

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No.882/DEL/2023
(Assessment Year: 1997-98)**

Kuber Planters Limited,
C/o Raj Kumar & Associates,
L-7A (LGF), South Extension Part II,
New Delhi – 110 049.

vs.

ACIT, Circle 14 (2),
New Delhi.

(PAN : AACCK8875E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Raj Kumar Gupta, CA
Shri Suraj Gupta, Advocate

REVENUE BY : Shri Sumer Singh Meena, CIT DR

Date of Hearing : 23.01.2025

Date of Order : 09.04.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi (for short 'ld. CIT(A)') dated 16.03.2023 for Assessment Year 1997-98 raising following grounds of appeal :-

“1. That under the facts and circumstances both the lower authorities erred in law as well as on merits in make and sustaining the addition of Rs.34,71,33,750/- being the subscription received during the year from members of Tree Plantation Scheme namely “Kuber Dhanvarsha”.

2. That without prejudice Ld. CIT (A) erred in law as well as on merits, while examining the issue of addition of Rs.34,71,33,750/- w.r.t. the ingredients of Sec. 68 of the I.T. Act while, the issue was limitedly directed by the ITAT to be examined only from the angle of whether said sum of Rs.34,71,33,750/- is unclaimed and only in case, it is unclaimed, then only, to the extent it is unclaimed, should be added.”

2. Brief facts of the case relating to the issue raised by the assessee are, assessee is an investment company, the nature of activities is tree plantation on behalf of clients and to return the plant/sale value of plant (with assured amount) after 20 years under the scheme known as Kuber Dhanvarsha Scheme which was started in FY 1995-96. The assessee in various years from FY 1995-96 to FY 1997-98 received various deposits under various plantation schemes total amounting to Rs.86,37,28,750/-. It included Rs.34,71,33,700/- received in the impugned AY 1997-98 under consideration.
3. In the current assessment year, assessee filed its return of income for AY 1997-98 on 20.04.1998 declaring loss of Rs.97,55,580. The case was selected for scrutiny. Notices u/s 143(2) and 142(1) of the Income-tax Act, 1961 (for short ‘the Act’) were issued and served on the assessee. Subsequently, order u/s 143(3) was passed on 31.03.2000 at an income of Rs.34,82,19,771/-. The order was set aside by the ld. CIT (A) vide order dated 30.01.2001 to make it de novo. The AO passed the order on 26.03.2002 again making the addition at the same income that was made

in earlier order as assessee failed to substantiate its income as shown in its return.

4. Against the order of AO, the assessee filed appeal before the Id. CIT (A). Ld. CIT(A) vide order no.Del/CIT(A)/02-03/72, 88 & 118 dated 31.03.2003 partly allowed assessee's appeal by deleting certain additions and confirmed and enhanced some additions.
5. Against the above said order, assessee preferred an appeal before the ITAT and ITAT vide its order dated 28.08.2008 remitted the matter back to the file of AO for fresh adjudication in the appeals of both assessee and Revenue. The AO passed order dated 29.12.2009 and made the addition/disallowance of Rs.37,62,69,411/-.
6. Against the above order, assessee preferred an appeal before the Id. CIT (A) and Id. CIT(A) passed the order vide order dated 31.03.2011 sustaining the additions made by the AO.
7. Assessee filed an appeal before the ITAT and ITAT vide order dated 11.01.2008 set aside the case to the file of AO with following directions:-

“1. ...we set aside the issue back to the file of the Ld. Assessing Officer with a direction to the assessee to submit the details of deposits/advances still remaining unclaimed by the depositors. The Ld. Assessing Officer may examine the detail and then decide the issue about the taxability of unclaimed deposit etc. in accordance with law.

2. ...we set aside the issue back to the file of the Id. Assessing Officer with a direction to the assessee to show the amount of loan of Rs.40 lacs with respective bank accounts in the name of Kuber Finance along with confirmation. The Ld. Assessing Officer is directed to verify the same and delete the addition to the extent if found proper.”

8. The AO on the basis of ITAT direction issued several notices to the assessee to submit required details to complete the assessment. Due to non-cooperation of the assessee, the AO proceeded to make following additions :-

(a) AO made three additions including the addition of Rs.34,71,33,750/- under section 68 of the Act which is the issue under dispute before us.

9. Aggrieved with the above order, assessee preferred an appeal before the NFAC, Delhi. Before Id. CIT (A), assessee filed detailed submissions as under :-

“7.2 During the course of appellate proceedings, notice for hearing was issued to the appellant on 23.12.2020. In response to the same appellant filed submission. Relevant portion of the same is reproduced as under.

GN-7-Addition of Rs. 34,71,33,750/-

Assessee received advance of Rs.34,71,33,750/- for sale of units (trees) during the year. In the current assessment, AO repeated the addition as made in the earlier rounds. In earlier assessments AO made the addition u/s 68 as the assessee failed to substantiate the identity and creditworthiness of depositors.

Now, the specific direction of Hon'ble Delhi Tribunal while setting aside the issue is as under:-

"ITAT order dated 11.01.2018 in ITA No. 6551Del12011

Para-38, Page-18-

.....

