

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.4182/Mum/2023
(Assessment Year :2013-14)**

Shaha Finlease Private Limited 6/6B, Udit Mittal Industrial Premises, Mittal Industrial Estate Andheri Kurla Road Marol, Andheri East Mumbai- 400 059	Vs.	DCIT 13(2)(2) Aaykar Bhavan Mumbai
PAN/GIR No.AAMCS3559F		
(Appellant)	..	(Respondent)

Assessee by	Shri Chetan Agarwal
Revenue by	Shri Bhangepatil Pushkaraj Ramesh
Date of Hearing	10/12/2024
Date of Pronouncement	17/12/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 25/09/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s. 143(3) for the A.Y.2013-14.

2. In the grounds of appeal assessee has raised following grounds:-

1. Ld. CIT(A) erred in law as well as on fact in confirming addition of Rs. 6,80,48,500 made by ld AO being addition of securities premium under section 56 (2) (vii)(b) without appreciating that shares were issued to existing shareholders as Right issue, hence provisions of section 56 (2) (vii)(b) are not applicable.

2. Ld CIT(A) erred in law as well as on fact in confirming addition of Rs. 6,80,48,500 made by ld. AO being addition of securities premium under section 56 (2) (vii)(b) without appreciating that shares were issued at DCF Method. valued and certified by chartered accountant on 24.09.2012, hence, rule 11UA was not applicable, which came into existence w.e.f. 29.11.2012.

3. Ld. CIT(A) erred in law as well as on fact in confirming addition of Rs. 6,80,48,500 made by ld. AO being addition of securities premium under section 56 (2) (vii)(b) without appreciating the fact that the Id. AO cannot disregard valuation of shares and substitute own method without pointing out any defects in the same.

4. Ld. CIT(A) erred in law as well as on fact in confirming addition of Rs. 6,80,48,500 made by Id. AO being addition of securities premium under section 56 (2) (vii)(b) without appreciating that shares were issued to existing shareholders as Right issue is genuine transaction and provisions of section 56 (2) (vii)(b) being anti abusive measure is not applicable to genuine transactions.

5. Ld CIT(A) erred in law as well as on fact in confirming addition of Rs. 7,10,00,000 (restricted to Rs. 29,51,500) u/s. 68 the Act made by ld. AO without appreciating evidences available on record to discharge onus u/s. 68 with regards to identity, capacity and genuineness of transactions.

6. Ld. CIT(A) erred in law as well as on fact in upholding additions made by ld. AO without issuing show cause notice and in violation of principle of natural justice.

3. The brief facts qua the issue raised are that Assessee Company is a Non-Banking Finance Company (NBFC) duly carrying out business which is regulated by RBI. The main

source of income by the assessee is recovery from portfolio clients and interest on loans given. During the year under consideration assessee had shown net profit of Rs.1,67,89,063/- on total receipts of Rs.11,91,35,222/-. The ld. AO noted that assessee had collected premium on 14,50,000 shares @40/- per on face value of shares of Rs. 10 per share totaling to Rs.5,80,00,000 and in September 2012 it has collected share capital of Rs.7,25,00,000/-. The ld. AO noted that looking to the activities of the assessee which is mainly involved in purchase of assets from the banks and then recovering them, the share premium receipts appeared to be highly abnormal looking to worth of the Company. Accordingly, he issued a show-cause notice as to why the provision of Section 56(1)(viib) should not be invoked.

4. In response, the assessee submitted that the amounts received by the assessee company from the share premium were Director's own money who has duly disclosed the source of funds in his return of income. However, the ld. AO observed that the Director Mr. Shyam Awasthi was not having sufficient funds to invest Rs.7.25 Crores in the assessee company. During the course of assessment proceedings assessee submitted the valuation report from CA / Merchant Banker valuing the shares @54 per share on 30/09/2012, i.e. on the date of issuance/ allotment of shares as per Discounted Cash Flow Method(DCF) to justify the premium of Rs.40 for issuance of shares on face value of Rs.10/-. The ld. AO noted that as per *Explanation* to Section 56(1)(viib), the valuation method that is, Rule 11UA was

introduced w.e.f. 29/11/2012. Therefore, the shares issued in September 2012 and premium received by the assessee company was prior to the introduction of method as per Rule 11UA. Accordingly, the valuation done by the assessee as per prescribed Rule 11UA is irrelevant. The ld. AO then *suomoto* applied Net Asset Value (NAV) method invoking Explanation (a)(2) below Section 56(1)(viib) and determined the fair market value and the share @Rs.3.07. Thus, he applied one of the method under Rule 11UA and concluded that assessee received share premium of Rs.46.93/- per share which comes to Rs.6,80,48,500/- which is to be treated as 'income from other sources.'

5. Thereafter, he further held that valuation report submitted by the assessee is based on DCF method which although cannot be accepted as it is prior to introduction of Rule 11UA, however, assessee had relied upon various variables like debt equity ratio, cost of debt, beta rate, Interest rate, the terminal value rate, terminal value on perpetuity, etc. which are purely subjective in nature and which can change over the period of time. Further, he held that while considering these variables, the assessee has considered best possible rates so that the valuation of the shares comes at par with the issue price or higher than that. For e.g., the company has taken risk free rate of 8% while calculating the cost of equity which is a general industry practice for a sound NBFC. But, this is totally unjustified in the instant case for the reason that the net worth of the company was negative prior to the issue of shares. Further, the assessee is into the business of

recovering money out of stressed assets which is one of the riskiest businesses in financial industry. Even the market risk premium for such a company which is not having any goodwill or brand name in the Industry would be far higher than the 8% considered by the assessee. Also, no person would give debt to such a company (loss-making company) @ 8% i.e., the rate of interest considered for valuation of shares. This is especially important in view of the fact that the company was having negative net worth with accumulated losses of Rs.6,14,15,907/- at the beginning of the year. Hence, no prudent man would pay such a huge premium for a loss making company. Therefore, the valuation report submitted by the assessee is squarely rejected.

6. Having made the addition u/s 56(2)(viib). Ld. AO thereafter, on without prejudice basis, proceeded to make the addition u/s.68 holding that the Director Shri Shyam Awasthi was not having surplus money which can be invested, in the assessee company. He rejected the assessee's plea that Director had borrowed funds from friends and vendors after perusing the copy of bank statement, balance sheet, confirmation and other details filed before him. He noted that assessee had received loan from following entities:-

Sr. No.	Name of Loan Provider	Amount received (Rs.)	Date of receipt
1	Pyramid Trading & Finance Ltd.	1,00,00,000	25/09/2012
2	Shyam Alcohol &	50,00,000	25/09/2012

	Chemicals Ltd.		
		75,00,000	26/09/2012
		50,00,000	27/09/2012
3	Shipra Fabrics Pvt. Ltd	1,00,00,000	26/09/2012
4	Shreenathji Metal	65,00,000	04/12/2012
		10,00,000	05/12/2012
5	Lorraine Finance Pvt. Ltd.	25,00,000	11/09/2012
6	Rajat Diamonds Exim Pvt. Ltd.	15,00,000	24/09/2012
7	Nikunj Alloys & Steel Pvt. Ltd.	40,00,000	15/09/2012
8	Pavankumar Sanwarmal	50,00,000	11/09/2012
9	Bhavishya Electrical Lamination	1,00,00,000	13/09/2012
	TOTAL	7,10,00,000	15/09/2012

7. Ld. AO then on perusal of the Income Tax returns of these parties held that same do not satisfactorily explain the nature

and source of the money of the Director after making following analysis: -

A) M/s Shyam Alcohol & Chemical Ltd. has given loan of Rs.1,75,00,000/- and has declared returned income at Rs. 16,89,812/-.

b) M/s Shipra Fabrics Pvt. Ltd. has given loan of Rs.1,00,00,000/- and has declared returned income at Rs. 21,76,016/-.

c) M/s Rajat Diamonds Exim Pvt. Ltd. has given loan of Rs 15,00,000/- and has declared returned income at Rs. 3,73,602/-

d) M/s Nikunj Alloys & Steel Pvt. Ltd. has given loan of Rs. 40,00,000/- and has declared returned income at Nil.

e) M/s Bhavishya Electrical Lamination has given loan of Rs.1,30,00,000/- and has declared returned Income at Nil.

8. Thus, the entire basis of the AO was that the quantum of loan given by the above-mentioned parties do not match with the receipts and returned income and accordingly, he made the addition u/s.68 also. Thus, the ld. AO has made primary addition u/s. 56(1)(viib) of Rs.6,80,48,500/- and then, alternatively of Rs.7.10 Cores. The addition has been bifurcated by him into two in the following manner:-

“3.11 In view of the above, receipts of share premium of Rs.6,80,48,500/- is treated as income of the assessee company U/s 56(2)(viib) of the Income-tax Act, 1961 and accordingly the same is added to the total Income of the assessee. Since, an addition of Rs 6,80,48,500/- has already been made u/s 56(2)(viib) the addition u/s 68 of the Act is restricted to Rs.29,51,500/- In case for any reason/at any stage the addition u/s 56 is reduced then there will be corresponding increase in the addition u/s 68 of the Act.

9. The ld. CIT (A) too has confirmed both the additions on the same reasoning given by the ld. AO.

10. We have heard both the parties at length and also perused the relevant finding given in the impugned order. The main contention of the assessee before us has been that, at the time of issuance/allotment of shares assessee has taken valuation report from an independent CA/ merchant banker who after adopting DCF method have valued the shares at Rs.54/- per share. This report has been summarily rejected by the ld. AO on two grounds; *firstly*, in the valuation report DCF method has been applied and such method has been recognized in the Rules w.e.f. 29/11/2012, therefore, such report cannot be accepted; and *secondly*, the assessee has relied upon various variables which cannot be accepted for the reasoning given by him as noted above. Though, he has made the primary addition under the deeming provision of Section 56(1)(viib), however, he has made same addition u/s.68 also. The valuation of shares even when Rule 11UA was not there in the statute at the time when report was prepared by the Valuer, however, the DCF method has always been well recognized and accepted method for valuation of shares even prior also. The valuation under DCF cannot be rejected by the ld. AO simply pointing out that the variables taken by the valuer cannot be accepted. If an expert has valued shares as per the prescribed method which later on was also adopted under the Rules, that does not mean the valuation made under DCF cannot be adopted. Whether AO can

summarily reject the Valuer's report under DCF has been considered by the **Hon'ble Delhi High Court in the case of Cinestaan Entertainment Ltd. in ITA No.1007 of 2019** has upheld the judgment of ITAT Delhi Bench in the following manner:-

" A. Whether. the Ld. ITAT has erred in law and on facts in deleting the addition made u/s 56(2)(vii)(b) of the Income Tax Act, 1961, by ignoring the sound reasoning and detailed analysis of the AO that the Cash Flow projections taken into account in the Discounted Cash Flow Method by the assessee are nothing but paper plans that have no relation with the reality?"

5. Mr. Ajit Sharma, learned Senior Standing Counsel for the Appellant- Revenue submitted that the learned ITAT has erred in deleting the additions made by the AO as confirmed by the CIT(A). He argued that the Respondent-Assessee was asked to submit the basis of projection/estimated figures as presented in the valuation report. However, no efforts were made to justify the projection made in the said report under Rule 11UA and for premium as per Section 56(2)(viib) of the Act. Mr. Sharma further submitted that the CIT(A) had concluded that **no independent enquiry was done by the valuer to verify the truth or the figures furnished by the Respondent-Assessee and that the valuation was based on assumption without independent verification of the truth/accuracy and completeness of the information and data provided by the company.** He further argued that the AO had conducted a detailed analysis of allotment of shares at premium and further investment by the Respondent-Assessee and noted that the ratio of allotment of shares at premium is 1:2602, whereas further investment made by Respondent-Assessee is in the ratio of 1:4. **Further, the Respondent-Assessee failed to submit the basis of projection/estimated figures as represented in the valuation**

report, thus, justifying the additions made. In this situation, the AO analysed the business profitability of the Respondent-Assessee only to the extent that such profitability was not commensurate with the actual financials provided by the Respondent- Assessee during the course of assessment proceedings. Therefore, the financials of the Respondent-Assessee did not support the business module of the company.

6. Mr. Sharma further submitted that while there cannot be any dispute on the fact that it is for the entrepreneur to visualize the business based on certain projections and to undertake all kind of risks, **but in the case of the Respondent-Assessee, the valuation report projected profits, and whereas the financials represented losses, thereby demonstrating that the actual financials and the valuation report were completely contradictory to each other.....**

7.

8. We have heard and duly considered the arguments and contentions advanced by the learned counsel for both the parties.

9. ...

10. **The AO has disregarded the valuation report of the Respondent- Assessee primarily on the ground that the projections of revenue as considered for the purpose of valuation do not match the actual revenues of subsequent years. The AO has made additions based on the assumption that the Respondent-Assessee made no efforts to achieve the projection as made out in the valuation report and therefore the share premium received by the Respondent-Assessee is without any basis and contrary to provisions of Section 56(2)(viib) read with Section 2(24)(xvi) of the Act. Further, the AO held that the Respondent-Assessee has failed to submit any basis of projection....**

11. We note that in the instant case, the AO had issued notice under Section 133(6) to all the investors to seek confirmation, information and documents pertaining to the issuance of shares.....

12. In this factual background, the learned ITAT then proceeded to examine whether the AO after invoking the deeming provision under Section 56(2)(viib), could have determined the FMV of the premium on the shares issued at nil after rejecting the valuation report given by the Chartered Accountant based on one of the prescribed methods under the Rules adopted by the valuer. On this aspect, after examining the statutory provisions and the factual position, the ITAT inter-alia observed as under:

" 32. What is seen here is that, both the authorities have questioned the assessee's commercial wisdom for making the investment of funds raised in 0% compulsorily convertible debentures of group companies. They are trying to suggest that assessee should have made investment in some instrument which could have yielded return/ profit in the revenue projection made at the time of issuance of shares, without understanding that strategic investments and risks are undertaken for appreciation of capital and larger returns and not simply dividend and interest. Any businessman or entrepreneur, visualise the business based on certain future projection and undertakes all kind of risks. It is the risk factor alone which gives a higher return to a businessman and the income tax department or revenue official cannot guide a businessman in which manner risk has to be undertaken. Such an approach of the revenue has been judicially frowned by the Hon'ble Apex Court on several occasions, for instance in the case of SA Builders, 288 ITR 1 (SC) and CIT vs. Panipat Woollen and General Mills Company Ltd., 103 ITR 66 (SC). The Courts have held that Income Tax Department cannot sit in the armchair of businessman to decide what is profitable

and how the business should be carried out. Here in this case if the investment has made keeping assessee's own business objective of projection of films and media entertainment, then such commercial wisdom cannot be questioned. Even the prescribed Rule 11UA(2) does not give any power to the Assessing Officer to examine or substitute his own value in place of the value determined or requires any satisfaction on the part of the Assessing Officer to tinker with such valuation. Here, in this case, Assessing Officer has not substituted any of his own method or valuation albeit has simply rejected the valuation of the assessee.

33. Section 56(2) (viib) is a deeming provision and one cannot expand the meaning of scope of any word while interpreting such deeming provision. **If the statute provides that the valuation has to be done as per the prescribed method and if one of the prescribed methods has been adopted by the assessee, then Assessing Officer has to accept the same and in case he is not satisfied, then we do not we find any express provision under the Act or rules, where Assessing Officer can adopt his own valuation in DCF method or get it valued by some different Valuer.** There has to be some enabling provision under the Rule or the Act where Assessing Officer has been given a power to tinker with the valuation report obtained by an independent valuer as per the qualification given in the Rule 11U. Here, in this case, **Assessing Officer has tinkered with DCF methodology and rejected by comparing the projections with actual figures.** The Rules provide for two valuation methodologies, one is assets based NAV method which is based on actual numbers as per latest audited financials of the assessee company. Whereas in a DCF method, the value is based on estimated future projection. **These projections are based on various factors and projections made by the management and the Valuer, like growth of the company, economic/market conditions, business**

conditions, expected demand and supply, cost of capital and host of other factors. These factors are considered based on some reasonable approach and they cannot be evaluated purely based on arithmetical precision as value is always worked out based on approximation and catena of underline facts and assumptions. Nevertheless, at the time when valuation is made, it is based on reflections of the potential value of business at that particular time and also keeping in mind underline factors that may change over the period of time and thus, the value which is relevant today may not be relevant after certain period of time. Precisely, these factors have been judicially appreciated in various judgments some of which have been relied upon by the ld. Counsel, for instance:

i) Securities & Exchange Board of India & Ors [2015 ABR 291 (Bombay HC)]

"48.6..... The attempt on the part of SEBI to challenge the valuation which is by its very nature based on projections by applying what is essentially a **hindsight view that the performance did not match the projection is unknown to the law on valuations.** Valuation being an exercise required to be conducted at a **particular point of time** has of necessity to be carried out on the basis of whatever information is available on the date of the valuation and a projection of future revenue that valuer may fairly make on the basis of such information."

ii) Rameshwaram Strong Glass Pvt. Ltd. v. ITO [2018-TIOL- 1358-ITAT- Jaipur).....

iii) DQ(International) Ltd. vs. ACIT (ITA 151/Hyd/2015) "....

35. There is another very important angle to view such cases, is that, here the shares have not been subscribed by any sister concern or closely related person, but by an outside investors like, Anand Mahindra, Rakesh

Jhunjhunwala, and Radhakishan Damania, who are one of the top investors and businessman of the country and if they have seen certain potential and accepted this valuation, then how AO or Ld. CIT(A) can question their wisdom. It is only when they have seen future potentials that they have invested around Rs.91 crore in the current year and also huge sums in the subsequent years as informed by the ld. counsel. The investors like these persons will not make any investment merely to give dole or carry out any charity to a startup company like, albeit their decision is guided by business and commercial prudence to evaluate a startup company like assessee, what they can achieve in future. It has been informed that these investors are now the major shareholder of the assessee company and they cannot become such a huge equity stock holder if they do not foresee any future in the assessee company. In a way Revenue is trying to question even the commercial prudence of such big investors like. According to the Assessing Officer either these investors should not have made investments because the fair market value of the share is Nil or assessee should have further invested in securities earning interest or dividend.

13. From the aforesaid extract of the impugned order, **it becomes clear that the learned ITAT has followed the dicta of the Hon'ble Supreme Court in matters relating to the commercial prudence of an assessee relating to valuation of an asset.** The law requires determination of fair market values as per prescribed methodology. The Appellant-Revenue had the option to conduct its own valuation and determine FMV on the basis of either the DCF or NAV Method. The Respondent-Assessee being a start-up company adopted DCF method to value its shares. This was carried out on the basis of information and material available on the date of valuation and projection of future revenue. There is no dispute that methodology adopted by the Respondent-Assessee has been done applying a recognized

and accepted method. **Since the performance did not match the projections, Revenue sought to challenge the valuation, on that footing. This approach lacks material foundation and is irrational since the valuation is intrinsically based on projections which can be affected by various factors.** We cannot lose sight of the fact that the valuer makes forecast or approximation, based on potential value of business. However, the underline facts and assumptions can undergo change over a period of time. **The Courts have repeatedly held that valuation is not an exact science, and therefore cannot be done with arithmetic precision.** It is a technical and complex problem which can be appropriately left to the consideration and wisdom of experts in the field of accountancy, having regard to the imponderables which enter the process of valuation of shares. The Appellant-Revenue is unable to demonstrate that the methodology adopted by the Respondent-Assessee is not correct.....”

{Emphasis in bold is ours}

11. Thus, DCF is one of the recognized methods wherein the value is based on estimated future projections and these projections are based on various factors like projection made by the management and the valuation like growth of the company, economic/market conditions, business conditions, expected demand and supply, cost of capital and catena of other factors. These factors are considered based on some reasonable approach and they cannot be evaluated purely based on arithmetical precision as value is always worked out based on approximation and catena of underline facts and assumptions. Investor who invested in the company sees the potential value of business at that particular time and also keeping in mind underline factors that may change over the period of time and thus, the value

which is relevant today may not be relevant but they see the growth in future. The merchant banker of the valuer carries on the valuation based on various factors and data available.

12. Thus, the ld. AO cannot tinker with the method adopted by the assessee and simply applied his own NAV method. In one hand ld. AO adopting DCF method showing that the valuation report is prior to introduction of Rule 11UA but still he proceeds to make his own valuation under one of the method prescribed under Rule 11UA.

13. The ld. AO is also not an expert to carryout valuation and cannot reject the valuation report given by the valuer or merchant banker imposing his own methodology or valuation simply by pointing out that there are some variables which according to him is not justified.

14. When the law provides two valuation methods, i.e., NAV and DCF, then AO cannot say one method should be applied for another and reject the valuation adopted by the assessee. DCF is always based projections based on current data and future market and economic condition for a particular industry and can't be equated with actual. **Hon'ble Jurisdictional High Court in the case of Securities & Exchange Board of India & Ors reported in (2015) ABR 291** wherein the Hon'ble Court made following observations:-

“48.6 Thirdly, it is a well settled position of law with regard to the valuation that valuation is not an exact science and can never be done with arithmetic precision. The attempt on the part of SEBI to challenge the valuation which is but its very nature based on projections by applying what is essentially a hindsight view that the performance did not match the projection is unknown to the law on valuations. Valuation being an exercise required to be conducted at a particular point of time has of necessity to be carried out on the basis of whatever information is available on the date of the valuation and a projection of future revenue that valuer may fairly make on the basis of such information.”

15. If ld. AO had any doubt on the valuation based on DCF method, then ld. AO may exercise an option to conduct his own valuation and determined the FMV by another independent Valuer on same methodology. He himself is not an expert to carry out such valuation without pointing out what factors should have been applied in projections or what is the error in the formula. Thus, respectfully following the judgment of the Hon'ble Delhi High Court in the case of PCIT vs. Cinestaan Entertainment P. Ltd., (supra), we hold that ld. AO cannot reject the DCF method and the valuation report as per DCF method cannot be tinkered with ld. AO without giving substantial reasons and not based on his own premise. Accordingly, the valuation done by the assessee is accepted and no addition u/s. 56(1)(viib) can be upheld.

16. Now coming to the additions u/s.68 added by the AO alternatively, it is seen that Assessee Company had stated that

all these shares have been subscribed by the Director of the assessee company who had shown availability of funds in his balance sheet filed alongwith return of income which was from the loans taken from two entities as noted above. Further, to prove the source of source, Director has provided complete details of the persons from whom he has taken loan alongwith their source of funds, loan confirmation, copy of income tax returns, copy of bank statements, financials and balance sheet of these persons / entities. From the perusal of the same, it is seen that these persons had sufficient funds in the balance sheet. Ld. AO has only seen the return of income instead of looking to the availability of funds in the balance sheet which far exceeded the loans given by the entities of Shri Shyam Awasthi. For the sake of ready reference, the details of these persons who had given loans and advances details of which has been filed are as under:-

Sr No	Name, Address and PAN	Opening Balance	Loan Taken during the Year	Loan Repaid During the Year	Closing Balance	Evidences
1	Shyam Alcohol & Chemicals Ltd, A/10 Kavita Apts, Natakwala Lane, Borivali West, Mumbai - 400092 PAN: AAGCS6595M		1,75,00,000		1,75,00,000	1. Income Tax Return 2. Annual Audit Report 3. Confirmation 4. Bank Statement 5. PAN Card
2	Mishka Finance and Trading Ltd, A 403, Express Zone,		1,00,00,000		1,00,00,000	1. Confirmation 2. Income Tax Return 3. Bank Statement 4.

	Malad East, Mumbai - 400063 PAN: AAACP2548R					Annual Audit Report
3	Shipra Fabrics Pvt Ltd, 44, 3rd Floor, Jariwala Bldg, Arthur road, Tardeo, Mumbai PAN: AAACS5527M		1,00,00,000		1,00,00,000	1. Confirmation 2. Bank Statement 3. Income Tax Return 4. Annual Audit Report 5. PAN Card
4	Bhavishya Electricals Lamination, B 128, Rolex Shopping Centre, Goregaon West, Mumbai - 400062 PAN: ABIPN3309C		1,30,00,000		1,30,00,000	1. Confirmation along with repayment confirmation in next year 2. Bank Statement 3. Income Tax Return 4. Balance Sheet 5. Profit & Loss 6. PAN Card
5	Lorraile Finance Pvt Ltd, Shop no 5, A 37, Unique Palace, Mira Road East, Mumbai - 401107 PAN: AAACL2920P		25,00,000		25,00,000	1. Confirmation along with repayment confirmation in next year 2. Bank Statement 3. PAN Card 4. Income Tax Return 5. Balance Sheet 6. Profit & Loss
6	Nikunj Alloys & Steel Pvt Ltd, Shop no 5, A 37, Unique -a- ace, Mira Road East, Mumbai- 401107 PAN: AACCN2373A		40,00,000		40,00,000	1. Confirmation 2. Bank Statement 3. PAN Card 4. Income Tax Return 5. Balance Sheet 6. Profit & Loss

7	Pavankumar Sanwarmal, 49B, Bhagirathi, Nehru Road, Vile Par*(East, Mumbai PAN: ABEPS2125B		50,00,000 11.09.2012	25,00,000 25.02.2013	25,00,000	1. Confirmation 2. Income Tax Return 3. Bank Statement
8.	Shreenathji Metal, D 602, Shreepati No 4, Mira Road East, Mumbai - 401107 PAN: AAEPO4295M		75,00,000		75,00,000	1. Confirmation 2. Bank Statement 3. PAN Card 4. Income Tax Return 5. Balance Sheet 6. Profit & Loss
9.	Rajat Diamonds Exim Pvt Ltd, ; 1 101, 6/2493, Prasad Bldg, Mahidharpura, Surat - 395003 PAN: AAECR0706R		75,00,000		75,00,000	1. Confirmation 2. Income Tax Return 3. PAN Card 4. Audited Financial Statements

17. All these evidences have been placed in the paper book before us also. From the perusal of the balance sheets it is seen that these companies had huge reserves and surplus and Revenue from operations and borrowings. Thus, once these parties have sufficient funds in the balance sheet and they have given all the details at the time of assessment proceedings, the onus to prove the source of the source also stands discharged.

Thus, under the provision of Section 68 also, the additions cannot be made. Accordingly, addition u/s.68 is also deleted.

18. In the result, appeal of the assessee is allowed.

Order pronounced on 17th December, 2024.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Mumbai; Dated 17/12/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai