the assessee and the assessing authority, to adopt a reasonable approach. This view was taken in the case of CIT Vs. M/s Nipun Builders & Developers Pvt. Ltd. [2013] 30 Taxmann.com 292 (Delhi). The assessing officer relied upon the following judicial pronouncements for the applicability of section 68 and for the inference that the receipts are of assessable nature:

- i. Govindarajulu Mudaliar Vs. CIT [1958] 34 ITR 807
- ii. CIT Vs. Davi Prasad Vishwanath Prasad [1969] 72 ITR 194 (SC)
- iii. Commissioner of Income Tax Vs. Independent Media (P.) Ltd. [2012] 25 taxmann.com 276 (Delhi).

Accordingly, in the light of the facts of the case and the exposition of the legal position with regard to the identity and creditworthiness of the subscriber companies and the genuineness of the transactions, the assessing officer was of the opinion that the credit of Rs. 4,91,00,000/- should be considered as

income of the assessee, which included share premium and the sum was added as unexplained credits in the books of this is the company and as against the returned income of ₹ 3,518/-, the assessment was made at the total income of ₹ 4,91,03,50/-. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A), who confirmed the action of the Ld. AO by holding as under:

“The Hon’ble ITAT has discussed the issue in detail in the case of ITO, Ward-5(3), Kolkata Vs. M/s. Blessings Commercial Pvt. Ltd. in ITA No. 271/Kol/2014 for AY 2010-11. In this case Rs. 10/- share has been issued at a premium of Rs. 990/- for which there is no valid explanation given. On this question, the assessee has not even attempted to justify the amount of share premium. A perusal of the audited statement of accounts of these companies demonstrate that the financials are not in line with the premium charged. Respectfully applying the propositions of law laid down by the coordinate bench of the Tribunal to the facts of the case, we find that section 68 of the Act applies to the facts of this case as a sum of money was credited, in the books of the assessee and the assessee could not prove the genuineness of these credits as well as the creditworthiness of the creditor. Hence, in our informed view the addition has rightly been made by the AO. Accordingly, the appeal of the appellant is hereby dismissed as the factual matrix is more or less similar.”

7. Aggrieved, the assessee is in appeal before this Tribunal.
8. We have gone through the written submissions of the Ld. AR and the Ld. Sr. DR, the orders of the authorities below and have perused the material available on record. The Ld. CIT(A) noticed that the assessee had claimed to have issued shares at premium to the following companies:

1. Active Vincom Pvt. Ltd.
2. Amritlaxmi Commosales Pvt. Ltd.
3. Amtek Distributors Pvt. Ltd.
4. Calvin Traders Pvt. Ltd.
5. Everest Vinimay Pvt. Ltd.
6. Fairway Distributors Pvt. Ltd.
7. Koel Tradecom Pvt. Ltd.
8. Minolta Vyapar Pvt. Ltd.
9. Muskan Distributors Pvt. Ltd.
10. Nightangle Vintrade Pvt. Ltd.
11. Pushpanjali Intrade Pvt. Ltd.
12. Truevalley Merchants Pvt. Ltd.
13. Wonderland Merchants Pvt. Ltd.

The Ld. CIT(A) further observed the following characteristics in the cases of all the subscribers:

1. The company had shown income from operation during the financial year 2011-12 at Rs. 'Nil' in all the cases. They had shown other income of varying amount during the year under consideration.
2. The company had also not shown any core activity or business to justify subscription of shares at a substantial premium. The company had reported nominal income and the extent of operation did not justify the capacity of the company to pay such huge share premium.
3. The company does not have fixed assets or inventories and did not display any signs of a company engaged actively in business.

The Ld. CIT(A) therefore observed that the subscriber companies which had subscribed to the shares of assessee company with substantial premium did not have the capacity or the financial standing to do so. He also noted that during the course of assessment proceedings, the identity, the capacity and the genuineness of the transaction had not been established by the appellant therefore, on preponderance of probabilities the contention of the assessee company regarding share capital and premium could not be accepted. Besides noting that the subscribing companies did not have any financial credibility, he also analysed the audited profit and loss account in detail which are discussed on pages 2 to 5 of the appeal order. None of these companies has any fixed assets or infrastructure required to carry on business and none of them had reported any substantial income as per their income tax returns. The Ld. CIT(A) further relied on the decision of the Ahmedabad Bench of the Tribunal in the case of MAP Steels (India) Pvt. Ltd in ITA No. 411/AHD/2015 and concluded that the subscriber companies were showing the characteristics of a shell company which are as under:

- *“Securities Act Rule 405 and Exchange Act Rule 12b-2 define a Shell Company as a company, other than an asset-backed issuer, with no or nominal operations and either;*

- *No or nominal assets;*
- *Assets consisting of cash and equivalent or*
- *Assets consisting of any amount of cash and cash equivalents and nominal other assets.”*

The Tribunal in the case referred supra held that share allotment by Shell Company was in violation of the provisions of the Contract Act and the Ld. CIT(A) has extensively reproduced paragraphs 15 to 22 from the order of the Tribunal in his order. He was of the view that in this case share allotment have been made in violation of the provision of the Contract Act therefore, mere furnishing of documents would not satisfy the conditions laid down in Section 68 of the Act. The Hon'ble Tribunal in the case relied upon by him have held that:

- (a) Since shares have been allotted in contravention to the provisions of the Companies Act the transactions in question cannot be accepted as genuine.
- (b) Mere production of PAN, incorporation details, or Income Tax Returns may not be sufficient when the surrounding facts indicate a cover up.
- (c) Identification of a person includes – Place of work, Employment of staff, Genuineness of business and the recognition of the company in the eyes of public at large.

Accordingly, he inferred that the share applicant company are exhibiting all the characteristics of a Shell Company as the finding of the Tribunal as mentioned squarely applies to the facts of the case of the assessee. He further discussed as under:

It is observed that a company which has been recently incorporated without any track record does not in any way justify a premium. It is the onus of the assessee to prove with all the relevant details regarding raising of the share capital and the genuineness of the transaction. It is not clear as to whether any due diligence was done by the subscribing companies,

whether any peculiar or personal reason was valid for the investment or whether any arrangement was made for the protection of the fund. In this case certain documents were filed before the AO however genuineness of the transaction could not be substantiated. Mere filing of documents before the AO does not absolve the assessee of its duty cast u/s 68. An assessee's duty to establish the source of the funds does not cease by merely furnishing the names, address and PAN particulars or relying on entries in the Registrar of company's website. The relationship of the assessee to the applicants should be at arm's length in such cases and this is what the appellant was required to establish. Also, the concept of "shifting onus" does not mean that once certain facts are provided, the assessee's duties are over. If on verification the information becomes false, unsatisfactory or unverifiable, the onus shifts back to the assessee. Therefore, the assessee was required to present himself before the AO for examination and verification of the documents. The onus to prove the three factum is on the assessee as the facts are within the assessee's knowledge. The details available reflect some paper work or documentation but genuineness, creditworthiness and identity are deeper and obtrusive.

Thereafter, he relied upon the decisions in the cases of **CIT Vs. Durga Prasad More [1971] 82 ITR 540 (SC)** and in the case of **Sumati Dayal Vs. CIT [1995] 214 ITR 801 (SC)** and applying the test of human probabilities and preponderance of probabilities as laid down by the Apex Court to the surrounding facts and circumstances of the case as discussed, held that the claim of the appellant is farfetched and cannot be sustained on the test of human probabilities. Further, applying the decision of **Rajmandir Estate Pvt. Ltd. Vs. PCIT in GA No. 509 of 2016** he held that the issue is squarely covered by the judgment of Hon'ble High Court, Kolkata, wherein the Hon'ble High Court has discussed the issue in detail with reference to Money Laundering Act, provisions of section 68 and the case of creditors being only name lenders.

The Hon'ble High Court while passing the above decision has also taken into consideration the findings given by the Apex Court in the case of Lovely Export (P) Ltd. [216 CTR 195) to come to the conclusions that it does not help in the case of the assessee. The SLP filed by the assessee against the order of the Hon'ble High Court in Rajmandir Estate Pvt. Ltd. (supra) has now been dismissed by the Hon'ble Supreme Court therefore the observations in the above order have now attained finality.

The Ld. CIT(A) further discussed the issue relating to huge premium on shares for which no clarification was given by the assessee and has tabulated the premium charged at Rs. 990/- at the face value of shares of Rs. 10/- from various parties as under:

| S.N o. | Name of the share holder | Number of shares allotted | Face Value | Premiu m per share | Total amount of capital along with premium |
|-------------------|---------------------------------|--|-----------------------|-----------------------------------|---|
| 1 | Active Vincom Pvt. Ltd. | 3650 | 10 | 990 | 3650000 |
| 2. | Amritlaxmi Commosales Pvt. Ltd. | 4600 | 10 | 990 | 4600000 |
| 3. | Amtek Distributors Pvt. Ltd. | 6700 | 10 | 990 | 6700000 |
| 4. | Calvin Traders Pvt. Ltd. | 6000 | 10 | 990 | 6000000 |
| 5. | Everest Vinimay Pvt. Ltd. | 1700 | 10 | 990 | 1700000 |
| 6. | Fairway Distributors Pvt. Ltd. | 8900 | 10 | 990 | 8900000 |
| 7. | Koel Tradecom Pvt. Ltd. | 775 | 10 | 990 | 775000 |
| 8. | Minolta Vyapar Pvt. Ltd. | 3700 | 10 | 990 | 3700000 |
| 9. | Muskan Distributors Pvt. Ltd. | 1900 | 10 | 990 | 1900000 |
| 10. | Nightangle Vintrade Pvt. Ltd. | 6650 | 10 | 990 | 6650000 |
| 11. | Pushpanjali Intrade Pvt. Ltd. | 700 | 10 | 990 | 700000 |
| 12. | Truevalley Merchants Pvt. Ltd. | 1500 | 10 | 990 | 1500000 |
| 13. | Wonderland Merchants Pvt. Ltd. | 2325 | 10 | 990 | 2325000 |

He further observed that there is no justification for the high premium charged at Rs. 990/- per share from companies to whom shares have been issued. The

financials do not justify the premium charged as none of the companies reported any significant income in their return of income filed and the appellant had not explained this discrepancy. He further relied on the decision of the ITAT 'C' Bench Kolkata in the case of ITO, Ward 5(3), Kolkata Vs. M/s Blessings Commercial Pvt. Ltd. in ITA No. 271/Kol/2014 for AY 2010-11 and held that the issue is squarely covered by the judgment, paras 12 to 18 from which have been extensively reproduced in the order of the Ld. CIT(A). He further held that in the case of the assessee, Rs. 10/- share has been issued at a premium of Rs. 990/- for which no valid explanation has been given nor the assessee has even attempted to justify the amount of share premium. The financials of the assessee as well as the subscribers are not in line with the premium charged. The additions made by the Ld. AO was accordingly confirmed.

9. During the course of the appeal before us, the Ld. AR, vide elaborate written submissions filed, has filed the copy of ITR acknowledgement, audit report and audited financial statements of the assessee for the AY 2012-13 along with other documents which have been perused. The facts of the case have been mentioned. During the year, the assessee company raised its share capital by issuing 49100 equity shares of Rs. 10/- each along with a premium of Rs. 990/- per share. Subsequently, the case of the assessee was selected for scrutiny. Further requisition was called for by issuing notice u/s 142(1) in response to which assessee duly complied by filing documents as called for. However, the Ld. AO vide his order u/s 143(3) of the I.T. Act, 1961 dated 23.03.2015 added back the entire amount of share capital raised along with the premium amounting to Rs.4,91,00,000/- to the total income of the assessee considering the same as unaccounted cash credit only on the ground of non-appearance of the directors of the assessee company. Being aggrieved by the aforesaid additions, the assessee filed an appeal in Form 35. However, the Ld. CIT (A) upheld the order of the Ld. AO without even paying heed to the assessee's submission.

It is submitted that the assessee company issued 49,100 shares with the face value of Rs. 10/- per share along with a premium of Rs. 990/- per share to 13 companies namely: Active Vincom Pvt. Ltd., Amritlaxmi Commosales Pvt Ltd, Amtek Distributors Pvt Ltd, Calvin Traders Pvt Ltd, Everfast Vinimay Pvt Ltd, Fairway Distributors Pvt Ltd, Koel Tradecom Pvt Ltd, Minolta Vyapaar Pvt Ltd, M/s Muskan Distributors Pvt Ltd, Nightangle Vintrade Pvt Ltd, Pushpanjali Intrade Pvt Ltd, Truevalley Merchants Pvt Ltd and Wonderland Merchants Pvt Ltd. The assessee duly filed all the evidences of all the subscriber companies to prove the identity and creditworthiness of the subscriber companies and also prove the genuineness of the transactions as under which are enclosed in the paper book.

1. In connection to, Active Vincom Pvt. Ltd bearing PAN AAHCA4627M, all the relevant documents such as Income Tax Return Acknowledgement for Asst Yr 2012-13, copy of audited P & L account, Balance Sheet as on 31.03.2012, copy of Certificate of Incorporation, copy of MoA and AoA, copy of MCA data, a copy of their bank statement highlighting the payment made, form for application of shares and copy of allotment advice. Payment was made of Rs. 14,00,000/- on 29.06.2011, Rs. 15,00,000/- on 02.08.2011 and Rs. 7,50,000/- on 09.03.2012 respectively.

It is further submitted that the net worth of the company is Rs. 10,00,53,742/- which can be clearly identified as per the Balance Sheet of the company. This itself shows the creditworthiness of the company. Therefore, all the three limbs i.e., identity, genuineness and creditworthiness are proved and no addition is called for.

Similar submissions have been made in respect of other share applicants as well and the documents relating to the copies of ITR acknowledgement, the auditor's report and audited financial statements as on 31 March 2012, memorandum of association and articles of association, bank statement highlighting the transaction, form of application for equity shares and copy of allotment advice have been filed in respect of all the share applicants.

Elaborate submission has been made justifying the share premium charged, the contention that the premium can be taxed if it exceeds the fair market value only from the AY 2013-14 and not from the AY 2012-13. It is submitted that the assessee had discharged its initial onus as required under section 68 of the Act and the appearance of directors was not at all required under the law if all relevant documents to prove the capital were submitted and nothing had been brought on record to controvert the same and reliance has been placed on several judicial pronouncements in this regard. It is also stated that simply because the assessee had received high premium, the same cannot be a ground for making the addition. It is further submitted that the definition of income at the relevant time did not define as income any consideration received for issue of share in excess of its fair market value which came into the statute only with effect from April 1, 2013 and thus would have no application to the share premium received in the year relevant for AY 2012-13. Reliance has been placed on several judicial pronouncements which have all been considered along with the written submissions filed. Thus, it is stated that the CIT(A) simply upheld the order of AO on the basis of some judgement of High Court and ITAT. Further, that the assessee has discharged the initial onus that lay on it as it duly established the, identity and creditworthiness of the share subscribers and genuineness of the transactions. Even otherwise, the personal appearance of the director of the assessee company has nothing do with the degree of proof for the purpose of section 68. The relevant evidences as stated above were filed. No verification worth name was made by the AO by issuing notices u/s 133(6) to the parties. No verification worth name was made by the AO by making necessary verification from the assessment records of the parties. The companies were all Active Compliant companies as per MCA Master Data which are enclosed in the paper book.

It is further submitted that as per section 68, initial onus is upon the assessee to establish identity, capacity of the lender or the depositor and the genuineness of the transaction. The subscribers to the share capital are all

identifiable persons. The PAN of all the shareholders, I.T. Acknowledgement, Certificate of Incorporation, copy of bank statement, profit and loss account and balance sheet, source, memorandum and articles of association, Master Data, Share Application and allotment advice were duly submitted. Therefore, identity of the shareholders has been established beyond all reasonable doubts. The genuineness of the transaction can also be safely concluded since the entire transaction has been done through the banking channels duly recorded in the books of account of the assessee and duly reflected in the financial statement of the share applicant which were submitted. In the bank statement furnished by the assessee, the transactions relating to the allotment of shares are duly reflected. The initial onus to prove the receipt of the share capital u/s 68 was therefore discharged. The department has not brought on record any evidence to prove to the contrary and shift back the onus on the assessee. The CIT(A) has not even made further enquiry by sending the matter to AO so that necessary enquiry can be made from the assessment records of the shareholders. Even otherwise, appearance of directors is not at all required under the law if all relevant documents to prove the capital were submitted and nothing has been brought on record to controvert the same. It is submitted that section 68 nowhere speaks of production of the creditor for acceptance of the cash credit. It only requires that the assessee has to prove the nature and source of the credit. The assessee has proved that the amount was received towards the share application, there was no legal obligation on the assessee to present itself physically before the AO and the same cannot be a ground for making addition u/s 68 before the Ld. AO. In view of the above the addition confirmed by CIT(A) under sec. 68 is not justified and has been requested to be deleted.

10. The Ld. Sr. DR vide written submission filed has done an analysis of the final accounts of the subscriber companies and has prepared a chart and submitted that the monetary yield against invested fund is low, the profit after tax (PAT), the returned total income, the EPS, the percentage of monetary

return on share capital, (EPS X 100 divided by the resulting figure of total of share capital and premium divided by number of shares), percentage of monetary return of net profit against capital (PAT X 100) divided by total of capital & liability are poor. The rate of financial return on invested fund is also poor in comparison to secured rate of bank interest of assured 6%. He has further analysed and brought to our notice the discrepancies and inadequacies in Revenue operation Vs. PAT which is not commensurate with the quantum of revenue from operation, neutralization of other income i.e. the considerable amount of income from other sources (which is a part of total revenue receipt), has been neutralized or almost negated by the amount of total expenses, which are slightly less than the figures of total receipt. The cash in hand is very meagre. Almost all the companies involved in this case, despite having weak financial strength, have procured premium on sale of shares and have paid premium in purchase of shares as well. These companies are generally group companies, managed & controlled by the same person or the persons of the same group. Most of the share holding companies do not have real business except to purchase & sale shares of the lesser-known companies. There is rotational movement of fund and the huge debit & credit entries in the bank statements of the involved companies reflect the rotational movement of incoming and outgoing of fund and such pattern resembles that of penny stock or shell companies. Such companies often do not have the real profit motive. Investment in shares of non-blue-chip companies, not being secured, is always susceptible to sinking of such investment and hence no man of common prudence would invest in purchase of such shares without any non-declared securities. Still further, where there is no security against the invested share capital of the shareholder, no man of common prudence can purchase the shares of such company whose past record of monetary benefit accruing to the shareholders is negligible. In such a situation, inflow of share capital can only be achieved through paper manipulation from own group companies or through underhand dealings. He has submitted that it is against the human probability and common man's prudence to make unsecured investment in

lesser-known shares from where no monetary benefit is likely to accrue. Such fact is in contrast to the fact that the shareholder can fetch the interest of around 6% on almost the secured investment in form of time deposits of banks and post offices. The share floating company and share holding company, both having weak financials, have managed to receive premium against sale of shares and have paid premium against purchase of shares, justification for such premium has not been evaluated on rational legal basis. The involved companies, despite receipt of huge share capital with premium, did not declare dividend and neither received dividend against invested fund of huge share capital with premium. The specific, distinct and visible business is not discernible from the accounts of the Assessee and the shareholders. Further, the assessee is virtually an unknown company on the count of goodwill, reliability and potential for future prosperity. Directors/promoters too are unknown or rather not well known in the financial world. The real net worth of the relevant shareholding entities is too poor to be capable of purchasing insignificant shares with premium as there is every likelihood of sinking of fund as such investment is not secured at all. The involved company is, not a blue-chip company but is resembling a penny stock company and its actual net worth, on exclusion of liabilities, is too poor to attract investment from outside. Analysis of the financial matrix reveals that the claimed net worth (of the shareholders), being inclusive of share capital, premium and liability is illusive and not the real worth. Goodwill being a general determinant for attracting investment, is lacking in this case. Hence mobilization of huge share capital and premium may not appear feasible. Further, there are specific observations during assessment proceeding and first Appellate proceeding as under:

The assessee company reflecting total income of Rs 3,518 only, claimed to have received share capital @ Rs. 10 per share with premium @ Rs. 990 per share, totalling to Rs. 4,91,00,000 from 13 Pvt. Ltd companies out of which 12 companies have reflected nil income from operation and only one

company reflected Rs. 4,81,411 as income from operation. None has shown core activity or business. None existence of fixed assets or inventories in respect of shareholders, hints that there is no sign of company activity engaged in business. None of them have any fixed assets or infrastructure required to carry on a business. Total income as per the computation of income is very meagre. Five companies have shown negative income; four companies have shown total income of lesser than Rs. 4,700; two companies have shown total income of lesser than Rs. 11,000 and rest two companies have shown total income of lesser than Rs. 21,000. The extent of operation does not justify the capacity to pay such huge premium as the financials reflect that they do not have the financial standing or credibility to do so. Summons were issued to the directors of the assessee company but none appeared against the summons. Only some formal neutral documents were submitted. The primary onus to prove the identity creditworthiness and genuineness of the transaction of the shareholders was not established from the side of assessee and hence, after observing due formalities, addition u/s 68 was made for Rs.4,91,00,000. The Ld. CIT(A) after thorough facts based discussion under columns III two V on pages 2 to 5 and case laws based discussion from page 15 to 17, upheld the addition. On the basis of the objective findings of the assessing officer and the Ld. CIT(A), the addition was made and upholding of addition is rationally justified. It is thus concluded in the written submissions by the Ld. Sr. DR that in the light of the contents, and the accounts of the involved companies, it is crystal clear that the involved companies have very poor fundamentals during the relevant financial year with respect to the concerned assessment year and therefore the assessing officer is rationally justified in making the addition, which deserves to be upheld.

As regards the bank statements, it is submitted that the bank transactions simply create the appearance of legitimate transactions but the reality is different from what appears. The relevant bank statements reflect almost

matching debit and credit entries, revealing the nature of transaction through which accommodation entries are provided. It is ironical to observe that despite having total of huge debit entries and total of huge credit entries in the bank statements, the business-related yield is very poor. Rationality behind such transactions is lacking.

Nine shareholders are reported in the Audit Reports who do not have employees to be reported u/s 217(2A) of the Companies Act. Hence, the shareholders appear to be existing on paper only. The audit report further reveals that none of the companies has recommended for payment of dividend.

As regards the justification for share premium, the assessee has not given any justification while the Ld. Sr. DR has mentioned various parameters on the basis of which the share premium would be justified but the exercise had not been carried out by the assessee. The general determinants of share premium are:

- (a) highly rated past performance of the company;
- (b) healthy financial record and healthy investment in useful assets;
- (c) usually higher rate of return per share;
- (d) highly valued goodwill of the company, the group companies, the Directors of the company and the promoters of the company
- (e) high & healthy liquidity to meet exigencies;
- (f) heavy public demand of shares of the company;
- (g) Higher current ratio
- (h) Higher ratio of gross profit margin;
- (i) Higher ratio of net profit margin;
- (j) Higher price earning ratio;
- (k) Higher (EPS) earning per share;
- (l) Higher cash earning per share;
- (m) Higher return on asset;
- (n) Higher return on capital employed;

- (o) Higher stock turnover ratio;
- (p) Higher ratio of cost of goods sold (ratio);
- (q) Lower debt equity ratio etc.;

But unfortunately, all these determinants, on rational analysis of the available facts, are found to be either negative or slightly positive in the case of valuation of the shares of the involved companies, and still the shareholders have made investment at a huge premium in the company and such investment in shares is against human rationality, financial probability and rational legal sense. Further, it is submitted that in the light of the above facts, objective determinants as discussed above and the case laws cited, the receipt of huge premium for the purpose of sale of unsecured and unquoted shares of the involved companies, which is reflecting negligible or meagre income for the relevant assessment year and preceding assessment years; the claimed share premium is equally not justified. Still further, where there is no security against the invested share capital of the shareholder, no man of common prudence can purchase the shares of such company whose past record of monetary benefit accruing to the shareholders is negligible. In such a situation, inflow of share capital can only be achieved through paper manipulation from own group companies or through underhand dealings. Here it is worth mention that it is against the human probability and common man's prudence to make unsecured investment in lesser-known shares from where no monetary benefit is likely to accrue. Such fact is in contrast to the fact that the shareholder can fetch the interest of around 6% on almost the secured investment in form of time deposits of banks and post offices. Hence in the light of the analysis of final accounts of the involved companies and the facts narrated above, neither the inflow of premium nor outflow of premium, in respect of corporate creditors is justified. What to talk of share premium, the assessee company and the transacting company as well, do not command even the face value of share. Thus, what appears from financial transaction, may not be real. In order to explore that what appears is not real, the

contemplated and claimed financial transactions need to be examined deeply and, in this regard, the primary onus is on the assessee to establish (i) identity (ii) creditworthiness of the creditors and (iii) genuineness of transaction. It is a settled law that to prove the genuineness of the transaction, the initial burden lies on the assessee and to discharge the onus, the assessee must prove the identity of the creditor, genuineness of transaction and creditworthiness of the creditor.

(1) The general misconception regarding establishing the identity is that furnishing of PAN, ADHAAR, copy of ITR, documents filed with ROC etc establish the identity of the creditor, but mere reliance on neutral documentary evidence cannot always be regarded as satisfactory discharge of onus particularly when surrounding and attending facts predicate a cover up. The burden is to be discharged with positive material. Identity of investor is deeper and obtrusive than mere completion of paper work or documentation (CIT v. N. Tarika Properties Investment (P) Ltd).

(2) As regards the capacity of the creditor to advance money, Le, creditworthiness-As far as creditworthiness or financial strength of the credit/subscriber is concerned, that can be proved by producing the bank statement of the creditors/subscribers showing that it had sufficient and reliable balance in its accounts and that the person is not a man of straw and his actual financial worth is robust, which is evident to rationality, common prudence and is expressed through the lifestyle. Unimpeachable creditworthiness must be evidenced from factual matrix and surrounding circumstances.

(3) The genuineness of the transaction is to be demonstrated by showing that the assessee had, in fact, received money from the creditor and it came from the coffers from that very person. The test of human probabilities could be

applied to assess the genuineness of the transaction. Merely because the transactions are through bank channels, the assessee would not be entitled to the benefit. It is true that when a cheque is issued, it has to be encashed through bank only. There is no presumption that merely because the payment is made by cheque, it is a genuine transaction. First, it has to be found whether the transaction in question is genuine and only thereafter, the assessee would be entitled to the benefit of (deletion of) disallowance [CIT v. Saravana Constructions (Lid, (2012) 22 taxmann.com 259 (Karn)=(2012) 208 Taxman 188 (Mag)).The Ld. Sr. DR has relied upon various citations and has also submitted that the case laws quoted by the A.R. of the assessee are having different facts in comparison to the facts of this particular case and therefore, the case laws being distinguishable, are not applicable to this case and hence, there is no need to take into consideration the claimed case laws. The mechanical reference to the claimed case laws, as referred to by the learned A/R of the assessee and claimed to be apparently applicable in this case, are not at all applicable as these are distinguishable on the facts and circumstances of the case. In conclusion it is stated that on basis of above narrated data, facts, analysis of final accounts of the corporate creditors, non-justification of premium in both purchase and sale of shares in respect of the corporate creditors, settled issues relating to establishing identity and creditworthiness of the creditor and genuineness of transaction, it is crystal clear and objectively evidenced that the creditors lack credit worthiness and hence, the assessing officer, keeping these facts and circumstances in mind, made the due addition. Taking cognizance of merits of the concerned assessment order, the resultant addition deserves to be upheld by the Hon'ble ITAT.

11. We have gone through the facts of the case, the written submissions filed by both the Ld. AR and the Ld. Sr. DR as well as the case laws cited. A similar issue came up for consideration before the Hon'ble Jurisdictional High Court and in the case of **Principal Commissioner of Income-tax v. BST Infratech**

Ltd. [2024] 161 taxmann.com 668 (Calcutta) this issue has been discussed threadbare. Relevant paragraphs from the order of the Hon'ble High Court are extracted and reproduced as under:

14. Before we examine the correctness of the decision rendered by the learned tribunal it will be beneficial to take note of a few decisions which have elaborately dealt with Section 68 of the Act and what are the parameters which are required to be established to prove the creditworthiness or the genuineness of a transaction.

15. Mr. Om Narayan Rai, learned senior standing counsel appearing for the departments submits that though the assessee might have established the identity and creditworthiness of the share applicants at the relevant time but the third and the most important ingredient namely genuineness of the transaction has to be established and unless and until all the three factors are conjointly established, the revenue was fully justified in invoking Section 68 of the Act.

16. In CIT v. N.R. Portfolio Private Limited [2014] 42 taxmann.com 339/264 CTR 258/222 Taxman 157 (Delhi) the substantial question of law which was framed for consideration is whether the tribunal was right in deleting the additions under Section 68 of the Act and whether the decision of the tribunal is perverse.

17. With regard to the role of the assessing officer, the Hon'ble Court held that the assessing officer is both an investigator and an adjudicator; when a fact is alleged and stated before the assessing officer by an assessee, he must and should examine and verify, when in doubt or when the assertion is debatable. Normally a factual assertion made should be accepted by the assessing officer unless for justification and reasons the assessing officer feels that he needs/requires a deeper and detailed verification of the facts alleged. The assessee in such circumstances should cooperate and furnish papers, details and particulars, this may entail issue of notices to third parties to furnish and supply information or confirm facts or even attend as witnesses. The assessing officer can also refer to incriminating material or evidence available with him and call upon the assessee to file their response. A universal procedure or method which should be adopted by the assessing officer when verification of facts is required cannot be laid down. The manner and mode of conducting assessment proceedings has to be left to the discretion of the assessing officer and the same should be just, fair and should not cause harassment to the assessee or third person from whom the confirmation or verification is required.

18. It was further held that the provisions of the Evidence Act are not applicable but the assessing officer being a quasi-judicial authority must take care and caution to ensure that the decision is reasonable and satisfies the canons of equity, fairness and justice. The principle of Preponderance of Probability applies. On the question of creditworthiness and genuineness of the transaction in the said case, the Hon'ble Court recorded the following finding:-

19. On the question of creditworthiness and genuineness, it was highlighted that the money no doubt was received through banking channels, but did not reflect actual genuine business activity. The share subscribers did not have their own profit making apparatus and were not involved in business activity. They merely rotated money, which was coming through the bank accounts, which means deposits by way of cash and issue of cheques. The bank accounts, therefore, did not reflect their creditworthiness or even genuineness of the transaction. The beneficiaries, including the respondent-assessee, did not give any share-dividend or interest to the said entry operators/subscribers. The profit motive normal in case of investment, was entirely absent. In the present case, no profit or dividend was declared on the shares. Any person, who would invest money or give loan would certainly seek return or income as consideration. These facts are not

adverted to and as noticed below are true and correct. They are undoubtedly relevant and material facts for ascertaining creditworthiness and genuineness of the transactions.

19. *The doctrine of "Source of Source" or "Origin of Origin" was explained in the following terms:-*

24. We are conscious of the doctrine of 'source of source' or 'origin of origin' and also possible difficulty which an assessee may be faced with when asked to establish unimpeachable creditworthiness of the share subscribers. But this aspect has to be decided on factual matrix of each case and strict or stringent test may not be applied to arms length angel investors or normal public issues. Doctrine of 'source of source' or 'origin of origin' cannot be applied universally, without reference to the factual matrix and facts of each case. The said test in case of normal business transactions may be light and not vigorous. The said doctrine is applied when there is evidence to show that assessee may not be aware, could not have knowledge or was unconcerned as to the source of money paid or belonging to the third party. This may be due to the nature and character of the commercial/business transaction relationship between the parties, statutory postulates etc. However, when there is surrounding evidence and material manifesting and revealing involvement of the assessee in the "transaction" and that it was not entirely an arm's length transaction, resort or reliance to the said doctrine may be counter-productive and contrary to equity and justice. The doctrine is not an eldritch or a camouflage to circulate ill gotten and unrecorded money. Without being oblivious to the constraints of the assessee, an objective and fair approach/determination is required. Thus, no assessee should be harassed and harried but any dishonest facade and smokescreens which masquerade as pretence should be exposed and not accepted.

20. *With regard to the identity, creditworthiness and genuineness of the transaction and the onus of prove the Hon'ble Court held as follows:-*

30. What we perceive and regard as correct position of law is that the court or tribunal should be convinced about the identity, creditworthiness and genuineness of the transaction. The onus to prove the three factum is on the assessee as the facts are within the assessee's knowledge. Mere production of incorporation details, PAN Nos. or the fact that third persons or company had filed income tax details in case of a private limited company may not be sufficient when surrounding and attending facts predicate a cover up. These facts indicate and reflect proper paper work or documentation but genuineness, creditworthiness, identity are deeper and obtrusive. Companies no doubt are artificial or juristic persons but they are soulless and are dependent upon the individuals behind them who run and manage the said companies. It is the persons behind the company who take the decisions, controls and manage them.

31. Identity, creditworthiness or genuineness of the transaction is not established by merely showing that the transaction was through banking channels or by account payee instrument. It may, as in the present case required entail a deeper scrutiny. It would be incorrect to state that the onus to prove the genuineness of the transaction and creditworthiness of the creditor stands discharged in all cases if payment is made through banking channels. Whether or not onus is discharged depends upon facts of each case. It depends on whether the two parties are related or known to each; the manner or mode by which the parties approached each other, whether the transaction was entered into through written documentation to protect the investment, whether the investor professes and was an angel investor, the quantum of money, creditworthiness of the recipient, the object and purpose for which payment/investment was made etc. These facts are basically and primarily in knowledge of the assessee and it is difficult for revenue to prove and establish the negative. Certificate of incorporation of company, payment by banking channel, etc. cannot in all cases tantamount to satisfactory discharge of onus. The facts of the present case noticed above speak and are obvious. What is unmistakably visible and apparent, cannot be spurred by formal but unreliable pale evidence ignoring the patent and what is plain

and writ large.

21. *In Rajmandir Estates Private Limited v. Principal Commissioner of Income Tax 2016 SCC Online Cal 1237*, one of the substantial questions of law which fell for consideration was whether the finding of the CIT(A) that unaccounted money was or could have been laundered as clean share capital by creating facade of paper work, routing the money through several bank accounts and getting the seal of statutory approval by getting the case re-opened under Section 147 suo motu and whether the same is perverse. The facts of the said case was noted wherein 19 out of the 13 applicants secured funds for the purpose of contributing to the share capital of the assessee therein, on account of share application money. In other words, those 19 applicants collected funds on account of share application money in their respective companies and that money was contributed to the share capital of the assessee. 15 out of the 39 applicants procured the requisite funds by selling the shares and the rest of the applicants of shares, in the share capital of the assessee company, did not disclose the nature of receipt at their end though the source of funds were identified. Further the shares were offered to and subscribed by closely held companies owned by the promoter/director or their close relatives and friends. After noting the facts, the Hon'ble Court held that the identity of the alleged shareholders is known but the transaction was not a genuine transaction. The transaction was nominal rather than real; creditworthiness of the alleged shareholders is also not established because they did not have money of their own, each one of them received from somebody and that somebody received from a third person and therefore prima facie, shareholders are near namelenders.

22. *In Principal Commissioner of Income Tax, (Central - 1) v. NRA Iron and Steel Private Limited (2019) 15 SCC 529* the issue which fell for consideration is when share capital/premium is credited in the Books of Account of the assessee company, the onus of prove is on the assessee to establish by cogent and reliable evidence of the identity of the investor company, the creditworthiness of the investor and genuineness of the transaction, to the satisfaction of the assessing officer. The Hon'ble Supreme Court observed that the courts have held that in the case of cash credit entries, it is necessary for the assessee to prove not only the identity of the creditors but also the capacity of the creditors to advance money, and establish the genuineness of those transaction. The initial onus of proof lies on the assessee. The decision in *Roshan Di Hatti v. Commissioner of Income Tax (1977) 2 SCC 378* was referred to wherein it was held that if the assessee fails to discharge the onus by producing cogent evidence and explanation the assessing officer would be justified in making the addition back into the income of the assessee.

23. The decision in *N.R. Portfolio Private Limited* was quoted with approval wherein it has been held that creditworthiness or genuineness of a transaction regarding share application money depends on whether two parties are related or known to each other, or mode by which parties approached each other, whether a transaction is entered into through written documentation to protect investment or whether the investor was a angel investor, the quantum of money invested, the creditworthiness of the receipt, object and purposes for which payment/investment was made etc. The incorporation of a company and payment by banking channel etc. cannot in all cases tantamount to satisfactory discharge of onus. The principles which emerge were sums of money are credited as share capital/premium was summarised as follows:-

13.1. The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and creditworthiness 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.

13.2. The assessing officer is duty-bound to investigate the creditworthiness 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.

13.3. If the enquiries and investigations reveal that the identity of the creditors to be dubious or doubtful, or lack creditworthiness, 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.

24. In Principal Commissioner of Income Tax, Kolkata v. Swati Bajaj 2022 SCC Online Cal 1572 this court considered as to in what manner the allegation against the assessee has to be proved. It was held that to prove the allegation against the assessee, it can be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegation/charges made and levelled and when direct evidence is not available it is the duty of the court to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded so as to reach a reasonable conclusion and the test would be what inferential process that a reasonable/prudent man would apply to arrive at a conclusion. It was further held that the proximity of time and prior meeting of minds is also a very important factor especially when the income tax department has pointed out the unnatural rise in prices of the scripts of very little known companies.

*25. While on this issue it would be beneficial to take note of the decision in *Yadu Hari Dalmia v. Commissioner of Income Tax, Delhi (Central) (1980) 126 ITR 48* wherein it was held that the whole catena of sections starting from Section 68 have been introduced in the taxing enactment step by step in order to pluck loopholes and in order to plug certain situations beyond doubts even though there were judicial decisions covering some of the aspects. It was pointed out that even prior to the introduction of Section 68 in the statute book, the courts have held that where any amounts were found credited in the books of the assessee in the previous year and the assessee offered no explanation about the nature and source thereof or the explanation offered, in the opinion of the ITO, not satisfactory, the sum so credited would be charged to income tax as income of the assessee during the relevant previous year. That Section 68 was inserted in the Act only to provide statutory recognition to a principle which had been clearly adumbrated in judicial decisions. Section 68 thus only codified the law as it existed before 01.04.1962 and did not introduce any new principle or rule.*

26. We also take note of the Finance Bill, 2012 which brought about certain amendments to the Act with effect from the assessment year 2013-2014 wherein under the heading "Measures to Prevent Generation and Circulation of Unaccounted Money" it was pointed out that the onus of satisfactorily explaining such credit remains on the person in whose books such sum is credited. If such person fails to offer an explanation or the explanation is found to be satisfactory then the sum is added to the total income of the person. That certain judicial pronouncements have created doubts about the onus of proof and the requirements of Section 68, particularly in cases where sum is credited as share capital, share premium etc. That courts have drawn a distinction and emphasised that in case of private placement of shares the legal regime should be different from that which is followed in case of a company seeking share capital from the public at large. In the case of closely held companies, investments are made by a known person; therefore, a higher onus is required to be placed on such companies besides the general onus to establish, identity and creditworthiness of the creditors and genuineness of the transaction. This additional onus needs to be placed on such companies to also prove the source of money in the hands of such shareholders or person making payments towards issue of shares before such sum is accepted as genuine credit. If the company fails to discharge the additional onus, the sum shall be treated as income of the company and added to its income. Therefore, it was proposed to amend Section 68 of the Act to provide the nature and onus of any sum credited, as share capital premium etc. in the books of a closely held company shall be treated as explained only if the source of fund is also explained by the assessee company in the hands of the resident shareholders. However, even in the case of closely held companies, it is proposed that this additional onus of satisfactorily explaining the source in the hands of the shareholder, could not apply if the shareholder is a well regulated entity namely a Venture Capital Fund,

a Venture Capital Company registered with SEBI.

27. It is no doubt true that this amendment which was made to Section 68 applies in relation to the assessment year 2013-2014 and the subsequent years and it has been argued that the said amendment will not apply to the assessee's case as the case concerns the assessment year 2012-2013. Though this may be true, as pointed out in Yada Hari Dalmia Section 68 as it stood prior to the earlier amendment only codified the law as it existed before 01.04.1962 and did not introduce any new principle or rule and when Section 68 was inserted in the 1961 Act it only provided a statutory recognition to a principle which had been clearly adumbrated in judicial decisions. Therefore, it was held that ratio laid down in the earlier judgments of the Hon'ble Supreme Court is equally applicable to the interpretation of Section 68 of the 1961 Act. Thus, we can very well refer to the objects behind amendment to Section 68 by Finance Bill, 2012 which has taken note of various decision of the court where the courts have drawn a distinction and emphasised that in case of private placement of shares the legal regime should be different from that which is followed in the case of a company seeking share capital from the public at large.

28. Having taking note of the above referred decisions and the legal principles if we revert back to the factual position in this case, we find that the CIT(A) has analysed the three principles which are required to be fulfilled namely identity, creditworthiness and genuineness of the transaction. It is not in dispute that the investors whose details we have referred in the earlier part of this judgment are all either group companies or having a common set of directors. Further the assessee has not been able to dislodge the factual findings recorded by the CIT(A) that the share application money was received from independent legal entities. By way of illustration if we take the case of Gainwell Textrade Private Limited, they have invested Rs. 8,10,00,000/- in the assessee company. The said company receives a total of Rs. 1,65,00,000/- on 01.06.2011 and 02.06.2011 from eight private limited companies/entities. Out of the said amount, Rs. 1,50,00,000/- was remitted to the assessee's bank account on 02.06.2011 by three cheques of Rs. 50,00,000/- each. The balance remained at Rs. 15,09,039/-. On 02.06.2011, an amount of Rs. 38,00,000/- was remitted to the account by a private limited company and the balance rose to Rs. 53,09,039/- out of this an amount of Rs. 50,00,000/- was remitted to the assessee account on the same day. On 04.06.2011, Divine Suppliers Private Limited deposited another sum of Rs. 60,00,000/- of which Rs. 50,00,000/- was remitted to the assessee on 06.06.2011. On 06.06.2011 Highlight Goods Private Limited transferred a sum of Rs. 10,00,000/- to this account by taking a closing balance to Rs. 23,08,819/-. On the same day an amount of Rs. 20,00,000/- was remitted to the assessee's account. On 06.06.2011 Divine Suppliers Private Limited RD Fashion transferred Rs. 25,00,000/-, Rs. 38,00,000/- and Rs. 37,00,000/- to this account and out of this amount Rs. 1,00,00,000/- was remitted to the assessee's account in two transactions on 07.06.2011. On 14.06.2011, Magnificent Distributors Private Limited remitted an amount of Rs. 35,00,000/- to the account which was immediately transferred to the assessee's account. On 18.07.2011, Superior Retail Private Limited credited an amount of Rs. 50,00,000/- to the account which was remitted to the assessee's account on 19.07.2011. On 20.07.2011 amount of Rs. 30,00,000/- was received through RTGS in the account and the amount was transferred to the account of the assessee on the same day. On 02.01.2012 an amount of Rs. 40,00,000/- was deposited into account by two companies and this was remitted to the assessee's account on 03.01.2012. On 03.01.2012 Salasar Garments Traders Private Limited credited to the account a sum of Rs. 20,00,000/- and out of the said amount Rs. 40,00,000/- was transferred to the assessee's account on 04.01.2012. The CIT(A) has in the above manner examined the factual position and has analysed the pattern of the transactions in the bank accounts of the five investor companies to that of the assessee's bank account. They have received cheques from somewhere and has immediately issued in favour of another company and the balance remaining in the account was very meagre the bank account has been operated solely for the purpose of rotating money.

29. With regard to the other investor namely Mubarak Cosmetics Private Limited on perusal of the

bank statements, it was found that the said company had transactions with the assessee between 23.07.2011 to 28.07.2011 and the entire sum remitted to the assessee by Mubarak Cosmetics Private Limited had come from Gainwell Textrade Private Limited. The bank statements of HIL Engineering was also thoroughly examined more particularly the pattern of transaction and it was held that the only apparent purpose for which the bank accounts have been used is to receive money from one account and transfer it to another. With regard to the investor Pavapuri Mercantile Private Limited the bank statements revealed that the entire sums are remitted by Pawapuri Mercantile Private Limited to the assessee had come from Gainwell Textrade Private Limited. The analysis done by the CIT(A) would reveal the nature and character of the transaction and the CIT(A) cannot be faulted to have held that the transactions are well planned and stage managed to show genuineness behind which a clean and simple "round tripping" of funds is taking place. The CIT(A) on examination of the facts found that the bank accounts act as "highway" in the "journey of money" on a rotation and laundry trail from one entity to another and by this way these bank accounts create a facade of documentary evidence for clean money in the form of account payee cheques for any kind of accommodation entries.

30. The CIT(A) did not stop with the above findings but proceeded to analyse the data which was made available in the form of return of income, bank statements etc. and found that the investors have purchased the shares of the assessee at a premium and all have shown similar characteristics, the revenue from operations are either nil or are negligible; the returns are either of loss or of insignificant income below taxable limit; they have been issued shares at very high premium without having earned any revenue from business operations; they have invested on shares at very high premium in companies who also have not earned anything from business operations; their balance sheet shows that even though they do not earn anything, they invite huge investments in their accounts and this money is used to make further investments at high premiums in other companies and they have also issued unsecured loans to other companies; money obtained from the route of share premium is rerouted for supplying sources of receipts of money to other companies; the circuit of investments remains within a group companies and in this manner through a circular routing of funds, the capital of each of the companies is enhanced and this inflated capital is then used for providing loans etc. to desired entities; the bank accounts show huge sums are received from one concern through cheques or RTGS and immediately diverted to other companies of the group and the bank balance remains negligible before and after such transfers; each of these companies invest in each other at very high premiums even though there is no business conducted; there is no reason or logic provided by any of the companies as to on what basis they arrived at the value of premium on shares to be issued as neither the assessee nor its investors had followed the guidelines of RBI or ICAI or any other guidelines for determining the rate of premium on their shares. Thus, the fixing of rate for premium is arbitrary and devoid of any financial or accounting rationale; the investors have not bothered to ensure protection of their investments; the investor company do not have any business operations worth noticing yet they have raised huge capital through issue of shares at a premium and also made investments in shares of other companies at a premium even though the other companies like them, did not have any promising business activities. Thus, on analysing the data which was available it is seen that each of the companies have invested in each other and the investments have been made by rotating funds from one account to another. The assessee has not been able to explain why the investors companies had applied for shares in the assessee's company at a high premium even though the face value of the share was Rs. 10/- per share. The pattern of transaction clearly shows that these investors companies had raised capital by issue of shares at a very high premium and the transaction is repetitive. Therefore, the mere fact that the transactions were through banking channels or that the companies were income tax assesseees or registered with Registrar of Companies can in no manner be sufficient to discharge the onus under Section 68 of the Act. The learned tribunal did not examine the factual matrix in the depth and in the manner it ought to have done. Therefore, we would be well justified to hold that the findings rendered by the

tribunal are perverse. It was argued by the learned Senior Advocate appearing for the respondent assessee that there is no material to show "round tripping" of funds; there is no finding that the money which has come to the assessee is ill gotten money and that the CIT(A) did not examine how the money came to the investors and failed to note that the company had requisite share capital resource. Various documents which were placed before the tribunal in the form of a paper book was submitted to the court for its perusal.

31. *In our view it is not required to show that the money which came to the assessee is ill gotten and what is required to be seen is whether the transaction was genuine. It may be true that the identity of the investor company has been established as they are registered with the Registrar of Companies and they are regularly assessed to income tax. Assuming without admitting that at the relevant point of time when the investor companies invested in the assessee company by purchasing shares at high premium, they had sufficient funds in the bank accounts, the question would be as to whether this by itself will establish the creditworthiness of the investor companies. This is a fit case where the doctrine of "source of source" or "origin of origin" should be made applicable. We say so because the CIT(A) has brought the evidence and the materials on record which manifestly show the involvement of the assessee as the Directors of the five investors companies and the Director of the assessee company Mr. Gopal Kumar Agarwala are all closely related.*

32. *One of the directors of the Gainwell Textrade Private Limited is brother-in-law of Gopal Kumar Agarwala. One of the directors of Lucky Trading Private Limited is the wife of the brother-in-law of Mr. Agarwala and the other director is the maternal uncle. Mr. Gopal Kumar Agarwala himself is one of the director in Pavapuri Mercantile Private Limited and another director is the sister of Mr; Agarwala. One of the directors of HIL Engineering Private Limited is the brother-in-law of Mr. Agarwala and one of the Directors of Mubarak Cosmetics Private Limited is the wife of Mr. Agarwala. Thus, the facts clearly show that the doctrine of "origin of origin" has to be applied in the case on hand and this exercise has been rightly done by the CIT(A) by lifting the veil and enquiring into the real nature of the transaction. The pattern of remittances made to the five investor companies and immediately thereafter to the assessee company clearly shows that the shares subscriptions were collected as a part of pre-meditated plan which has been conceived by the assessee.*

33. *The tribunal fell in error in holding that the CIT(A) has not pointed out any doubt or discrepancy with regard to the identity of the investors. The learned tribunal has posed a wrong question which has led to a wrong answer. The question is not whether the identity of the investor has to be established but the question was whether the investor had requisite creditworthiness and whether such creditworthiness was a make belief situation by means of a circular transaction and if the same had been established. The learned tribunal has held that the findings rendered by the CIT(A) that the assets in the form of investments have been created through rotating of money in between the group companies and the assets mainly consists of cash and cash equivalents are not enough to prove that any unaccounted money of the assessee has been introduced in the assessee company warranting addition under Section 68 of the Act. This finding in our opinion upon consideration of the facts is perverse.*

34. *The CIT(A) has made an elaborate exercise to assess the creditworthiness of the investor companies as well as the genuineness. All the investor companies are group companies and the directors are closely related to the director of the assessee company and the director Mr. Agarwala himself is one of the directors in one of the investor companies namely Pawapuri Mercantile Private Limited and the spouse of Mr. Agarwala is the director of Mubarak Cosmetics Private Limited, an investor company. Therefore, on a deeper scrutiny of the factual position would show that the investor company did not have a genuine creditworthiness and consequently the transaction has to be held to be not genuine. As held in N.R. Portfolio Private Limited (supra) whether or not the onus is discharged depends on facts of each case as well as it depends on whether the two parties are related or known*

to each other; the manner or mode by which the parties approach each other, the quantum of money, the object and purpose for which payment/investment was made. As held earlier certificate of incorporation of the companies, payment by banking channel etc. cannot tantamount to satisfactory discharge of onus and the facts of the case on hand speaks for itself as it is obvious. Thus, the principle of Preponderance of Probabilities applies with full force to the case on hand which leads to the irresistible conclusion that the finding rendered by the CIT(A) is legal and valid.

35. We have noted that the tribunal has made certain observations as regards the future prospects of the assessee company as they are a steel industry and that their fixed assets and also the turnover had increased substantially. However, this appears to have not been the submission when the assessee filed an appeal before the CIT(A) challenging the addition made by the assessing officer. This is evident from the grounds of appeal which have been set out in the order passed by the CIT(A) in paragraph 2.1 of the order dated 28.11.2019. The finding rendered by the tribunal is probably taken from the written submissions made by the assessee before the tribunal giving certain facts and figures regarding the expanding of business activities of the assessee. The assessee in their submission contended that their business activity has increased considerably and for the purpose of expansion funds were required and therefore the assessee raised funds from various means, increment in share capital from associates being one of them. The fact clearly demonstrates that the source of the funds which have flown into the account of the assessee have substantially come from one company namely Gainwell Textrade Private Limited and the said company had contributed to the other companies and the funds transferred to those companies were transferred to the assessee company invariably on the same day leaving a bank balance which was almost negligible and the bank statements reveal that the prior to the inflow of the funds into those investing companies, the bank balance was negligible and after the transfer it was also negligible. The assessee had contended before the tribunal that the amount was credited through proper banking channels and the investing companies are body corporate registered with the Registrar of Companies and individually assessed to income tax and therefore the genuineness of the parties is beyond doubt. However, this is not the litmus test to discharge the burden on the assessee to establish creditworthiness of the investing companies as well as the genuineness of the transaction. Thus, we have no hesitation to hold that the explanation offered by the assessee is neither proper, reasonable or acceptable.

36. In *Swati Bajaj*, the court held that based on the foundational facts the department has adopted the concept of "working backward" leading to the assessee. The department would be well justified in considering the surrounding circumstances, the normal human conduct of a prudent investor, the probabilities that may spill over and then arrive at a decision.

37. Thus the CIT(A) was right in adopting a logical process of reasoning considering the totality of the facts and circumstances surrounding the allegations made against the assessee taking note of the minimum and proximate facts and circumstances surrounding the events on which charges are founded so as to reach a reasonable conclusion and rightly applied the test that a reasonable/prudent man would apply to arrive at a conclusion. On facts we are convinced to hold that the assessee has not established the capacity of the investors to advance moneys for purchase of above shares at a high premium. The credit worthiness of those investors companies is questionable and the explanation offered by the assessee, at any stretch of imagination cannot be construed to be a satisfactory explanation of the nature of the source. The assessee has miserably failed to establish genuineness of the transaction by cogent and credible evidence and that the investments made in its share capital were genuine. As noted above merely proving the identity of the investors does not discharge the onus on the assessee if the capacity or the credit worthiness has not been established.

38. In the light of the above discussion, we hold that the assessee has failed to discharge legal obligation to prove the genuineness of the transaction and the credit worthiness of the investor which has shown to be so by a "round tripping" of funds. For all the above reasons, the revenue

succeeds.

39. In the result the appeal is allowed, the order passed by the learned Tribunal is set aside and the order passed by the CIT(A) dated 28.11.2019 is restored and the substantial questions of law are answered in favour of the revenue.

11.1 Further, in the case of **Principal Commissioner of Income-tax v. One Point Commercial (P.) Ltd. [2024] 161 taxmann.com 737 (Calcutta)**, it has also been held as under:

The impugned order passed by the Tribunal has recorded that from the bare perusal of the documents placed, it is revealed that all the share applicants are income tax assessees, they are filing their income tax returns, share application form and allotment letter is available on record which were filed in response to the notice under section 133(6), share application money was made by account payee cheques, details of the bank accounts belonging to the share applicants and their bank statements have been furnished and all the share applicants are having substantial creditworthiness represented by their capital and reserves. Though such is the findings recorded by the Tribunal, it is not supported by facts. The Assessing Officer has held that the assessee was a private limited company which cannot issue shares in the same manner in which public limited company does and in so far as creditworthiness of the share subscribers is concerned, there must be positive evidence to show the nature and source of resources of the share subscribers and if the assessee was serious enough to establish his case, it ought to have complied with the notices/letters issued by the Assessing Officer and ought to have produced the directors of the subscribing companies before the Assessing Officer so that they could explain the sources from which the share subscription was made. It is stated that there is no complaint either from the end of the assessee-company or from the end of the alleged subscriber company. This finding recorded by the Assessing Officer as affirmed by the Commissioner (Appeals), if required to be set aside by the Tribunal, reasons have to be assigned. Therefore, the conclusion arrived at by the Tribunal is insufficient to support its ultimate conclusion in allowing the assessee's appeal. Therefore, the matter has to be remanded back to the Tribunal for fresh consideration. [Para 4]

Accordingly, the appeal is allowed. The order passed by the Tribunal is set aside and the matter is remanded to the Tribunal to take a fresh decision on merits and in accordance with law and pass a reasoned order. [Para 5]

11.2 Both the decisions are squarely applicable to the facts of the case. Similar issue also came up before the ITAT Kolkata Bench for the case of Nexcare Agency Pvt. Ltd. Vs. ITO Ward 7(1), Kolkata, dated 26.07.2024. The relevant extract of the aforesaid order is as under:

5.1. The profit and loss account filed by the assessee paints a grim picture about the qualitative aspect of commercial activity which does not seem to justify a premium of Rs. 490/- on a share with face value of Rs. 10/-. Thus total revenues of Rs 1,26,350 for the year ending on 31.3.2012 and Rs. 96,020 for the year ending on 31.3.2011 are visible, which cannot be said to indicate a healthy bottom-line or even a robust business model. Considering this fact, it would be all the more prudent to examine the

genuineness etc. of the 11 concerns which chose to repose considerable faith in the commercial future of the assessee to trust them with huge sums of money. It was on a somewhat similar situation when the Hon'ble Jurisdictional High Court upheld the doubtful nature of share premium monies being given to companies having doubtful commercial credentials in the case of PCIT vs. BST Infratech Ltd. reported in [2024] 161 taxmann.com 668 (Calcutta). Hon'ble Calcutta High Court had occasion to observe that in the said case investors had no reason to invest huge amounts in business of that assessee and the entire transaction was done to circumvent the provisions of the Act. It has been held that the action of the assessing officer in treating such share application money u/s 68 of the Act as undisclosed cash credit was justified. The relevant portion from this order deserves to be extracted as under:

“36. In Swati Bajaj, the court held that based on the foundational facts the department has adopted the concept of "working backward" leading to the assessee. The department would be well justified in considering the surrounding circumstances, the normal human conduct of a prudent investor, the probabilities that may spill over and then arrive at a decision.

37. Thus, the CIT(A) was right in adopting a logical process of reasoning considering the totality of the facts and circumstances surrounding the allegations made against the assessee taking note of the minimum and proximate facts and circumstances surrounding the events on which charges are founded so as to reach a reasonable conclusion and rightly applied the test that a reasonable/prudent man would apply to arrive at a conclusion. On facts we are convinced to hold that the assessee has not established the capacity of the investors to advance moneys for purchase of above shares at a high premium. The credit worthiness of those investors companies is questionable and the explanation offered by the assessee, at any stretch of imagination cannot be construed to be a satisfactory explanation of the nature of the source. The assessee has miserably failed to establish genuineness of the transaction by cogent and credible evidence and that the investments made in its share capital were genuine. As noted above merely proving the identity of the investors does not discharge the onus on the assessee if the capacity or the credit worthiness has not been established

38. In the light of the above discussion, we hold that the assessee has failed to discharge legal obligation to prove the genuineness of the transaction and the credit worthiness of the investor which has shown to be so by a "round tripping" of funds. For all the above reasons, the revenue succeeds.

39. In the result the appeal is allowed, the order passed by the learned Tribunal is set aside and the order passed by the CIT(A) dated 28.11.2019 is restored and the substantial questions of law are answered in favour of the revenue.”

5.2. We also draw considerable strength from the case of PCIT vs. NRA Iron & Steel (P.) Ltd. reported in [2019] 412 ITR 161 (SC) in which share application money was approved for action u/s 68 of the Act even where the share applicants had filed confirmations and attempted to show that the transactions have taken place through normal banking channels, etc. In this case, the Hon'ble Apex Court has dealt with the issue from a legal perspective and some of the passages deserve to be extracted for reference:

“ This Court in the land mark case of Kale Khan Mohammad Hanif v. CIT [1963] 50 ITR 1 (SC) and, Roshan Di Hatti v. CIT [1977] 107 ITR 938 (SC) laid down that

the onus of proving the source of a sum of money found to have been received by an assessee, is on the assessee. Once the assessee has submitted the documents relating to identity, genuineness of the transaction, and creditworthiness, then the Assessing Officer must conduct an inquiry, and call for more details before invoking section 68. If the assessee is not able to provide a satisfactory explanation of the nature and source, of the investments made, it is open to the revenue to hold that it is the income of the assessee, and there would be no further burden on the revenue to show that the income is from any particular source. [Para 8.2]

With respect to the issue of genuineness of transaction, it is for the assessee to prove by cogent and credible evidence, that the investments made in share capital are genuine borrowings, since the facts are exclusively within the assessee's knowledge. Merely, proving the identity of the investors does not discharge the onus of the assessee, if the capacity or credit-worthiness has not been established. [Para 8.3]

The Assessing Officer ought to conduct an independent enquiry to verify the genuineness of the credit entries. In the instant case, the Assessing Officer made an independent and detailed enquiry, including survey of the so-called investor companies from Mumbai, Kolkata and Guwahati to verify the credit-worthiness of the parties, the source of funds invested, and the genuineness of the transactions. The field reports revealed that the shareholders were either non-existent, or lacked creditworthiness. [Para 9]

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

i. The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and creditworthiness of the investors who should have the financial capacity to make the investment in question, to the satisfaction of the Assessing Officer, so as to discharge the primary onus.

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

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. [Para 11]

In the instant case, the Assessing Officer had conducted detailed enquiry which revealed that:

i. There was no material on record to prove, or even remotely suggest, that the share application money was received from independent legal entities. The survey revealed that some of the investor companies were non-existent, and had no office at the address mentioned by the assessee. The genuineness of the transaction was found to be completely doubtful.

ii. The enquiries revealed that the investor companies had filed returns for a negligible taxable income, which would show that the investors did not have the financial capacity to invest funds ranging between Rs. 90 lakhs to Rs. 95 lakhs in the assessment year 2009-10, for purchase of shares at such a high premium. iii. There was no explanation whatsoever offered as to why the investor companies had applied for shares of the assessee company at a high premium of Rs. 190 per

share, even though the face value of the share was Rs. 10 per share. *iv.* Furthermore, none of the so-called investor companies established the source of funds from which the high share premium was invested.

v. The mere mention of the income tax file number of an investor was not sufficient to discharge the onus under section 68. [Para 12]

The practice of conversion of un-accounted money through the cloak of Share Capital/Premium must be subjected to careful scrutiny. This would be particularly so in the case of private placement of shares, where a higher onus is required to be placed on the assessee since the information is within the personal knowledge of the assessee. The assessee is under a legal obligation to prove the receipt of share capital/premium to the satisfaction of the Assessing Officer, failure of which, would justify addition of the said amount to the income of the assessee. [Para 14]

On the facts of the present case, clearly the assessee company - respondent failed to discharge the onus required under section 68, the Assessing Officer was justified in adding back the amounts to the assessee's income. [Para 15]"

5.3. It is seen that in another case on somewhat similar facts, the Hon'ble Calcutta High Court in the case of *BalGopal Merchants (P.) Ltd. vs. PCIT* reported in [2024] 162taxmann.com465 (Calcutta) has held that action u/s 68 of the Act was justified.

6. A close reading of the case laws cited (*supra*) reveals that mere filing of confirmations and the income tax details etc. are not enough to justify payment of monies as share premium when the financial aspects of the recipient company would not merit such investments under any kind of prudent consideration. In the present case while 4 out of 11 share applicants were not traceable on given addresses and one more did not respond to the summons, it is evident that even those share applicants who did file certain documents, were not sufficient in the eyes of law to discharge the burden cast on the assessee regarding proving the genuineness of the transaction. The profit and loss account statement extracted (*supra*) would normally paint a grim picture to any prudent investor, however, in this case it seems to have encouraged 11 entities to transfer huge sums of money by way of share premium.

6.1. Considering the case laws cited (*supra*) the financial health of the assessee and the inadequate discharge of onus, we hold this case to be a fit case for application of Section 68 of the Act and thereby confirm the impugned addition.

12. Having considered the submissions filed, the facts of the case and the judicial pronouncement discussed above, there is no justification for the huge premium charged by the assessee nor the assessee has been able to establish the same before the Ld. AO nor even before the Ld. CIT(A). As discussed above, mere identity of the creditor is not sufficient but the genuineness of the transaction as well as the creditworthiness of the creditor has to be established which the assessee has miserably failed to do. The onus is heavy on the assessee in case of private placement of shares as the details are in the knowledge of the assessee and it ought to have established the

creditworthiness of the share applicants/shareholders and the genuineness of the transactions. The directors also failed to appear before the Ld. AO. Most of the applicants are not having any regular source of income except for income under the head income from other sources nor have strong financials to justify the investment with huge premium, as would be evident from Annexure 'SP' which forms part of the order. Neither the applicants are likely to receive any dividend nor the assessee has carried out any valuation to justify the huge premium charged. Accordingly, the transactions relating to issue of shares are not genuine nor the creditworthiness of the creditors has been established. Hence in view of the decision of the Hon'ble Jurisdictional High Court in the case of PCIT v BST Infratech Ltd. (supra) and others and the discussion made out by the Ld. CIT(A) to demonstrate that the applicants are shell companies, there does not appear to be any justification to interfere with the order of the Ld. CIT(A) and his order is hereby confirmed and ground nos. 2 and 3 of the appeal are accordingly rejected.

In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 6th August, 2024.

Sd/-
(Rajpal Yadav)
Vice President

Sd/-
(Rakesh Mishra)
Accountant Member

Dated: 6th August, 2024

JD, Sr. PS

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A)-3, Kolkata
 4. The CIT,
 5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata

1

Annexure : SP

[A] Year wise brief of final accounts in respect of M/s Winsher Vinimay Pvt. Ltd (assessee company) and its shareholders for A.Y. 2012-13

| Sl. No. | Shareholder/ Subscribers of the M/s Winsher Vinimay Pvt. Ltd | A.Y. | Balance Sheet | | | | | | | | | P & L Account | | | | | | | | |
|---------|--|---------|---------------------------------|--|--|-----------------------------|---------------|-------------------------|------------------|----------------------------|------------------------------|-------------------------|--|----------------|---|---------------|---------------|-------|--------|---------------|
| | | | Capital and Liability | | | | Asset | | | | | Receipts | | | Expenses | | | PAT | EPS | Return Income |
| | | | Share allotted @ 10/- per share | Share Premium @ Rs. 990/- Per share | Share application | Total capital and liability | Share capital | Share application money | Loans & Advances | Cash in hand/ Cash at bank | Investment in stock in trade | Revenue from operations | Other income /Dividend/interest on loan and advances | Total Receipts | Admn And employ ment expenses/staff & directors | Other expnses | Total Expnses | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 1 | Active Vincom Pvt Ltd | 2012-13 | 2,89,950 | At the beginning of the period issued during the period fresh issue (39,550,500) | Issued at F.V. Rs 10/share (28,99,500) | 100,05,524 | 74,46,350 | - | 24,82,233 | 56,428 | - | - | 19,82,163 | 19,82,163 | 14,01,340 | 5,79,484 | 19,80,774 | 960 | 0.00 | 1389 |
| 2 | Amritlaxmi Commosales Pvt Ltd | 2012-13 | 64,900 | At the beginning of the period issued during the period fresh issue (43,461,000) | Issued at F.V. Rs 10/share (649000) | 54,349,383 | 54,70,000 | - | - | 25,4103 | - | - | - | 8430 | - | 8993 | 8993 | (563) | 0.01 | (563) |
| 3 | Amtek Distributors Pvt Ltd | 2012-13 | 78,600 | At the beginning of the period issued during the period fresh issue | Issued at F.V. Rs 10/share 7,86,000 | 54,402,379 | 53,17,055 | - | - | 47850 | - | - | 32,667 | 32667 | 8200 | 24961 | 33161 | (494) | (0.01) | (494) |

| | | | | | | | | | | | | | | | | | | | | |
|---|-------------------------------|---------|---------|--|------------------------------------|------------|-----------|---|------------|---------|---|--------|----------|---------|---------|---------|----------|-------|--------|--------|
| | | | | 39,600,000 | | | | | | | | | | | | | | | | |
| 4 | Calvin Traders Pvt.Ltd | 2012-13 | 52,500 | At the beginning of the period issued during the period fresh issue 31,977,000 | Issued at F.V. Rs 10/share 525000 | 42,599,617 | 42,10,000 | - | - | 452,878 | - | - | 7682 | 7682 | - | 8419 | 8419 | (737) | (0.01) | (737) |
| 5 | Everfast Vinimay Pvt Ltd | 2012-13 | 54900 | At the beginning of the period issued during the period fresh issue 35,145,000 | Issued at F.V. Rs 10/share 549000 | 44,999,488 | 4496,440 | - | - | 13,832 | - | - | 7245 | 7245 | - | 8150 | 8150 | (902) | (0.02) | (905) |
| 6 | Fairway Distributors Pvt. Ltd | 2012-13 | 69200 | At the beginning of the period issued during the period fresh issue 19,008,000 | Issued at F.V. Rs 10/share 692000 | 23,302,160 | 21,08,000 | - | 2113,017 | 44156 | - | 125574 | 12680 | 138254 | - | 135451 | 135451 | 2506 | 0.04 | 960 |
| 7 | Koel Tradecom Pvt, Ltd | 2012-13 | 10,9950 | At the beginning of the period issued during the period fresh issue 30,739,500 | Issued at F.V. Rs 10/share 1099500 | 100,05,978 | 72,89,275 | - | 26,09,7192 | 51164 | - | 9500 | 1635,178 | 1644678 | 1060510 | 576,057 | 163,6567 | 8111 | 0.07 | (1389) |

| | | | | | | | | | | | | | | | | | | | | |
|----|---------------------------------|---------|----------|---|---|-------------|-------------|---|------------|--------|--------|---------|----------|----------|---------|---------|-----------|--------|------|--------|
| 8 | M/s Muskan Distributors Pvt Ltd | 2012-13 | 449600 | At the beginning of the period issued during the period fresh issue 49,599,000 | Issued at F.V. Rs 10/share 4496000 | 138,970,033 | 103050000 | - | 35,375,748 | 72549 | - | 9500 | 2613971 | 2623,471 | 1810000 | 795149 | 2607638 | 15,459 | 0.01 | 0 |
| 9 | Minolta Vyapar Private Ltd | 2012-13 | 337975 | At the beginning of the period issued during the period fresh issue 52692750 | Issued at F.V. Rs 10/share 3379750 | 108,278,514 | 8,85,51,750 | - | 18195095 | 207237 | - | 1121420 | 7000 | 1128420 | 956000 | 166,082 | 1123582 | 4613 | 0.01 | (2912) |
| 10 | Nightangle Vintrade Pvt Ltd | 2012-13 | 72000 | At the beginning of the period issued during the period fresh issue 33,660,000 | Issued at F.V. Rs 10/share 720000 | 39,703,157 | 39,396,000 | - | - | 17,104 | - | - | 264000 | 264000 | 128600 | 132608 | 261208 | 2279 | 0.03 | 1660 |
| 11 | Pushpanjali Intrade Pvt Ltd | 2012-13 | 2,50,000 | At the beginning of the period issued during the period fresh issue 51,282,000 | Issued at F.V. Rs 10/share 25,00,000 | 98,965,013 | 66,435,750 | - | 31,223,667 | 53,911 | - | 1991104 | 10000 | 2001104 | 1487440 | 50822 | 1,991,762 | 9342 | 0.04 | (658) |
| 12 | Truevalley Merchants Pvt Ltd | 2012-13 | 433975 | At the beginning of the period issued | Issued at F.V. Rs 10/share | 122,091,150 | 88519500 | - | 29,256,013 | 22872 | 490961 | 9500 | 2,082690 | 2906776 | 535047 | 1573000 | 2884798 | 20957 | 0.05 | 0 |

| | | | | | | | | | | | | | | | | | | | | |
|----|------------------------------|---------|--------|---|---------------------------------------|-------------|----------|---|------------|-----------|--------|---------|----------|---------|--------|---------|---------|--------|------|------|
| 12 | Truevalley Merchants Pvt Ltd | 2012-13 | 433975 | At the beginning of the period issued during the period fresh issue 45144000 | Issued at F.V. Rs 10/share 4339750 | 122,091,150 | 88519500 | - | 29,256,013 | 22872 | 490961 | 9500 | 2,082690 | 2906776 | 535047 | 1573000 | 2884798 | 20957 | 0.05 | 0 |
| 13 | Wonderland Merchants Pvt Ltd | 2012-13 | 239500 | At the beginning of the period issued during the period fresh issue | Issued at F.V. Rs 10/share 2395000 | 67,409,333 | 61815750 | - | 64554 | 5,089,684 | - | 1326249 | - | 1326249 | 632065 | 680500 | 1314485 | 10,321 | 0.04 | 2780 |