

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH KOLKATA

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No. 116/KOL/2024
Assessment Year: 2012-13**

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| Balhanuman Commodeal Pvt. Ltd., 7, Red Cross Place, 4 th Floor, Kolkata - 700001 (PAN: AAECB5704H) | Vs | I.T.O., Ward-5(4), Kolkata, Aaykar Bhawan, P-7, Chowringhee Square, Kolkata - 700069 |
| (Appellant) | | (Respondent) |

Present for:

Appellant by : None
Respondent by : Shri Vineet Kumar, Addl. CIT, Sr. DR

Date of Hearing : 08.07.2024
Date of Pronouncement : 03.10.2024

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as “the Ld. CIT(A)”) passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2012-13, dated 30.11.2023, which has been passed against the assessment order u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) by the I.T.O., Ward 5(4), Kolkata.

2. The grounds of appeal raised by the assessee are reproduced as under:

“1). That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the action of Assessing Officer who considered share capital with premium aggregating to Rs. 1,40,00,000/- as unexplained cash credit u/s 68 of the Income Tax Act, 1961.

(2) *That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the disallowance u/s 14A of the IT Act read with Rule 8D of IT Rules amounting to Rs. 3,500/-.*

(3) *That the appellant craves leave to add, alter adduce or amend any ground or grounds on or before the date of hearing of the appeal.”*

3. Brief facts of the case are that the assessee filed its return of income (ROI) for A.Y. 2012-13 relevant to F.Y. 2011-12 showing total income of Rs.11,408/-. The case was taken up for scrutiny through CASS and in compliance with the notices issued u/s 143(2) & 142(1) of the Act, the assessee filed various details as required. Further, it is seen that the assessee had issued 7,000 equity shares at the rate of Rs. 10/- each and a premium of Rs. 1990/-. The assessee had received total amount of Rs. 1,40,00,000/- against such shares during the FY 2011-12. Summons u/s 131 were issued to the directors of all the investor companies but there was no compliance to the same. A show cause notice was issued to the assessee on 18-03-2015 informing the said facts and cause as to why share application money received by it should not be treated as bogus and treated as unexplained cash credit as per section 68 of I.T. Act. But the assessee failed to give any explanation. Accordingly, Rs. 1,40,00,000/- was disallowed in terms of the provision of Section 68 of the Act, and added to the total income of the assessee. Further, it was found that the assessee had shown Rs.14,00,000/- as current investments in equity as on 31.03.2012. The Ld. A.O. held that the generation of exempt income out of the said investments of Rs.14,00,000/- cannot be ruled out. However, no disallowance u/s 14A of the I.T. Act, 1961 was computed by the assessee against this income. Hence, in view of the CBDT Circular No.5/2014 dated 11.02.2014, a disallowance u/s 14A of the I.T. Act, 1961 read with rule 8D of the I.T. Rules, 1962, amounting to Rs. 3,500/- was made in this regard and added to the total income and the total income was computed at Rs. 1,40,14,908/-.

3.1 Aggrieved with the assessment order, the assessee filed an appeal before Ld. CIT(A) but both the additions were confirmed and appeal was dismissed after considering the written submissions filed. Aggrieved with the order of Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. We have gone through the facts of the case. None appeared on behalf of the assessee at the time of hearing, however the assessee had filed a paper book dated 14th May, 2024. The appeal was heard with the assistance of the Ld. DR/Ld. Sr. DR.

5. Ld. AO has made the additions on account of share capital and share premium and also u/s 14A of the Act. An extract of the assessment order is reproduced below:

3. In compliance to the notices issued u/s.143(2) & 142(1), Dipak Kr. Tibrewal, A.R. of the assessee appeared, filed various details as required, produced books of accounts which were test checked and the case was discussed with him.

4. On perusal of the Balance sheet of the assessee it is seen that the assessee had issued 7,000 equity shares at the rate of Rs.10/- each and a premium of Rs. 1990/- . The assessee had received a total amount of Rs. 1,40,00,000/- against such shares during the year financial year 2011-12 including premium of Rs.1,39,30,000/-. In order to verify the genuineness of the said transactions and to verify the identity and creditworthiness of the shareholders of the assessee company, notice u/s 131 of I.T. Act was issued to directors of all of the shareholder companies of the assessee. They were asked to appear personally before the undersigned and to produce/ furnish details/ documents in support of the justification for the investment made by them in the assessee company and other details as asked for. But, none of them appeared before the undersigned. In view of the above, a show-cause letter was issued to the assessee on 18-03-2015 informing the said facts and to show cause as to why share application money received by it should not be treated as bogus and why the same should not be treated as its unaccounted money introduced books of accounts as share application money. Assessee was also asked vide this letter as to why the said share application money should not be treated as bogus and unexplained cash credit in its books as per the provisions of section 68 of I.T. Act., but the assessee failed to put forward any explanation till the date of passing of this order.

From the aforesaid facts and discussion, it is evident that assessee has no explanation to offer in this regard which reveals that the assessee introduced its own unaccounted money in the form of share application money, to legalize the same.

Considering the aforesaid facts and discussion, share application money of Rs. 1,40,00,000/- including share premium of Rs. 1,39,30,000/- received by the assessee during the year is disallowed and added to the total income of the assessee as unexplained cash credit in the books of the assessee as per the provisions of section 68 of I.T. Act.

Whenever a sum is credited in the books of the assessee, the onus lies on the assessee to prove three criteria:

- (i) Identity of the creditors,*
- (ii) Creditworthiness of the creditors and*
- (iii) Genuineness of the transaction.*

As per the provisions of the section 68 of the I. T. Act, the onus is on assessee to prove the above three criteria. Reliance is being place on the decision of jurisdictional High Court in the case of CIT-vs- Precision Finance Pvt. Ltd. [208 ITR 463] wherein it was observed that

"It is for the assessee to prove the identity of the creditors, their creditworthiness and the genuineness of the transactions. The inquiry of the ITO revealed that either the assessee was not traceable or there was no such file and accordingly, the first ingredients to the identity of the creditors had not been established. If the identity of the creditors had not been established, consequently the question of establishment of genuineness of the transactions 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 would depend on the facts and circumstance of each case. It is expected of both the sides The assessee and the assessing authority to adopt a reasonable approach. This view had been taken in the case of CIT Vs M/s Nipun Builders & Developers Pvt. Ltd. 30 Taxman.com 292 (Delhi) [2013]. The assessee was a private limited company, which cannot Issue share in the same manner in which a public limited company does. It has to generally depend on persons known to its directors or shareholders directly or indirectly to buy procure share application money, so far as creditworthiness of the share subscribers is concern, there must be some positive evidence to show the nature and source of the resources of the share subscribers. If the assessee was serious enough to establish its case, it 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.

In this case, even after providing several/ sufficient opportunity, assessee failed to prove the genuineness of the transaction and identity and creditworthiness of shareholders, section 68 of the I. T. Act provides for charging to income tax on any sum credited in the books of the assessee maintained for any previous year if the assessee offers no explanation about the nature and source thereof or the explanation offered is not, in the opinion of the Assessing Officer, satisfactory. It places no duty upon the Assessing Officer to point to the source from which the money was received by the assessee. Where an assessee fails to prove satisfactorily the source and the nature of certain amount of credit during the accounting year, the Income-tax Officer is entitled to draw the inference that the receipt are of an assessable nature. This view was adopted in the case of A. Govindarajulu Mudaliar -vs-CIT [1958] 34 ITR 807. Similar view was also taken in the case of:

- (i) CIT vs Devi Prasad Viswanath Prasad [1969] 72 itr 194 (SC), and*
- (ii) Commissioner of Income-tax vz Independent Media (P) Ltd. [2012] 25 taxman.com 276 (Delhi)*

Reliance is also being placed on the decision for jurisdictional ITAT in the case of M/s Star Griha Pvt. Ltd. vs CIT and M/s Bisakha Sales Pvt. Ltd. vs. CIT wherein Hon'ble ITAT has given detailed findings of modus operandi of such type of companies.

Penalty proceedings u/s 271(1)(c) of the I. T. Act, 1961 has been initiated against the assessee on this point for concealing the particulars of income and furnishing Inaccurate particulars of income.

5. It is found that the assessee has shown Rs. 14,00,000/- as current investments in equity as on 31.03.2012. No such is found to be made by the assessee as on 31.03.2011. The generation of exempt income out of the said investments of Rs. 14,00,000/- cannot be ruled out. However, no disallowance u/s.14A of the I.T. Act, 1961 was computed by the assessee against this income. Further, administrative expenditure debited in the Profit & Loss Account is shown at Rs.1,42,184/-. Hence, in view of CBDT Circular No.5/2014 dated 11.02.2014, a disallowance u/s.14A of the I.T.Act, 1961 read with Rule 8D of the I.T.Rules, 1962, amounting to Rs. 3,500/- is made in this regard and added to the total income. The disallowance u/s.14A in this case is computed as under.

Average investment = $\frac{\text{Rs. } 14,00,000}{2}$ -

= Rs.7,00,000/-

0.5% of average investment = Rs. 3,500/-

Disallowance u/s. 14A subject to the

Expenditure debited to the P/L Account = Rs. 3,500/-

6. The Ld. CIT(A) confirmed the disallowances vide the impugned order, relevant extract from which is reproduced as under:

6. Appellant Findings

The various grounds of appeal are adjudicated upon as below:-

7. Ground No.1: This ground has been raised against the action of the A.O in making an addition of Rs 1,40,00,000/- on account of share application for issuance of shares u/s 68 of the Act.

7.1 As per the assessment order it is seen that the A.O noted that the assessee had issued 7000 equity shares of face value Rs 10/- at a premium of Rs 1990/- per share and thus had received an amount of Rs 1,40,00,000/- for issuance of shares which included a premium of Rs 1,39,30,000/-. In order to verify the claims, the A.O issued summons u/s 131 to the directors of the shareholder companies who were required to appear in person. However, since there was no compliance, the A.O added the amount u/s 68 of the Act.

7.2 Section 68 of the Income-tax Act, 1961 entitled "Cash Credits" reads as under.

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

[Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money. share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-

(a) The person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited,- and

(b) Such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23F13) of section 10.1"

7.3 From a perusal of the provisions of section 68 it is clear that the following conditions are required to be met:-

i. The assessee has maintained 'books';

ii. There should be credit of amounts in the books maintained by the assessee of a sum during the year;

iii. The taxpayer offers no explanation about the nature and source of such credit found in the books or the explanation offered by the taxpayer in the opinion of the Assessing Officer is not satisfactory:

iv. If the taxpayer is a closely held company and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such company shall be deemed to be not satisfactory, unless [As amended by Finance Act, 2012, w.e.f. 1.4.2013]:

(a) The person, being a resident in whose name such credit is recorded in the books of such company, also offers an explanation about the nature and source of such sum so credited;

and

(b) Such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

If all the above conditions exist, sum so credited may be charged to tax as income of the taxpayer of that year.

7.4 The Burden of proof is on the assessee who is required to offer an explanation to the satisfaction of the Assessing Officer so as not to attract the mischief of section 68 or for that matter section 69A. This aspect has been deliberated upon by the Hon'ble Supreme Court in numerous decisions. Relevant portion from following case laws are extracted below:

i. Sreelekha Banerjee v CIT (1963) 49 1TR 112 (SC)

ii. Kale Khan Mohammad Hanif v CIT[1963] 50 ITR 1 (SC)

(iii) Roshan Di Hatti v CIT [1977] 107 ITR 938 (SC)

iii. Sumati Dayal v. CIT [1995] 80 Taxman 89 (SC)

iv. CIT v. P. Mohanakala [2007] 161 Taxman 169 (SC)

{Learned CIT(A) has reproduced the relevant extracts from the orders which are not being reproduced here}

7.5 From a careful perusal of the above decisions, it is established that primary onus to prove the source of the money and necessary evidences to support credit entries u/s 68 of the Act is on the assessee. The Hon'ble Supreme Court has further held that

explanation offered by the assessee should be carefully examined by the AO to ascertain whether all the ingredients of the onus are proved by the assessee or not. Essentially, the explanation of the assessee is required to be tested on the touchstone of Genuineness, both of the parties as well as the transaction. Thus it is for the assessee to produce the materials, evidence and an explanation that is comprehensive and accurate.

7.6 In order to determine whether the burden of proof has been duly discharged it the totality of circumstances which are required to be seen. The facts cannot be viewed in terms of isolated transactions but instead in comprehensive and wholistic manner. More often than not the substance is very different from the form that the transactions take by way of singular details and only after analysing the entire gamut of facts taken together and within a wholistic framework is the true picture and the real intent behind the same actually revealed. While the individual pieces of evidence may tell one story, viewed in totality they relate a different narrative. It is this approach which needs to be adopted in this case in order to determine the veracity of the transactions and the details submitted by the appellant need to be viewed and analysed in this context.

7.7 From the submissions of the appellant it is seen that all the primary details of the companies had been duly provided to the A.O including their confirmations, bank statements, Income tax returns and auditor reports and hence viewed singularly they seem to satisfy the test of genuineness. The only issue that stands out is that there was no compliance to the summons issued by the A.O to the directors of the shareholder companies. While this may not be in itself sufficient reason to arrive at an ultimate conclusion, it does raise questions and also begs a proper examination of the details submitted with the suggestion that there may be a bigger picture which may reveal a different narrative.

8.6 According to the legal principles as laid down in the plethora of judicial decisions mere production invoice numbers or bills or PAN or details of cheque and bank statements or ITR and confirmations only indicate and reflect proper paper work or documentation but genuineness, creditworthiness and identity are deeper and obtrusive.

The Guwahati High Court in Nemi Chand Kothari v. CIT [2004] 136 Taxman 213/[2003] 264 ITR 254 held that merely because a transaction takes place by cheque is not sufficient to discharge the burden. The assessee has to prove the identity of the creditors and genuineness of the transaction.:

"It cannot be said that a transaction, which takes place by way of cheque, is invariably sacrosanct. Once the assessee has proved the identity of his creditors, the genuineness of the transactions which he had with his creditors, and the creditworthiness of his creditors vis-a-vis the transactions which he had with the creditors, his burden stands discharged and the burden then shifts to the revenue to show that though covered by cheques, the amounts in question, actually belonged to, or was owned by the assessee himself "

The Hon'ble ITAT, Delhi in the case of Pee Aar Securities Ltd. vs. DCIT, Circle-14(1), New Delhi ((2018) 96 taxmann.com 602 (Delhi - Trib.)) has held as under:

"It is also a settled legal position that the onus of the assessee, of explaining nature and source of credit, does not get discharged merely by filing confirmatory letters, or demonstrating that the transactions are done through the banking channels or even by filing the income tax assessment particulars. In the case of CIT v. United Commercial and Industrial Co (P.) Ltd [1991] 187 ITR 596/56 Taxman 304 (Cal),

Hon'ble Calcutta High Court has held that "it was necessary for the assessee to prove prima facie the identity of creditors, the capacity of such creditors and lastly the genuineness of transactions". Similarly, in the case of CIT v. Precision Finance (P.) Ltd [1994] 208 ITR 465/[1995] 82 Taxman 31 (Cal), it was observed that "it is for the assessee to prove the identity of creditors, their creditworthiness and genuineness of transactions". There is thus no escape from proving genuineness of a transaction."

In the case of PCIT vs. NRA Iron & Steel (P) Ltd. [(2019) 103 taxmann.com 48 (SC)] the Hon'ble Supreme Court has held that "merely because assessee company had filed all primary evidence, it could not be said that onus on assessee to establish credit worthiness of investor companies stood discharged"

The following observation of Hon'ble ITAT of Ahmadabad Bench in the case of Nakoda Fashion Pvt. Ltd. in ITA No. 1716/Ahd./2012 dated 18.08.2016 is also relevant, wherein it has been held as under:-

"19. From going through all the above judgments and decision, we find that along with evidences, surrounding circumstances, human probability and intentional acts are also to be taken note off while accepting the identity. creditworthiness and genuineness of the cash creditors which in this case is the share applicants. In the case before us we observe that assessee is trying to assert again and again upon the PAN, IT returns, bank statement and confirmations of the impugned 5 parties but has nowhere tried to clarify or disclose the fact which has embedded in the financial statement of these 5 parties which speaks in itself that they are paper companies. Further if it has been genuine transaction and assessee company is asked to produce the new share holders who have been allotted a substantial portion of equity shares, he would have easily called upon the investors. The investors could have come along with all the financial documents and could have clarified about his intention to make investment in the equity shares of the company because every investor wants to earn income from investment in the form of dividend as well as expects appreciation in the valuation of shares with the growth of business. If this has been the situation, then there would have been no doubt on the genuineness of the transactions....

If the assessee has adduced evidences to establish the prima facie, the aforesaid onus shifts to the Department. However, mere furnishing of particulars or the mere fact of payment by account payee cheque or the mere submission of confirmation letter by the share applicant is by itself, not enough to shift the onus to the Department although these facts may, along with other facts be relevant in establishing the genuineness of the transaction. As held by Hon. Supreme Court in the case of CIT vs. N. Tarika Properties Investment (2014) 51 taxmann.com 387(SC) that "PAN cannot be treated as sufficient disclosure of identity of the person. PANs are allowed on the basis of application without actual de facto clarification of identity or ascertainment of activities, nature of business activity and are just as to facilitate the Revenue to keep track of transactions and thus PAN cannot be blindly and without consideration of surrounding circumstances treated as sufficient disclosing the identity of individual".

It is in this context that the identity of the parties, the genuineness of the transactions and their creditworthiness has to be looked at, by delving into the true substance of the information provided.

7.8 First and foremost are the financials of the appellant company itself. The company was incorporated in FY 2011-12 itself with registered address at 8 Armartalla Street, 4th floor, Kolkota, with an authorized share capital of Rs 1,00,000/- only which was later revised by Rs 5,00,000/- and hence the total capital is Rs 6,00,000/- at the end of this year. The issued. subscribed and paid up share capital was only Rs 100000 which increased to Rs 170000 at the end of the year. During the year the only income

earned is "other income" of Rs 407756 and total expenses are only Rs 400884 with a PBT of Rs 6871/-. On the asset side of the balance sheet we see that the company has made unquoted investments in 2 private Ltd companies totalling Rs 14,00,000, the cash on hand with the company is only Rs 255073 and with bank is Rs 69761/-. There is nothing from these financials which would indicate an earning potential that may attract investments by way of share capital or premium. And yet during the year under consideration the assessee had issued 7,000 equity shares at the rate of Rs. 10/- each at a premium of Rs. 1990/-. The assessee had received a total amount of Rs. 1,40,00,000/- against such shares during the FY 2011-12 as under:-

| NAME | NO OF SHARES | Total receipt including premium |
|----------------------------|--------------|---------------------------------|
| Pleasure Merchants Pvt Ltd | 600 | Rs 12,00,000 |
| Zeus Vinimay Pvt Ltd | 1250 | Rs 1,25,00,000 |
| Navnita Dealcomm Pvt Ltd | 150 | Rs 3,00,000 |

Looking at this information the natural question that comes to mind is what may be reason that this company has attracted equity capital at a premium of Rs 1990 per share considering it is doing no fundamental business being itself an investment company and earning no significant income. Furthermore, no information has been provided by the appellant either during the assessment proceedings or in the instant proceedings as to the future business opportunities being exploited by the appellant company to enthruse prospective shareholders to invest in the company at such a high premium. Thus it is time to view the financials of the investing companies in more detail to see the true nature of the investments being made.

7.9 The company with the maximum investment is Zeus Vinimay Pvt Ltd. This company is also registered 8 Amartalla Street, 4th floor, Kolkota which is the same address as the appellant company. Zeus Vinimay has filed its ITR for AY 2012-13 with a Gross total income of Rs Nil. The revenue from operations is Nil and the other income is Rs 186219. The total expenses are Rs 179662 and the PBT is Rs 6557. Thus the question that needs answering is that if this company is also not carrying out any substantial business activity then where did I get the funds of Rs 1,25,00,000/- to invest in the appellant company? Looking at the balance sheet it is see that the authorized share capital is Rs 17,55,000/- and the reserves and surpluses are Rs 23,95,09,565 as on 31.3.2012. Thus on first glance it may be said that this company had substantial reserves and surpluses to invest in the appellant company. However if we see Note No 3 which provides the details of these reserves and surpluses, it gives a different story. These reserves and surpluses are only on account of share premium received by Zeus Vinimay Pvt Ltd from other companies who have invested in it to the tune of Rs 23,84,02,500. Thus the picture that emerges is that the funds invested by Zeus into the appellant company by way of share capital and share premium have in turn been received by It as primarily share premium. Last of all what needs to be seen is the bank statements of Zeus to see the pattern of the flow of funds into and out of this company. The extract of the statement provided by the appellant in the instant proceedings is reproduced below:

{Thereafter the extract has been reproduced on Page 16 of the Appeal Order}

From the statement of Zeus Vinimay Pvt ltd it clear that there credits and simultaneous debits of almost equal amounts. Eg on 24.11. the balance was only 1,10,340/-. Then on 25.11, an amount of Rs 20,00,000 is received from Russle mercantile pvt ltd and Rs 10,00,000/- from Latest Tradecomm Pvt ltd and the total

amount of Rs 30,00,000/- is passed on to Champion Commotrad. This pattern of credits and debits is repeated throughout the extract provided. with the balance falling to as low as Rs 10,172/- for most of the period. In the ultimate analysis it is very clear that Zeus Vinimay Pvt Ltd is being used to provide accommodation entries only as is evident not only from the fact that it is not carrying out any substantial profit making business activity but also that money is received from other companies/entities and almost immediately paid out to other companies. The large reserves and surplus which is being used to substantiate its financial muscle is only share premium received from other companies and further invested/paid to the appellant company and other such companies as share premium. It can only be concluded that Zeus Vinimay is a shell company which is a link in a chain of companies for the purpose of layering funds with the sole intention of providing accommodation entries by way of share capital and share premium.

7.10 Next we come to Pleasure Merchants Pvt Ltd which has invested Rs 12,00,000 in the appellant company. This company is also registered at 8 Amartalla Street, 4th floor, Kolkota which is the same address as the appellant company and Zeus Vinimay. Pleasure Merchants Pvt Ltd has filed its ITR for AY 2012-13 with a Gross total income of Rs 1524. The revenue from operations is Nil and the other income is Rs 34754. The total expenses are Rs 38175 and the PBT is Rs (3421). Looking at the balance sheet it is see that the share capital is Rs 1,66,000/- and the reserves and surpluses are Rs 1,31,17,633 as on 31.3.2012. Note No 3 which provides the details of these reserves and surpluses, shows that the reserves and surpluses are only on account of share premium received from other companies to the tune of Rs 1,31,34,000/- Thus the picture that emerges is that the funds invested by Pleasure Merchants Pvt Ltd into the appellant company by way of share capital and share premium have in turn been received by it share premium. Last of all what needs to be seen is the bank statements of Pleasure Merchants to see the patter of the flow of funds into and out of this company. The extract of the statement provided by the appellant in the instant proceedings is reproduced below:

{Thereafter the extract has been reproduced on Page 18 of the Appeal Order}

The bank statement above presents the same story as in the case of Zeus Vinimay Pvt Ltd. There are credits and simultaneous debits of almost equal amounts. This pattern of credits and debits is repeated throughout the extract provided, with ame balance falling to as low as Rs 5251/- for most of the period. in the ultimate analysis it is very clear that Pleasure Merchants Pvt Ltd is being used to provide accommodation entries only as is evident not only from the fact that it is not carrying out any substantial profit making business activity but also that money is received from other companies/entities and almost immediately paid out to other companies. The large reserves and surplus which is being used to substantiate its financial muscle is only share premium received from other companies and further invested/paid to the appellant company and other such companies as share premium. It can only be concluded that Pleasure Merchants Pvt Ltd is also a shell company which is a link in a chain of companies for the purpose of layering funds with the sole intention of providing accommodation entries by way of share capital and share premium.

7.11 Lastly we come to Navnita Dealcomm Pvt Ltd which has invested an amount of Rs 3,00,000 in the appellant company. This company is also registered at 8 Amartalla Street, 4 th floor, Kolkota which is the same address as the appellant company and Zeus Vinimay and Pleasure Merchants Pvt Ltd. Navnita Dealcomm Pvt Ltd has filed its ITR for AY 2012-13 with a Gross total income of Rs 62986. Looking at the balance sheet it is see that the share capital is rs 2,25,34,750/- and the reserves and surpluses are Rs 180403029 as on 31.3.2012. The authorized share capital is Rs

25,00,000/- Note No 3 which provides the details of these reserves and surpluses, shows that the reserves and surpluses are only on account of share premium received from other companies to the tune of Rs 180305250/-. This company has short term borrowings constituting Unsecured loans and advances of Rs 4,40,88,348/-. This company has given share application money to others of Rs 89070000/- as provided in Note 14 of the current assets. The extract of the statement provided by the appellant in the instant proceedings is reproduced below:

{Thereafter the extract has been reproduced on Page 20 of the Appeal Order}

The bank statement above presents a similar story as in the case of Zeus Vinimay Pvt Ltd and Pleasure Merchants Pvt Ltd. There are credits and simultaneous debits of almost equal amounts. This pattern of credits and debits is repeated throughout the extract provided, with the balance falling to as low as Rs 9000/-. Even though this company is having revenue from operations from purchase and sale of shares, it is evident that money is received from other companies/entities and almost immediately paid out to other companies. The large reserves and surplus which is being used to substantiate its financial muscle is largely share premium received from other companies and further invested/paid to the appellant company and other such companies as share premium. It can only be concluded that Navnita Dealcomm Pvt Ltd is also being used for providing accommodation entries.

7.12 To summarise the observations of the details provided with regard to the 3 companies which have invested in the appellant company, it is seen that firstly, they are all registered at the same address 8 Amartalla Street, 4th floor, Kolkata. Next, 2 of the companies are not engaged in any substantial business activity with minimal or Nil revenue from operations. The huge reserves and surpluses reflected in the Balance Sheet of all companies are on account of the huge share premium received which is then passed on by way of share application money and share premium in other companies. This is evidenced by the bank statements which show minimal balances for most of the period and simultaneous credits and debits which indicate that they are being used to layer financial transactions with the purpose of providing accommodation entries. Added to all the above factual analysis is the fact that there was no compliance to the summons issued by the A.O to the directors of the investor companies. While this independently may not have been a deciding factor in making the addition u/s 68 of the Act, when it is juxtaposed with the factual and financial analysis carried out in regard to the investor companies it completes the narrative and provided a wholistic picture as to the real nature of the transactions and their genuineness. On the basis of all the evidences taken together it is abundantly clear that the three ingredients of section 68 have not been proved namely the identity of the parties, their credit worthiness and the genuineness of the transactions. The appellant company has thus failed to discharge the burden of proof and onus cast upon it by the provisions of the section as enumerated in the judicial decisions referred to above.

7.13 Accordingly, the addition of Rs 14000000/- made by the A.O u/s 68 of the Act is confirmed and the Ground of Appeal is Not Allowed.

8. Ground No.2: This ground has been raised against the action of the A.O. in making an addition of Rs 3500/- u/s 14A of the Act.

8.1 The A.O has discussed this issue in para 5 of the order wherein he has calculated the disallowance u/s 14A rwr 8D at 5 percent of the average investments. The appellant has not raised any significant contentions against this disallowance. Since the appellant has made investments during the year as pointed out by the A.O and in keeping with CBDT circular 5 of 2014, the addition of Rs 3500 u/s 14A is upheld. The Ground of Appeal is Not Allowed.

9. Ground No 3 is general in nature and does not require adjudication.

10. Resultantly, the appeal preferred by the appellant is *DISMISSED*.

7. In the course of the appeal, the assessee has submitted as under:

Kindly refer to the above mentioned appeal fixed for hearing on 15.05.2024 before the Hon'ble "C" Bench.

We submit as under: -

It is submitted that since assessment stage the above matter was looked after by Sri Deepak Tibrewal, CA being the Authorised Representative of the appellant company.

It is also submitted that Mr. Dipak Kumar Tibrewal was suffering from various ailments & ultimately, expired on 24.11.2022. Copy of death certificate of Dipak Kumar Tibrewal is enclosed herewith.

This is to inform your Honours that in course of assessment proceedings before the AO we are unable to submit the proper details / documents for verification of the issue of share capital due to the reason mentioned above. However, in course of appeal proceedings before the Ld. CIT(A) all the details and documents relating to the disputed issue of share capital were submitted. Copies of written submissions along with paper book submitted before the Ld. CIT(A) is enclosed herewith for your kind perusal.

We draw your attention to the judgement of the Hon'ble Apex Court in the case of Principal CIT vs. NRA Iron & Steel (P) Ltd (412 ITR 161), wherein it was held that the decision on addition made towards cash credit was rendered in favour of the revenue, it is noted that the said decision is factually distinguishable. Upon going through the facts involved in that judgment, it is noted that, in the decided case, the AO had made extensive enquiries but in our case no enquiries has been made by AO as the relevant details and document were not submitted before the AO. Hence the ruling of the case has no applicability in the present case.

It is most respectfully prayed that your Honours may be kind enough to set aside the above matter before the lower authorities so that verification of the shareholders can be done on the basis of above submission / documents and pass such order as it may deem fit and proper.

8. We have examined the facts of the case. The Ld. DR relied upon the decision in the case of 412 ITR 161 of the Hon'ble Supreme Court.

9. Similar issue arose in the case of M/s. Toplink Commerce Limited Vs Income Tax Officer, Ward-10(2), Kolkata ITA No.1413/KOL/2023 Assessment Year: 2012-13 where the Coordinate Bench 'A', Kolkata have held as under on similar facts, the relevant extract is as under:

16. Similar issue arose in the case of *Winsher Vinimay Pvt. Ltd. Vs. ITO, Ward-9(2), Kolkata in ITA No.1393/KOL/2018 for AY 2012-13 before the ITAT "A" BENCH KOLKATA in the order dated 06.08.2024* wherein reliance has been placed on a recent decision of the Hon'ble jurisdictional High Court in the case of *Principal Commissioner of Income-tax v. BST Infratech Ltd. [2024] 161*

taxmann.com 668 (Calcutta) to decide the issue of share premium treated as unexplained cash credit. The relevant extracts from the order are as under:

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 are 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 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 situation 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 20132014 wherein under the heading "Measures to Prevent Generation and Circulation of Unaccounted Money" it was pointed out that the onus of satisfactory 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 re-routed 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 another case of **Principal Commissioner of Income-tax v. One Point Commercial (P.) Ltd. [2024] 161 taxmann.com 737 (Calcutta)** also, 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 assesseees, 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 Bal Gopal Merchants (P.) Ltd. vs. PCIT reported in [2024] 162 taxmann.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.

17. Thus, to sum up, it can be concluded that except for filing paper documents, which are in the nature of self-serving recitals but could not justify the genuineness of the transactions for investing in a newly formed company with no past history nor having any plausible business model, that too at a huge premium of Rs. 499/- for shares of the face value of Rs.1, the assessee could not establish the genuineness of the transactions and the creditworthiness of the share applicants. The factors which militate against the assessee and question the genuineness of the entirely dubious and unjustified transactions for receipt of share capital along with huge share premium from corporate entities are as under:

- i. No verification of the applicants could be carried out by the Assessing Officer since the required evidence was not produced.*
- ii. The assessee does not have any plausible source of income so as to attract the funds at a huge premium nor the investors had any plausible source of income to justify the genuineness of the transactions of the source of the funds invested. As would be apparent from the details of*

- the financial statements filed, the promoter companies themselves had invested out of the advances received while others had invested out whether share capital/loans received. There does not appear to be any plausible source of income for the repayment of such advances by the assessee.*
- iii. The sources of funds of the investing companies were either advances or loans/share capital, at times received with huge premium having no link with the valuation of the concerned company.*
 - iv. No business model exists for repayment of loans by the recipient of the loans or payment of dividend to the subscribers who have invested in shares at a huge premium. It appears as if the so-called investors had huge money lying with them which they could not handle and therefore dumped it anyhow upon the assessee without carrying out any due diligence.*
 - v. The above factors are compounded by the fact that when required to produce the directors, the same were not produced. Even before us, the details of the directors have not been even mentioned.*
 - vi. The assessee was not a listed company or a company belonging to any big industrial house so as to attract investment, yet shares were applied for at a huge premium, which cannot be carried out by any prudent businessman and therefore makes the whole transaction suspicious and nongenuine.*
 - vii. Entire transactions appear to be a make-believe arrangement. The assessee could not explain how in the second lot, shares were issued at a huge premium whereas in the first lot, no such premium was charged, the gap between the two events being only of 27 days.*
 - viii. Although the replies to the notices were received yet the investors were not produced, hence the transactions remained unverified as has been rightly pointed out by the Ld. CIT(A).*
 - ix. The reliance by the assessee on the various cash laws is misplaced in view of the observations of the Hon'ble jurisdictional High Court in the recent cases(supra) wherein new mode of shell companies for tax evasion and routing of unaccounted money through such companies have been discussed, which require a rethink on the views held in the past.*
 - x. The source of source or origin of the origin, which needed to be explained as the investors were known to the assessee being private limited companies, was not established. This was the first year of incorporation of the company yet the company could command huge premium during the second allotment of shares.*
 - xi. No supporting valuation report to justify the huge premium charged was produced and the premium was said to be the commercial decision of the directors but no comparable case was mentioned. No premium was charged for the shares issue mostly to individual shareholders, whose shares were bought back by the promoters, while huge premium was charged on the second allotment carried out within a span of 27 days only. The events which occurred in the meanwhile and which could justify the charging of premium on account of increased valuation of the company could not be informed.*
 - xii. The financial transactions do not have any plausible business model to support them.*
 - xiii. The commercial practice of charging premium has not been disclosed nor the justification for the same has been made out. It appears, the directors could call the shots without any basis. The evidence furnished*

were self-serving documents which could not establish the genuineness of the transitions.

18. Since neither the identity, nor the creditworthiness, nor the genuineness of the transition could be established and the whole arrangement was dubious and a smokescreen to camouflage the real transactions, as is rightly held by the Ld. AO and the Ld. CIT(A), therefore, the Ld. AO was justified in adding the amount to the income of the assessee as unexplained cash credits, which additions has been rightly confirmed by the Ld. CIT(A). Ground No. 5 is general in nature and does not require any separate adjudication. Hence, based upon the discussion made in the preceding paragraphs and the reasons mentioned by the Ld. CIT(A), Ground Nos. 1 to 4 of the appeal are rejected and dismissed and the order of the Ld. CIT(A) is confirmed.

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

10. The assessee has requested for setting aside the case. However, no new evidence has been filed other than those filed before the Ld. CIT(A), who has analysed the same while deciding the appeal. We have no hesitation in affirming the order of Ld. CIT(A) for the reasons discussed therein on both the grounds No. 1 and 2 of the appeal which are dismissed. Ground No. 3 being general in nature does not require any separate adjudication.

In result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 3rd October, 2024.

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Rakesh Mishra)
Accountant Member

Dated: 3rd October, 2024

AK, P.S.

Copy to:

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

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata