

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.3860/M/2023  
Assessment Year: 2011-12**

<b>M/s. Academy for Global Education Services Private Limited</b> C-09, Konark Indraprastha, Sarvoday Nagar, Nathur Village, Mulund West, Mumbai - 400080 <b>PAN: AAHCA2596F</b>	Vs.	<b>ITO</b> Aayakar Bhawan, Circle 15(1)(1), Mumbai Maharashtra
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Vimal Punmiya, CA  
Revenue by : Shri Manoj Kumar Sinha, SR. D.R.

Date of Hearing : 27 . 06 . 2024  
Date of Pronouncement : 23 . 09 . 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 09.08.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

**2.** At the outset, we observe that there is a delay of 19 days in filing this appeal, on which the Assessee has submitted that it's Chartered Accountant (CA) was busy in tax audit till September 2023, therefore due to aforesaid issue on the part of the CA, the appeal remained to be filed and resulted into delay of 19 days in filing the same. On the contrary the Ld. D.R. refuted the claim of the Assessee. Considering the delay as minuscule and reason for delay in filing the appeal as reasonable, bonafide and sufficient, the same is condoned.

**3.** Coming to the merits of the case, it appears from the assessment order that the Assessee is dealing in education services and as per information received in the Revenue Department the Assessee during the year under consideration had accumulated and incurred losses but still issued shares and received share application money of Rs.48,12,500/- and share premium of Rs.3,67,37,500/- detailed below:

SL No	Name of the Shareholders	Address of Shareholder	PAN	No of Shares Allotted	Nominal Amount Per Share	Nominal Value of Shares Allotted	Premium Per Share	Total Premium Amount	Total Amount (Share Application + Premium) received Amount
1	Arvind K Bhanushali	C-34, Konark Indraprasth, Village Nahur, Mulund (W)	AABPB2050L	10000	10	100000	30	300000	400000
2	Vasant K Mange (HUF)	C-34, Konark Indraprasth, Village Nahur, Mulund [W]	AAFHV0442J	5000	10	50000	30	150000	200000
3	Velji K Mange (HUF)	C-34, Konark Indraprasth, Village Nahur. Mulund (W)	AAAH M2831B	5000	10	50000	30	150000	200000
4	Velji K Mange	C-34, Konark Indraprasth,	AANPM1652R	5000	10	50000	30	150000	200000

		Village Nahur, Mulund (W)							
5	Deepali A Bhanushali	C-34, Konark Indraprasth, Village Nahur, Mulund (W)	AAIPB4 242P	270000	10	2700000	30	8100000	10800000
6	Kishor Porwal	B-3, Konark Regency, Mulund - Goregaon Link Road, Mulund (W)	BBGPP8 320L	100000	10	1000000	30	3000000	4000000
7	Rashel Agrotech Ltd	124, MIDC Colony, Indore-45200 1.M.P	AAACR 5669R	6250	10	62500	390	2437500	2500000
8	Pet Plastics Ltd	Panchratan Bldg, 3rd Floor, Opera House, Murnbai-400004	AAACP 3011D	6250	10	62500	390	2437500	2500000
9	Pet Export Ltd now known as Pet Stock Broker Ltd.	Panchratan Bldg, 3rd Floor, Opera House, Mumbai-400004	AAECP9 084C	6250	10	62500	390	2437500	2500000
10	Sar Engineering Ltd	7, Prem Bhavan, 2nd Floor, 234/236, Narshi Nath Street, Masiid Bandert	AAFCS1 836G	6250	10	62500	390	2437500	2500000
11	Duralloy Cutters Ltd	105, Churchgate Chamber, 5, Sir Vithaldas Thackersay Road Marine Lines, Mumbai-400020	AABCD 4127B	6250	10	62500	390	2437500	2500000
12	Rigveda Properties Ltd	105, Churchgate Chamber, 5, Sir Vithaldas Thackersay Road Marine Lines, Mumbai-400020	AAACR 3845H	6250	10	62500	390	2437500	2500000

13	Hemkuta Sugar & Allied Industries Ltd	105, Churchgate Chamber, 5, Sir Vithaldas Thackersay Road Marine Lines, Mumbai-400020	AABCH 4524J	6250	10	62500	390	2437500	2500000
14	Acquastel Water Purification Systems Pvt Ltd	105, Churchgate Chamber, 5, Sir Vithaldas Thackersay Road Marine Lines, Mumbai-400020	AAECA 4423C	5000	10	50000	390	1950000	2000000
15	Realstone Exports Ltd	7/B, Shimla Estate, Mohali Village, Sakinaka, Andheri (E), Mumbai-400072	AACCR 8504K	6250	10	62500	390	2437500	2500000
16	Utakantha Trading & Properties Ltd	105, Churchgate Chamber, 5, Sir Vithaldas Thackersay Road Marine Lines, Mumbai-400020	AAACU 6984E	6250	10	62500	390	2437500	2500000
17	Kaplana Pankaj Shah (Income After Tax)	The View Top Floor, 165, Dr A.B. Road, Worli, Mumbai-400018	ANEPSO 508E	25000	10	250000	40	1000000	1250000
				<b>481250</b>		<b>4812500</b>		<b>36737500</b>	<b>41550000</b>

**3.1** Therefore, in order to verify the aforesaid share transactions, the notice dated 23.06.2016 u/s 133(6) of the Act was issued to the Assessee, in response to which the Assessee filed its submission on 28.07.2016.

**3.2** On perusing the submissions, the information received by the Revenue Department was found to be correct by the AO and therefore the case of the Assessee was reopened by issuing the

notice dated 20.03.2018 u/s 148 of the Act. The Assessee in response to the notice u/s 148 of the Act e-filed its return of income on 29.06.2018 and submitted the copy of ITR-V for the assessment year under consideration. Thereafter notice u/s 142 of the Act was issued in response to which the Assessee furnished the requisite details.

**3.3** The Assessing Officer (AO) on perusing the Assessee's submissions had seen that the Assessee has share capital of Rs.2,00,00,000/- (2000000 equity shares of Rs.10/- each) and issued and subscribed 10,20,000 equity shares at a nominal value @ Rs.10 each and premium from Rs. 30 to Rs.390/- per share". In effect, the Assessee has received share premium of Rs.3,67,37,500/- whereas the Assessee has total accumulated loss of Rs.1,81,53,981/- as on 31.03.2010 and during the year under consideration had declared total loss of (-) Rs.2,94,56,556/-. Thus, in effect total accumulated loss stands at Rs.4,76,10,537/-. The Assessee is dealing in the service of education and therefore looking at the financial position of the Assessee, distribution of the profit by way of declaration of dividend looks very bleak. The share premium charged by the Assessee was not found commensurate with the overall current financial position of the Assessee. Therefore, the Assessee was asked to justify the charging of share premium on allotment of fresh shares year after year and as to why the entire share premium of Rs.3,67,37,500/- charged, should not be added u/s 68 of the Act to the total income of the Assessee. The Assessee failed to file any reply and therefore the AO by observing that the Assessee, after giving sufficient opportunities, made no submission, therefore it is established that the Assessee has further nothing to explain. The AO ultimately disallowed the amount of Rs.3,67,37,500/- u/s 68 of the Act on account of share premium and added the same to the total income of the Assessee.

**4.** The Assessee, being aggrieved, challenged the aforesaid addition before the Ld. Commissioner. Before the Ld. Commissioner the Assessee filed the copy of the share application forms, bank statements of the parties, balance sheets and income returns of the parties and bank statements of the Assessee where receipts of share application money are reflected. The Assessee before the Ld. Commissioner also claimed that the shareholders to whom the shares were allotted are persons with substantial worth, their identities are also established, all the transactions made through banking channels. Thus, source of funds, identity and creditworthiness of all the shareholders are established and investment in shares of Assessee are reflected in the balance sheet of investor companies and other entities. The AO though accepted the genuineness of investments of shares to the extent of face value but added the share premium amount. The AO has not doubted the capacity of the investors but made the addition only on the basis that shares were allotted at high premium even though company is making losses. The Assessee before the Ld. Commissioner also submitted that share application money is a capital receipt and not liable to be taxed u/s 56(2)(iii)(b) of the Act, deeming receipt of consideration for issue of shares in excess of face value in certain cases is applicable from A.Y. 2013-14 but not to the earlier years like the case of the Assessee. The Assessee also submitted that on similar facts in the case of the Assessee for A.Y. 2012-13, your goodselves vide order dated 01.11.2017 have deleted the identical addition of share premium amount of Rs.2,69,25,000/- which stands affirmed by the Hon'ble Tribunal vide its order dated 21.05.2019 in ITA No.1134/M/2018 and therefore the addition under consideration is liable to be deleted.

**4.1** Though the Ld. Commissioner considered the claim of the Assessee as well as documents filed, however, by making thoroughly analysis of the company's financial position, transactions

nature and performance, came to conclusion that share premium charged by the Assessee was disproportionate to the financial state and valuation of the company, which had accrued losses over time and lacks substantial assets or profits and consequently attracting the making of addition u/s 68 of the Act. The Assessee, being aggrieved, is in appeal before us.

**5.** The Assessee argued in support of its case, whereas the Ld. D.R. vehemently supported the orders passed by the authorities below.

**6.** Heard the parties and perused the material available on record. Admittedly, the Assessee has filed the relevant details/documents such as name, address and PAN numbers of the subscribers/shareholders to prove the identity and balance sheet, profit & loss account and returns of income to prove the creditworthiness and copy of bank statement of M/s. AGES and other investors, copy of share application forms, copy of ITR acknowledgment for A.Y. 2011-12, copy of details of shares allotted, copy of business plan and projections and company master data showing status active, in order to prove the genuineness of the transactions.

**6.1** It is also admitted fact that the authorities below accepted the genuineness of the investment of shares to the extent of face value but cast doubts on the premium charged ranging from Rs. 30 to Rs.390/- mainly on the reason that the premium charged by the Assessee was not found commensurate with the overall current financial position of the Assessee, as the Assessee has accumulated loss at Rs.4,76,10,537/-.

**6.2** The Hon'ble Apex Court in the case of CIT vs. Lovely Exports (P) Ltd. 317 IT 218 has also dealt with a case wherein premium has been received qua share applicants and held that if the amounts

have been subscribed by bogus shareholders, it is for the Revenue to proceed against such shareholders in accordance with law but the amount received from the shareholders cannot be regarded as undisclosed income of the Assessee.

**6.3** The Hon'ble Jurisdictional High Court in the case of CIT vs. Orchid Industries Pvt. Ltd. (2017) 397 ITR 136 (Bom.) has also dealt with the addition made on the share application money and the Hon'ble High Court while considering the judgment of the Hon'ble Apex Court in the case of Lovely Exports Pvt. Ltd. (supra), ultimately has held as under:

*4. We have considered the submissions.*

*5. The Assessing Officer added Rs. 95 lakhs as income under [Section 68](#) of the Income Tax Act only on the ground that the parties to whom the share certificates were issued and who had paid the share money had not appeared before the Assessing Officer and the summons could not be served on the addresses given as they were not traced and in respect of some of the parties who had appeared, it was observed that just before issuance of cheques, the amount was deposited in their account.*

*6. The Tribunal has considered that the Assessee has produced on record the documents to establish the genuineness of the party such as PAN of all the creditors along with the confirmation, their bank statements showing payment of share application money. It was also observed by the Tribunal that the Assessee has also produced the entire record regarding issuance of shares i.e. allotment of shares to these parties, their share application forms, allotment letters and share certificates, so also the books of account. The balance sheet and profit and loss account of these persons discloses that these persons had sufficient funds in their accounts for investing in the shares of the Assessee. In view of these voluminous documentary evidence, only because those persons had not appeared before the Assessing Officer would not negate the case of the Assessee. The judgment in case of Gagandeep Infrastructure (P.) [Ltd.](#) (supra) would be applicable in the facts and circumstances of the present case.*

*7. Considering the above, no substantial question of law arises. The appeal stands dismissed. However, there is no order as to costs".*

**6.4** We observe that in the Assessee's own case for the A.Y. 2012-13 the Co-ordinate Bench of the Tribunal in ITA No.1134/M/2018 decided on 21.05.2019 has also dealt with the

identical issue and some of the subscribers as involved in the instant case and the similar reason for making the addition as recorded in the instant case. The Co-ordinate Bench of the Tribunal by relying on various judgments ultimately deleted the identical addition made by the AO on account of share premium u/s 68 of the Act. For brevity and ready reference, the relevant part of the decision of the Co-ordinate Bench of the Tribunal is reproduced herein below:

*“6. We have heard the rival contentions and gone through the facts and circumstances of the case. We have noted the fact of the case and noted that the assessee company has received share premium during the year under consideration. During the assessment proceedings AO made detailed inquiry about share premium charged on allotment of shares. In reply, the assessee Company provided all the details like Share application forms, allotment letters, Bank Statements of parties, Balance Sheets of parties etc. and explained the genuineness of transactions. The AO has not found any irregularity in the details submitted and still proceeded to make addition of Share premium account under [section 68](#) of the Act only on the ground that shares are allotted at premium even though Company is making losses. We are of the view that making of losses can't be a ground for not charging a premium as many startups are issuing shares even to international investors at huge premiums even when they have very meagre revenues and running huge losses year after year. Details of investments by investors in the share of assessee company and their Capital & Reserves are as under: -*

<i>Name of investor</i>	<i>PAN</i>	<i>Capital &amp; Reserves</i>	<i>Amount invested in Appellant Company Shares</i>
<i>Yashraj Biotechnology Ltd</i>	<i>AAATY1474C</i>	<i>3273.78</i>	<i>200.00</i>
<i>Premji K. Mange</i>	<i>AAHPM1224F</i>	<i>48.90</i>	<i>19.00</i>
<i>Deepali A. Bhanushali (Promoter)</i>	<i>AAIPB4242P</i>	<i>168.83</i>	<i>293.00</i>
<i>Kishore O. Porwal</i>	<i>BBGPP8320L</i>	<i>85.08</i>	<i>25.00</i>
<i>Rigveda Properties Ltd.</i>	<i>AAACR3845H</i>	<i>4594.98</i>	<i>45.00</i>
<i>Utkantha Trading Ltd.</i>	<i>AAACU6984Z</i>	<i>250.31</i>	<i>30.00</i>

*From the above, it is seen that the investment in shares of Assessee company is small portion of total Capital & Reserves of the investors.*

*7. The Assessee Company has fully explained source of funds and AO has given clear finding of fact that investments in shares of assessee Company are reflected in the Balance Sheets of investor Companies & other entities. We have noted that AO has accepted the genuineness of investment of shares to the extent of face value but added the share premium amount and hence AO has not cast doubts on capacity of investors. Thus, identity of investors, genuineness of transactions and capacity of investors is established. Addition is made only on the basis that shares are allotted at premium even though Company is making losses. We further noted that that share application money is a capital receipt liable to tax under [Section 56\(2\)\(viib\)](#) of the Act as deeming receipt of consideration for issue of shares in excess of face value in certain cases is applicable only for & from AY 2013-14. We have noted that the Tribunal has considered this issue in great detail by co-ordinate Bench of Mumbai Tribunal in the case of [DCIT vs. Piramal Realty Pvt. Ltd.](#) vs. DCIT for AY 2012-13 in ITA No. 2317/Mum/2017 vide order dated 16.11.2018, wherein Tribunal held as under: -*

*"11. We find that in the given facts of the case the decision of Hon'ble Jurisdictional High Court in case of Gagandeep (supra) squarely applies to the assessee's case. The decision of Hon'ble Jurisdictional High Court in case of [CIT vs Green Infra Ltd](#) 78 taxmann.com 340 is squarely applicable to the case of the assessee. Despite being the specific argument of the CIT-DR that the share premium defies commercial prudence, Hon'ble Jurisdictional High Court has held that genuineness of the transaction is proved since the entire transaction is recorded in the books of the assessee and the transaction has taken place through banking channels. The decision of the Hon'ble High Court has specifically held that it is a prerogative of the Board of Directors of a company to decide the premium amount and it is the wisdom of the shareholders whether they want to subscribe to such a heavy premium. The Revenue authorities cannot question the charging of such of huge premium without any bar from any legislated law of the land. The Tribunal after examining the ingredients of [section 68](#) of the Act held that the addition of share premium under [section 68](#) of the Act cannot be sustained. We hereunder reproduce the relevant paragraph of the decision of Hon'ble Jurisdictional High Court in ease of [Green Infra](#) (supra) for ready reference:*

*3.Regarding question no.(ii):*

*(a)Before the Tribunal, the Revenue raised a new plea viz. that the so called share premium has also to be judged on the*

touchstone of [Section 68](#) of the Act which provides for cash credit being charged to tax. The impugned order of the Tribunal allowed the issue to be raised before it for the first time, overruling the objection of the respondent-assessee.

(b) The impugned order examined the applicability of [Section 68](#) of the Act on the parameters of the identity of the subscriber to the share capital, genuineness of the transaction and the capacity of the subscriber to the share capital. It found that the identity of the subscribers was confirmed by virtue of the Assessing Officer issuing a notices under [Section 133\(6\)](#) of the Act to them. Further, it holds that the Revenue itself makes no grievance of the identity of the subscribers. So far as the genuineness of the transaction of share subscriber is concerned, it concludes as the entire transaction is recorded in the Books of Accounts and reflected in the financial statements of the assessee since the subscription was done through the banking channels as evidenced by bank statements which were examined by the Tribunal. With regard to the capacity of the subscribers the impugned order records a finding that 98% of the shares is held by IDFC Private Equity Fund which is a Fund Manager of IDFC Ltd. Moreover, the contributions in IDFC Private Equity Fund II are all by public sector undertakings.

(c) Mr. Chhotaray the learned counsel for the Revenue states that the impugned order itself holds that share premium of Rs.490/- per share defies all commercial prudence. Therefore, it has to be considered to be cash credit. We find that the Tribunal has examined the case of the Revenue on the parameters of Section 68 of the Act and found on facts that it is not so hit. Therefore, Section 68 of the Act cannot be invoked. The Revenue has not been able to show in any manner the factual finding recorded by the Tribunal is perverse in any manner.

(d) Thus, question no.(ii) as formulated does not give rise to any substantial question of law and thus not entertained.

12. In view of the aforesaid, we are of the view that valuation is not relevant for determining genuineness of the transaction for the purpose of section 68 of the Act. We are of the view that CIT(A) has rightly deleted the addition on account of the share premium relying on the decision of Hon'ble Jurisdictional tribunal in case of Green Infra Ltd. Vs. ITO (2013) 145 ITR 240. It is a settled position that what is apparent is real unless proved otherwise. It is a settled legal position that "apparent is real" and the onus to prove that the apparent is not the real is on the party who claims it to be so as held by Hon'ble Supreme Court in case of CIT Vs. Daulat Ram Rawatmull (1973) 87 ITR 349.

13. *In the present case, the overwhelming evidence proves that the 'nature' of receipt is share premium. The audited accounts of both parties, the statutory since it was the department which claimed that the share premium is not in fact so, despite the statutory forms viz. Form 2 for return of allotment and Form 20B for annual return filed with the ROC all show the 'nature' as share premium. If the Department wants to contend that what is apparent is not real, it is the onus of the department to prove that it was Assessee's own money which was routed through a third party. Only then can the provisions of section 68 of the Act be invoked. This aspect is considered in the decision of Mumbai Tribunal in case of Green Infra Ltd. Vs. ITO (2013) 145 ITD 240, wherein Tribunal has held that it is a prerogative of the Board of Directors of a company to decide the premium amount and it is the wisdom of the shareholders whether they want to subscribe to such a heavy premium. The Revenue authorities cannot question the charging of such of huge premium without any bar from any legislated law of the land. The said decision has been affirmed by Hon'ble Jurisdictional high Court in case of Green Infra Ltd (Supra).*

14. *The Ld. Counsel for the assessee made another argument that the power of carrying valuation is not envisaged by the Legislature for the purpose of Section 68 of the Act. He argued that, wherever the Legislature intended to give the power to determine the value to the AO, it either prescribes Rule for valuation of a particular thing or vested upon the AO the power to refer to the Valuation officer. The power of AO to make a reference to the Valuation Officer is contained in section 142A of the Act. Section 142A of the Act as it stood for the year under consideration reads as under:*

*"142. (1) For the purposes of making an assessment or reassessment under this Act, where an estimate of the value of any investment referred to in section 69 or section 6911 or the value of any bullion, jewellery or oilier valuable article referred to in section 69A or section 6911 or fair market value of any property referred to in sub-section (2) of section 56 is required to be made, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him".*

15. *We have considered the issue and find that this section does not cover section 68 of the Act. Thus, the Legislature does not envisage any sort of valuation for the purpose of section 68 of the Act. Indeed, valuation of preference shares is a completely different exercise as compared to valuation of equity shares. The AO makes the mention of*

*the reserves and loss while challenging the charge of share premium on preference shares. "Reserves" could be relevant for valuing equity shares. They are not relevant for valuing preference shares. Preference shareholders get priority over the equity shareholders in terms of payment of dividend and during winding up. They get only a fixed rate of dividend. The redemption amount depends on the terms of issue. The conversion depends on the terms of issue. The terms of issue are relevant for valuing preference shares. Even the present Rule 11UA of the Income Tax Rules 1962 are applicable only to section 56(2) of the Act, requires valuation of preference shares by the merchant bankers. The AO has not even attempted to do any sort of valuation of preference shares. His addition is based entirely on conjectures and surmises. It is a settled law that the assessment cannot be made on mere suspicion, conjectures and surmises.*

*16. Even amendment to section 68 brought by Finance Act, 2012 does not refer to valuation. The insertion of the proviso to section 68 of the Act by Finance Act, 2012 casts an additional onus on the closely held companies to prove source in the shareholders subscribing to the shares of companies. During the course of the hearing, the Ld Counsel explained that the explanatory memorandum to the Finance Bill 2012 makes it clear that the additional onus is only with respect to source of funds in the hands of the shareholders before the transaction can be accepted as a genuine one. Even the amended section does not envisage the valuation of share premium. This is further evident from a parallel amendment in section 56(2) of the Act which brings in its ambit so much of the share premium as charged by a company, not being a company in which the public are substantially interested, as it exceeds the fair market value of the shares. If one accepts the Ld CIT-DR's contentions that section 68 of the Act can be applied where the transaction is proved to be that of a share allotment that here the valuation for charging premium is not justified, it will make the provisions of section 56(2)(viib) of the Act redundant and nugatory. This cannot be the intention of the Legislature especially when the amendments in the two sections are brought in at the same time.*

*In view of the matter, the Ld Counsel explained that it is a settled law that where two views are possible, the view favorable to the assessee should be adopted as held by Hon'ble Supreme Court in case of CIT Vs. Vegetable Products Ltd. (1973) 88 ITR 192. In view of the above facts and circumstances, we are of the view that the assessee has discharged its onus by adequately disclosing the transaction in its books of accounts, filing statutory forms as regards allotment of shares, providing name, address and PAN of the shareholders, etc. the assessee has sufficiently discharged the onus cast upon it for the purpose of section 68 of the Act and no addition can be made on this account. Hence, we are of the view that the CIT(A) has rightly deleted the*

*addition and we confirm the same. This issue of Revenue's appeal is dismissed."*

*8. In view of the above given facts and circumstances of the present case and order of co-ordinate Bench of this Tribunal in the case of Piramal Realty Pvt. Ltd. (supra), we confirm the order of CIT(A) deleted the addition made by the AO on account of share premium under section 68 of the Act. The appeal of Revenue is dismissed."*

**6.5** Coming to the instant case, we observe that the authorities below though accepted the genuineness of shares application money to the extent of face value but doubted the charging of premium on share application, simply on the reason that shares are allotted at high premium even though company is making losses. We observe from the aforesaid decision in Assessee's own case for A.Y. 2012-13, the issue qua making of losses by the Assessee but still issuing the shares at premium, has also been considered by the Hon'ble Co-ordinate Bench and by holding *that making of losses can't be a ground for not charging a premium, as many startups are issuing shares even to international investors at huge premiums, even when they have very meagre revenues and running huge losses year after year*, ultimately affirmed the decision of the then Ld. CIT(A) in deletion of the identical addition.

**6.6** As the issue involved in the instant case has been dealt with extensively by the various higher courts as well as by the Co-ordinate Bench of the Tribunal in Assessee's own case for the A.Y. 2012-13, further, the Assessee by filling the relevant documents has been able to establish the identity, creditworthiness and genuineness of the transactions and therefore prima-facie discharged its onus cast upon u/s 68 of the Act and therefore in our considered view, the addition under consideration is un-sustainable, hence the same is deleted.

7. In the result, the appeal filed by the Assessee stands allowed.

**Order pronounced in the open court on 23.09.2024.**

**Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.