The finding of A.O is erroneous and liable to be deleted for the following submissions:-

1. Complete amount is claimed by the Depositors

It is submitted that there is no amount which can be termed as unclaimed by the depositors. Complete deposit amount is claimed by the respective depositors and recovery proceedings are also going on. It is also important to note that SEBI has issued recovery certificate dated 03.06.2016 for Rs.2462.17 Crores against the amount collected by assessee of Rs.36,79,05,000 till 31.03.1997, SEBI issued the recovery certificate on the basis of maturity amount instead of deposit amount.

Attached

- SEBI Recovery certificate dated 03.06.2016.
- Communication dated 23.01.2020 from SEBI.

Hence complete deposit amount is claimed by the depositor/SEBI. The depositors and recovery proceedings important to note that SEBI has issued recovery certificate dated 03.06.2016 for RS.2462.17 Crores against the amount collected by assessee of Rs.36,79,05,000 till 31.03.1997. SEBI issued the recovery certificate on the basis of maturity amount instead of deposit amount. SEBI Recovery certificate dated 03.06.2016 Communication dated 23.01.2020 from SEBI.

Hence, complete deposit amount is claimed by the depositor SEBI.

G.N-7-Addition of Rs. 34,71,33,750/- Detailed Submission, already given vide Para-11. In addition thereto:-

This amt. was recd. in A. Y.1997-98 from tree plantation scheme namely "Dhan Varsha". It was added U/s.68. The impugned asstt. arose out of Hon'ble ITAT directions in the earlier round vide ITAT order Dtd.11.01.18 vide Para-38/Pg.18. The said directions are again abstracted below for ready reference. The copy of complete ITAT order already stands filed alongwith 1st Subm. Did. 26. 09.22 (again attached):-

"ITAT order dated 11.01.2018 in ITA No. 655/Del/2011

Para-38, Page-18-

.....

It has already been submitted that all the schemes stood closed much before maturity due to various reasons.

The assessee Co. in various years from F. Y. 1995-96 to F. Y.1997-98, recd. various deposits under various plantation schemes totaling Rs. 86, 37,28,750/-. It included Rs.34,71,33,750/-recd. in A. Y.1997-98. The depositors lodged recovery claims/complaints to/through SEBI. Then SEBI also started investigation. SEBI vide order Dtd.24.06.1998 under the SEBI Act, appointed "Mittal & Aggarwal" Chartered Accountants to examine the claims and calculate the maturity value, which would had been payable by the assessee in case, the schemes would had been completed.

The special auditor, furnished his audit report to SEBI Dtd.15.09.1998. On Pg.3 of the report, the auditor showed the total amt. recd. by the Co. under various schemes at Rs.86,37,28,750/-. This included Rs.34,71,33,750/- (under consideration) in A. Y 1997-98. The auditor quantified complete amt. as payable/refundable to depositors. The main report consisted 24 Pgs. It further contained many bulky Annex. In "Annex.-10", on Pg.53, the auditor quantified the payable amt., under various schemes w.r.t. various years.

The auditor on above Pg., calculated, scheme wise, amt. which became payable, on yearly basis. The impugned scheme was for 20 years. The deposits were taken in FY 1996-97. The same were to mature in FY.2016-17 (A.Y.17-18). The auditor, for the amts. 34,71,33,750/- recd. in F. Y.16-17 calculated the payable amt at Rs.2239.51 Cr. Accepting this report, the SEBI created a liability on assessee Co. at Rs.2462 17 Cr. as under:-

As per auditor	2339.51 Cr.
+ 10% penalty	223.95 Cr

Total	2463.46 Cr. (due to arithmetical calculation error, SEBI in his order wrongly totalled this amt. as Rs.2462.17)
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The above fact shows that the complete amt. has been claimed as well as determined payable. In view of this, as p as per the directions of Hon'ble ITAT, since the complete amt. is payable, rather against receipt of Rs.34,71,33,750/-, the payable amt. has been calculated at 2463.46 Cr., the requirement of Sec.68 being identity, genuineness and the credibility stands satisfied and as per directions of ITAT under such facts, the whole addition needs to be deleted.

The above facts are apparent from the followings. Attached. Further, these facts may be verified directly from SEBI also.

- Pg.1 of audit report (22)
(showing directions of audit by SEBI)
- Pg.3 of audit report (24)
(showing Rs.34, 71,33, 750/- Dhan Varsha - FY 1996-97)
- Pg.4 of audit report (25)
(showing Dhan Varsha - 34,71,33,750 and also total amt. in this scheme)
- Annex. 10, Pg.53 of audit report (46)
showing recoverable in Dhan Varsha against deposits in E.Y.1996-97, payable in FY 2016-17 Rs 2239 51 Cr)
- SEBI order Dtd.23..01.20 alongwith Form-1 (08 Pgs.) (47-53)
(showing on Pg.2 amt. recoverable 2462.17 for Dhan Varsha deposits in F. Y.1996-97)

Copy of complete Spl.audit report (without Annexures) (22-45)

Hence, this complete addition needs to be deleted.”

10. After considering the detailed submissions of the assessee, ld. CIT (A) sustained the addition by observing as under :-

“7.7 On perusal of the written submission furnished by the appellant and explanation provided during video conference, it is seen that the appellant is only relying on the Audit report of Chartered Accountant by SEBI. Here, it is to be noted that the directions of the ITAT for the appellant were very much clear to provide the details of deposits/advances still remaining unclaimed. However, appellant is claiming that there are no unclaimed depositor. It is to be noted that the department has been requesting the appellant to submit the details or the confirmation from the parties from whom the advances have been received. However, appellant have not submitted the details in any stages of the assessment i.e order passed on 31.03.2000, 26.03.2002, 29.12.2009 or 29.11.2018. On perusal of the Special Audit report (page 2- 3) it is seen SEBI had asked appellant to submit information/ documents relating to Investment Schemes, Commission Structure, viability. Feasibility report of the project etc. However, appellant submitted replies to some of the queries with no documentary evidence. Further in para (iv) it has been mentioned that up to the date of completion of the Audit the company had not made any payment of any maturity amount, mid-term return, buy back amount and guaranteed annual return to any of the investors under any of its scheme. Appellant is relying on the Annexure- 10 of the audit report which shows scheme wise/ year wise details of estimated amount of maturity and mid-term returns payable by the company. This is only an estimation (only an assessment based on macro accounts) as the assessee has never given details of specific claimed investors, neither to I T authorities nor to SEBI, not even in the present proceedings. Therefore not even an iota of basic onus to explain the Credits u/s 68 have been fulfilled by the appellant. Further, the said Special Auditor's report appointed by SEBI was available during the proceedings before the Hon'ble Delhi ITAT and still the ITAT directed the appellant to submit the details of unclaimed deposits/ advances. The appellant has once again failed to provide the required details.

Further, the issue for AY 1996-97, appellant company collected amount from depositors/ investor of Rs.2,07,71,250/- only and this was not the issue before Hon'ble ITAT. The issue was of addition on account accrual of income @1/20th of the deposit which has been directed and decided in favour of appellant. So, appellant's submission that in earlier year the issue decided by ITAT in its favour is incorrect.

Once again let's take a look at the direction of the Hon'ble Delhi ITAT in para 38 of the order dated 11.01.2018.

" ... with respect to the addition u/s 68 of the Act if the amount is refunded by the assessee in accordance with the direction of the SEBI there is no reason for the Assessing Officer who have doubted the identity, creditworthiness and genuineness of the transaction.

From above it is clear that if the appellant refunds back the amount to the depositor/ investor then he does not need to prove the identity, creditworthiness and genuineness of the above transaction. In order to refund back the amount, appellant needs to provide the details/ identify the depositors first, and then once all claiming investors/ depositors are refunded, the exact amount of unclaimed depositors can be determined. However, appellant has failed to do so during all the assessment and appeal proceedings. Appellant is relying on the SEBI order which shows estimation amount of maturity and midterm returns payable by the company. The SEBI has passed the order and attached/ recovered the assets of the company to protect the interest of investors (still not identified and paid) but appellant failed to provide details of depositors/ investors and actually amount claimed/paid and how much amount unclaimed/ unpaid. Other side, the appellant is in Delhi High Court against the order of SEBI, so it has not attained finality. Appellant has submitted nothing to prove as to what amount has been paid by the company to the investors of year under consideration. Since appellant has not refunded back the amount, appellant needs to prove the identity, creditworthiness and genuineness of the transaction, which the appellant has once again failed to do so. Moresoever, it is contesting the order of SEBI in the High Court.

Hence, I hold that the Credits are not explained at all, as required u/s 68 of the IT Act and have remained unclaimed/unpaid. Therefore I confirm the addition of Rs.34,71,33,750/-. Accordingly ground of appeal related to addition of Rs.34,71,33,750/- is dismissed. Hence ground of appeal no 7 to 9 are partly allowed.”

11. Aggrieved with the above order, assessee is in appeal before us and raised various grounds which is reproduced at para 1.
12. We observed during the proceedings that assessee was taking various adjournments without properly representing the case and on 19.09.2024, the Bench remanded the matter to the AO to collect information from the assessee and submit the report as per the directions of the coordinate Bench vide order dated 11.01.2018 within three months. Accordingly, the case was posted for hearing on 19.12.2024. Finally, on 23.01.2025,

the matter was heard and concluded. At the time of hearing, we observed that assessee has not submitted any information before AO and AO was not able to submit any report. However, ld. AR of the assessee submitted as under:-

“1. A.O. was directed to submit his report by 16.12.24

Vide O/S Dtd.19.09.24 A.O. was directed to submit the report on unclaimed deposits by 16.12.2024.

However till date no such report has been provided to the assessee.

Assessee vide letter Dtd.04.12.24 to A.O. filed on 06.12.24, vide Para-6 requested A.O. to collect the information from SEBI, for the reasons mentioned in the said letter. (1-2/P/B-2)

Again, reminder letter Dtd./Filed to A.O. on 13.01.25. (83/P/B-2)

Assessee also requested SEBI for furnishing the desired information vide letter physically filed as well as on email on 11.12.24. (3-4/P/B-2)

Again, reminder letter Dtd./Filed to A.O. on 13.01.25. (84/P/B-2)

2. Imp. relevant development in the matter on 29.09.24 after last date of hearing i.e. 19.09.24

The amt. paid by investors in various Yrs is as under:-

A.Y.	Amt.	Cumulative Amt. (in Cr.)	Pg.No. of PAPER BOOK-2
1996-97	2.0771	2.0771	Pg. No.24 of P/B (P/B-1)
1997-98 (Yr. under consideration)	34.7133	36,7605	Pg. 41/PAPER BOOK-2 International Pg. No.5/ Para 9 of ADJ order Dtd.29.03.24 (8- 9/P/B-2)
1998-99	49.6123	86.3728	-Do- P.37/Para 38 (41/P/.B-2)

- The issue in this appeal is of addition of Rs.34.7133 Cr. U/s.68.

- SEBI directed assessee Co. vide order Dtd.21.12.2000:-
 - a) To wind up its CIS (cumulative investment scheme).
 - b) To repay the amt. raised from investors within 01 month. (8/P/B-2) (Internal Pg. No.41 Para-8 of ADJ order Dtd.29.03.24)
- The amt. to be repaid to the investors was quantified as nearly 87 Cr. and precisely 86.3728 Cr. (including 34.7133 Cr. of A.Y.97-98). (ADJ order Pg.5 - P/B-2 Pg.9)
(ADJ order Pg.37, 38 - P/B-2 Pg.41-42)
- Finally for failure to pay the said amt. and for other offences under SEBI Act, the Co. and surviving director Mrs. Rowena Sharma were held guilty for conviction. (ADJ order Pg.61) (Pg.6S/P/B-2)
- Vide ADJ order Dtd.22.10.24, for the above defaults, the Co. has been fined with Rs.50 Cr., the surviving director Mrs. Rowena Sharma with fine of Rs.25 Cr. and simple imprisonment for 01 Yr. (ADJ sentenced order Dtd.22.10.24/Last Pg., Para-17) (Pg.81/P/B-2)
- Now the contention is that, SEBI, in the court has admitted that complete Rs.87 Cr. (about) has been repaid from investors and for non-refund thereof, the Co. and the director has been prosecuted and fined by the court.
- The above order of the court, clearly proves that impugned 34.7133 Cr. was repaid from investors, it did not belong to assessee, therefore addition U/s.68 is unwarranted.”

13. At the direction of the Bench, ld. AR of the assessee submitted the Balance Sheet as on 31.03.2018 and 31.03.2022. Further assessee has also submitted copy of Folder No.1 containing details of 14,296 depositors with name, address, amount, date of receipt and receipt number in the form of paper book and further submitted that from the total 15 folders which are similar to the folder no.1 submitted before us containing details of 1,67,907 depositors.
14. On the other hand, ld. DR of the Revenue brought to our notice page 58 of the paper book submitted by the assessee wherein it was submitted that

ITAT has remanded the issue back to AO to confine the same to the extent of unclaimed deposits to be considered as income of the assessee. However, it was submitted that AO has sustained whole deposits against the direction of the ITAT. On this count, he submitted that assessee has not submitted any information before the authorities to comply with the directions of the ITAT. Further he brought to our notice recent decision of SEBI in the case of the assessee and its Directors and they held that they have not returned any funds to the depositors nor they intend to return the same. Accordingly, they convicted the company and also imposed heavy penalty on them. He finally rest his case by heavily relying on the findings of ld. CIT (A).

15. Considered the rival submissions and material placed on record. We observed that assessee has launched open ended scheme titled CIS and mobilized more than Rs.86.37 crores which include Rs.34.71 crores relevant to the present assessment year which is under dispute. We observed that the above scheme was found to be against the Regulation of 73 of CIS Regulation and the registration application filed by the assessee before SEBI was rejected and in that process, the assessee was asked to close the scheme and return the deposits to the depositors. In order to safeguard the interest of investors, SEBI arranged Mittal & Aggarwal, CA to examine the claim and calculate the maturity value which was

payable by the assessee in case the scheme would have been completed. Accordingly, SEBI issued recovery certificate of Rs.2462.17 crores against the amount collected by the assessee. The SEBI issued recovery certificate on the basis of maturity amount in respect of deposit amount. The auditors quantified complete amount as payable and receivable to the depositors and they have calculated the scheme-wise amount which became payable on yearly basis. It is a fact on record that assessee has issued several schemes. We observed that even though SEBI has quantified the amount to be refunded to the depositors, however the assessee has not made any effort to return any of the deposits until now and it is brought to our notice that vide order dated 23.09.2024, the SEBI has held as under :-

“68. It has been proved beyond reasonable doubt that accused no.1 company floated Collective Investment Schemes while there was a complete embargo of Section 12 (1B) of SEBI Act. It has further been proved that accused no.3 Rowena Sharma was an active director and was responsible for day to day affairs of accused no.1 company. The accused persons trapped innocent public by promising them returns which were unrealistic and could never be given. Accused persons failed to prove that any payment to any of the investors under the schemes floated by accused no.1 company was made at any point of time. It is an admitted fact that no winding up report has been filed by accused persons before SEBI. They failed to prove that proviso to Section 27 of SEBI Act with respect to exercising due diligence in order to prevent the commission of offence was applicable to accused no.3. Under these facts and circumstances, accused no.1 company i.e. Kuber Planters Ltd. is held guilty of the offence under Section 11B, 12(1B) of SEBI Act and Regulation 5(1) r/w Regulation 68(1), 68(2), 73 and 74 of CIS Regulations, punishable under Section 24 of SEBI Act and accused no.3 Rowena Sharma is held guilty of the offence under Section 11B, 12(1B) of SEBI Act and Regulation 5(1) r/w Regulation 68(1), 68(2), 73 and 74 of CIS Regulations, punishable under Section 24 r/w Section 27 of SEBI Act and convicted accordingly.”

16. From the above, we observed that SEBI has clearly held that the assessee has trapped innocent public by promising them return which were

unrealistic and could never be given. The assessee had failed to prove that any payment to any of the investors under the scheme floated was made at any point of time. It is an admitted fact that no winding up report was filed by the assessee before the SEBI. From the above decision of the SEBI, it clearly shows that assessee has no inclination to return the deposit. Further, before us, assessee has submitted Balance Sheet as on 31.03.2018 and 31.03.2023. Ld. DR also filed Balance Sheet as on 31.03.1997.

Particulars	Note	(Amount in Lakhs)	(Amount in Lakhs)	(Amount in Lakhs)
		As at March 31, 2023	As at March 31, 2018	As at March 31, 1997
EQUITY AND LIABILITIES				
(1) Shareholder's Funds				
(a) Share Capital	3	5.00	5.0	0.57
(b) Reserves and Surplus	4	(1,690.31)	(1380.04)	(111.35)
(2) Non-Current Liabilities				
(a) Long Term Borrowings	5	106.90	-	-
(b) Deferred Tax Liability (net)	6	-	-	-
(c) Other Long Term Liabilities	7	7,582.30	7497.43	-
(3) Current Liabilities				
(a) Short Term Borrowings	8	-	-	-
(b) Trade Payables	9	4.34	-	-
(c) Other Current Liabilities	10	2.14	5.56	3732.74
(d) Short Term Provisions	11	-	-	-
Total Equity & Liabilities		6,010.37	6127.95	3621.96
ASSETS				
(1) Non-Current Assets				
(a) Property, plant & equipment and Intangible assets	12			
(i) Property, plant & equipment		1,999.72	2096.46	672.20
(ii) Capital work-in-progress		-	-	-
(iii) Intangible assets		-	-	-
(b) Deferred Tax Assets (net)	12B	-	-	-
(c) Long Term Loans and advances		-	3488.02	-
(d) Other Non Current Assets	13	3,305.41	-	-
(2) Current Assets				
(a) Inventories	14	-	-	-
(b) Trade Receivables	15	-	543.47	1554.90
(c) Cash and cash equivalents	16	702.15	-	946.03
(d) Short Term loans and advances	17	-	-	-
(e) Other Current Assets	18	3.08	-	448.83
Total Assets		6,010.37	6127.95	3621.96

17. From the above Balance Sheet, it can be noticed that assessee has kept non-current liabilities as on 1997 at Rs.3732.73 lakhs, in 31.03.1990 assessee has received further deposit from the customers and in 31.03.2018, the liability was kept at Rs.7497.43 lakhs and in 31.03.2023 the same was Rs.7,582.30 lakhs. It clearly shows that the deposits received by the assessee were kept pending and no effort was made by the assessee to return the same even after several directions from SEBI. At the same time, we also observed that in 1997, assessee had fixed assets of Rs.674.21 lakhs and other current assets of Rs.2500.92 lakhs and in 1998, fixed assets were increased to 2096.46 lakhs and other long term advances stood at Rs.4031.49 lakhs and other long term assets and other current assets. In 2023, assets were reduced to Rs.1,999.72 lakhs and other non-current assets were reduced to Rs.4010.64 lakhs. From the above, it is clear that assessee has not repaid any deposits to the depositors and there is some movement of assets being encashed during the period. After considering the detailed findings of the SEBI, it is clear that assessee has no intention to return any deposits. At the same time, before us, Folder No.1 of details of 14296 depositors were filed before us. A sample of details of depositors and the same are extracted below :-

code	name	add1	add2	add3	pin	scheme	no_unit	amount	br_code	ag_code	for_date	rec_date	receipt no	sec_name	
24686	VIRENDRA KUMAR SINGH	B3 GAURI NAGAR HARDOI			241001	B	1	5000.00	HADO	HADO1	123	27-09-96	27-09-96	117913	SHRIVE DEVI
24687	KAMAR JAHAN	HYDEL COLONY DHAKRANI	DEHRADUN		248142	B	1	5000.00	DAKP	DAKP1	4	05-10-96	05-10-96	9666	
24688	CHANDRAPAL SINGH CHAUHAN	C-352 NEW YAMNA CL	DAKPATHAR		0	F	1	1250.00	DAKP	DAKP1	1	03-10-96	03-10-96	9665	
24689	MOOR JAHAN	B/0 MOHARRAM ALI	QTR D 593 NEW YAMUNA		248125	A	1	2500.00	DAKP	DAKP1	32	30-09-96	30-09-96	9663	MOHARRAM ALI
24690	RAJENDRA KUMAR SAXENA	C-155 TONS COLONY	DAKPATHAR DEHRADUN		248125	A	1	2500.00	DAKP	DAKP1	2	27-09-96	27-09-96	9662	KAMESH SAXENA
24691	SAYEDA BEGAN	II-38 HYDEL COLONY	DHAKRANI DEHRAD		0	C	1	7500.00	MALD	MALD1	92	02-09-96	02-09-96	9655	
24692	NARSINGH RAJPOURHIT	GAON POST TALIKA	VIA JAI TARAN SANDA STN	DISTI PALI RAJASTHAN	0	B	1	5000.00	MALD	MALD1	96	02-09-96	02-09-96	57735	PRABHAKAR RAMCHAND R
24693	PALLAVI PRABHAKAR RAVLE	3/13 BARETTO COMPOUND	D MONTI LANE ORLEN	MALAD W BOMBAY	64	A	1	2500.00	MALD	MALD1	96	02-09-96	02-09-96	57737	PALLAVI P R
24694	PRABHAKAR RANACHANDRA R	3/13 BARETTO COMPOUND	D MONTI LANE ORLEN	MALAD W BOMBAY	400064	D	1	10000.00	MALD	MALD1	96	12-08-96	12-08-96	65552	MANOHAR PANDURANG THORAT
24695	MAHESH PANDURANG THORAT	1767 MEHTA WADA OLD	TAMBAT LANE NASIK		422001	D	1	10000.00	MALD	MALD1	999	03-09-96	03-09-96	57738	
24696	SAYITRA BAIDHAS SONAHANE	SHANTI NAGAR ZOPAD PATTI S V ROPAD			0	D	1	10000.00	MALD	MALD1	999	03-09-96	03-09-96	57739	
24697	SARVAJIT K CHAURASTYA	SAINATH CHAWL ROOM NO 1	DAHISAR E G T ROAD	MUMBAI	68	D	1	10000.00	MALD	MALD1	102	06-09-96	06-09-96	57740	
24698	JAGDISH PRAJAPATI	RAM KISHORE JAI MANGAL	KI CHAWL POISER	KANDIVALI	67	B	1	5000.00	MALD	MALD1	51	04-09-96	04-09-96	57741	
24699	SIMANCHAL BHANANI SAHU	GAHESH KRIPA SEVA MANDAL	CHONK NO 2 RD NO 15	GRUTAN NAGAR AKMALI RD	101	B	1	5000.00	MALD	MALD1	56	06-09-96	06-09-96	57742	PALLAVI P RAVLE
24700	PRABHAKAR RANACHANDRA R	3/13 BARETTO COMPOUND	D MONTI LANE ORLEN	MALAD W BOMBAY	400064	D	1	10000.00	MALD	MALD1	96	09-09-96	09-09-96	57743	PRADYANTI J MODY
24701	JITENDRA J MODY	404 INDRAPRASTH B WING	SHEETAL NG OPP TELEPHON	EXCHANGE NIRA RD THANE	401107	B	1	5000.00	MALD	MALD1	27	09-09-96	09-09-96	57744	BHARATI R MODY
24702	RAJIT D MODY	309 INDRAPRASTH C WING	SHEETAL NG OPP TELEPHONE	EXCHANGE NIRA RD E THANE	401107	B	1	5000.00	MALD	MALD1	27	09-09-96	09-09-96	57745	KUSUM P SHINGARE
24703	TARA KASHINATH SHINGARE	12 D TONE CHAWL	PANCHSHIL NAGAR OPP	CHURCH L M RD BORTMALI W	400103	B	1	5000.00	MALD	MALD1	8	12-09-96	12-09-96	57746	
24704	KUSUM PANDURANG SHINGARE	12 D TONE CHAWL	PANCHSHIL NAGAR OPP	CHURCH L M RD BORTMALI W	400103	B	1	5000.00	MALD	MALD1	8	12-09-96	12-09-96	57747	
24705	KAUSTUBH SURENDRA SINGH	8/419 4TH FLOOR	BEHIN NEW ERA TALKIES	UNDERAT RD MALAD	400064	B	1	5000.00	MALD	MALD1	81	12-09-96	12-09-96	57748	
24706	SANCHITA SURENDRA SINGH	8/419 4TH FLOOR	BEHIN NEW ERA TALKIES	UNDERAT RD MALAD	400064	B	1	5000.00	MALD	MALD1	81	12-09-96	12-09-96	57749	
24707	JANARDAN KATALU INGOLE	8/0 G N LAKHE 3 P & T	COLONY SHARANAPUR NASIK	AMBERKAR MARG KALA C	400033	B	1	5000.00	MALD	MALD1	69	11-09-96	11-09-96	65554	SHANTABEN RAMANLAL P
24708	MANOJ KUMAR MOTILAL V	TRINULAY SEVA MANDAL	KRANTI NAGAR AXURLI RD	KANDIVALI E MUMBAI	400101	B	1	5000.00	MALD	MALD1	51	13-09-96	13-09-96	57750	
24709	SANOJ KUMAR MOTILAL V	TRINULAY SEVA MANDAL	KRANTI NAGAR AXURLI RD	KANDIVALI E MUMBAI	400101	B	1	5000.00	MALD	MALD1	51	13-09-96	13-09-96	60001	SHANTABEN RAMANLAL P
24710	KIRAN RAMANLAL PANCHAL	VITRU PATIL OPP	FUGGA FACTORY	NR SAVARKAR MARG VIRAR E	401303	B	1	5000.00	MALD	MALD1	44	13-09-96	13-09-96	60002	
24711	KODORI PRAVEEN	1376/38/6 MUNICIPAL CL	MALWANI MALAD WEST	MUMBAI	400095	F	1	1250.00	MALD	MALD1	131	13-09-96	13-09-96	60003	
24712	KODORI SAMPATHI RAD	1376/38/6 MUNICIPAL CL	MALWANI MALAD W	MUMBAI	400095	F	1	1250.00	MALD	MALD1	131	13-09-96	13-09-96	60004	
24713	KAMALA SURESH DHOTRE	VADARI PADA PADMAKAR	JAYABH RD NR DAHISAR	STATION	68	C	1	7500.00	MALD	MALD1	137	13-09-96	13-09-96	60004	
24714	KAMARA SURESH DHOTRE	VADARI PADA PADMAKAR	JAYABH RD NR DAHISAR	STATION	68	F	1	7500.00	MALD	MALD1	137	13-09-96	13-09-96	60004	
24715	DEVAKI BHAI	SHATLESH STORE OPP RAM	MANDIR S V RD BORIVALI N MUMBAI		400103	B	1	5000.00	MALD	MALD1	49	14-09-96	14-09-96	60006	SHATLESH SHANA
24716	BEETA ARUN SHINDE	8/46 3RD FLOOR	NEW POLICE LINE	ANDHERI RD MALAD W MUM	400064	B	1	5000.00	MALD	MALD1	8	14-09-96	14-09-96	60008	ARUN ANANT SHINDE
24717	PINKEY RAMESH BHAI CHAUHAN	SUMATI NIMAS CHAWAL	KASTURBA RD NO 5	RAI DONGARI BORIVALI E	66	D	1	10000.00	MALD	MALD1	4	17-09-96	17-09-96	60009	
24718	USHA RAMESHBHAI CHAUHAN	SUMATI NIMAS CHAWAL	KASTURBA RD NO 5 RAI	DONGARI BORIVALI E	66	D	1	10000.00	MALD	MALD1	2	17-09-96	17-09-96	60010	
24719	CHITRA VIJAY KOLGE	SARODAR SHRIPAL COMPLEX	105/8 WING AGASHI RD	VIRAR W DIST THANA	401303	F	1	1250.00	MALD	MALD1	44	18-09-96	18-09-96	60014	SHADHANA RAJPUT
24720	RAVENDRA KUMAR CHATURVE	SHANTI NAGAR SEC 4	BLDG NO A 6	VISIT THANE MAH	401107	B	1	5000.00	MALD	MALD1	27	20-09-96	20-09-96	41898	SEEMA SETIA
24721	KRISHNA RAJPUT	4 CHATAN DEV KUTIA	KANKHAL HARDWAR		249408	D	1	10000.00	HARD	HARD1	999	07-10-96	07-10-96	56736	
24722	RAJEEV KUMAR	NEW ASBZI MANDI	JAMALAPUR HARDWAR		249407	F	1	2500.00	SULP	SULP1	2	07-10-96	07-10-96	56735	
24723	RAJIT KUMAR JAIN	GYANI JEWELLERS	MAJOR GANJ SULTANPUR		0	A	1	2500.00	SULP	SULP1	999	04-09-96	04-09-96	56733	ROJLY
24724	MOHD AMIR	CIVIL LINE	SULTANPUR		0	C	1	7500.00	SULP	SULP1	999	04-09-96	04-09-96	56732	AJAZ HUSAIN
24725	FARAH FATIMA	CIVIL LINE	SULTANPUR		0	C	1	7500.00	SULP	SULP1	999	04-09-96	04-09-96	56731	
24726	SHAHANA BEGUM	SIRWARA ROAD	SULTANPUR		0	C	1	7500.00	SULP	SULP1	999	04-09-96	04-09-96	107132	
24727	MOHD ASIF	CIVIL LINE	SULTANPUR		313002	D	1	10000.00	UDAI	UDAI1	7	30-09-96	30-09-96	107133	
24728	RAM MOHAN A M	198 NIRAN MAGARI	SEC NO 3	UDAIPUR RAJ	313002	E	1	20000.00	UDAI	UDAI1	7	30-09-96	30-09-96	107134	
24729	RAM MOHAN A M	198 NIRAN MAGARI	SEC NO 3	UDAIPUR RAJ	0	D	1	10000.00	UDAI	UDAI1	3	01-10-96	01-10-96	107135	
24730	MOHARHAR LAL MALI	BEDMAS DIST UDAIPUR			0	A	1	2500.00	UDAI	UDAI1	3	01-10-96	01-10-96	107136	
24731	MANOHAR LAL MALI	BEDMAS UDAIPUR			0	F	1	2500.00	UDAI	UDAI1	3	03-10-96	03-10-96	107137	SHANTA DAVI KUMARAT
24732	MANOHAR LAL MALI	BEDMAS UDAIPUR			0	B	1	5000.00	UDAI	UDAI1	3	04-10-96	04-10-96	134601	
24733	AMBA LAL KUMARAT	NR JAIN TEMPLE H NO 12	DEWALI UDAIPUR (RAJ)	DELHI	110006	A	1	2500.00	HQ	HQ1	999	11-10-96	11-10-96	96901	KIRAN SHARMA
24734	MEHA JAIN	N/S MOOL CH JAIN & SONS	2201 KINARI BAZAR	DELHI	110006	A	1	2500.00	HQ	HQ1	999	11-10-96	11-10-96	96901	KIRAN SHARMA
24735	VIDHU JAIN	N/S MOOL CH JAIN & SONS	2201 KINARI BAZAR	DELHI	0	D	1	10000.00	AJM	AJM1	8	08-10-96	08-10-96	107131	
24736	RAMESH CHAND SHARMA	685/27 R P F ROAD	RANGUNJ AJMER		0	B	1	5000.00	AJM	AJM1	8	08-10-96	08-10-96	56503	
24737	RAMESH CH SHARMA	685/27 R P F ROAD	RANGUNJ AJMER		313001	B	1	5000.00	UDAI	UDAI1	3	25-09-96	25-09-96	56504	
24738	PREM LATA NAGADA	BAHANUM CHOWK PAHADA	UDAIPUR		0	A	1	2500.00	RAMN	RAMN1	9	21-09-96	21-09-96	56505	
24739	SAVITRI DEVI	BAGANA BANKATMA W	CHAMPARAN BIHAR		845103	B	1	5000.00	RAMN	RAMN1	9	21-09-96	21-09-96	56506	
24740	SHANTI DEVI	RANPUR SAKARATUL SIKARPUR	HARINAGAR		845106	A	1	2500.00	RAMN	RAMN1	2	21-09-96	21-09-96	56505	
24741	PRINCE KUMAR	PURANI BAZAR RAMNAGAR	BIHAR		845106	A	1	2500.00	RAMN	RAMN1	14	08-10-96	08-10-96	128352	URNILA ANASTRI
24742	PRIYA KUMARI	RAMNAGAR W CHAMPARAN	BIHAR		0	B	1	5000.00	LALB	LALB1	14	08-10-96	08-10-96	128351	
24743	ASHOK KUMAR ANASTRI	381/E SHYAMNAGAR	KANPUR		845101	F	1	1250.00	BAGA	BAGA1	11	01-10-96	01-10-96		
24744	SANTOSH KUMAR SRIVASTAV	BANKATMA GUORI BAZAR	BAJARBAGAMA		0	A	1	2500.00	BAGA	BAGA1	1	24-09-96	24-09-96		
24745	ASHOK KUMAR YADAV	BANUCHAPRA BETTIAH			0	A	1	2500.00	BAGA	BAGA1	1	24-09-96	24-09-96		

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18. From the above, we noticed that assessee has collected various deposits from small time depositors ranging from Rs.1,250/- to Rs.10,000/- in various denomination and the addresses were recorded also in very cryptic and in our view, it is very difficult to trace back most of the depositors and from the decision of Additional Sessions Judge, 03/Special Judge Companies Act, Dwarka Courts, New Delhi, they have clearly held that assessee has no intention to return back the funds and from the attitude and behaviour of the assessee, they are not demonstrated that they are inclined to return any deposit. It is also held that they were not implemented the proposed scheme and they are anyway not in a position to refund any of the deposits forget about the quantification done by the Special Court to refund back to the depositors if the scheme would have implemented. Therefore, the assessee has collected all the deposits from the small time depositors by luring them with huge return but the intention is not to return back any funds, therefore, the ld. AR of the assessee argued that the SEBI has admitted in the Court that complete Rs.87 crores was received from investors and for non-refund thereof the company and director was prosecuted and fined by the court. Therefore, ld. AR submitted that it clearly proves, the amount of Rs.34,71 crores was received from investors. Therefore, it did not belong to the assessee. Therefore, addition u/s 68 is unwarranted. We are not inclined to agree with the above submissions and the assessee has collected the abovesaid deposits and failed to implement any of the proposed projects. The assessee nowhere in a position to return any of the

deposits with due returns. Therefore, the behavior of the assessee clearly shows that assessee will not return any of the funds to the depositors, therefore, the assessee has taken the deposits with the intention to defraud the innocent depositors and looking at the various small deposits with improper addresses it may lead to suspect that some of the deposits are assessee's own deposits which were brought into the books. The whole scheme is to defraud the depositors and the attitude of the assessee clearly shows that the intention is to earn the ill gotten income by fraud means. Therefore, in our view, the whole collection of deposit is nothing but income of the assessee u/s 28 of the Act not under section 68 (since the assessee has submitted the details of the depositors but not proved the genuineness. It is debatable issue.) The ill gotten money also taxable under the Act. Therefore, we are inclined to sustain the additions proposed by the tax authorities and we do not see any reason to disturb the findings of the ld. CIT (A).

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

Order pronounced in the open court on this 9th day of April, 2025.

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 09.04.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI