

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.371/SRT/2024**

**Assessment Year: (2012-13)**

**(Physical hearing)**

J N.J. Machines Pvt. Ltd. 762, G.I.D.C. Icchapore, Hazira-394 510	<b>Vs.</b>	Income Tax Officer, Ward-1(1)(3), Surat
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AACJ 4034 G</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से /Respondent by	Shri Ravi Kant Gupta, CIT-DR
सुनवाई की तारीख/Date of Hearing	16/01/2025
उद्घोषणा की तारीख/Date of Pronouncement	04/04/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 20.02.2024 by the National Faceless Appeal Centre, Delhi /Commissioner of Income-tax (Appeals) [in short 'Ld. CIT(A)'] for the Assessment Year (AY) 2012-13, which in turn arises out of assessment order passed by Assessing Officer u/s 143(3) of the Act dated 31.03.2015. Grounds of appeal raised by the assessee are as under:

*"1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in partly confirming the action of the Assessing Officer by sustaining the addition of Rs.52,00,000/- out of total addition of Rs.6,52,00,000/- u/s 68 of the I.T. Act on account of bogus share application money.*

*2. It is therefore prayed that above addition made by Assessing Officer and confirmed by CIT(A) may please be deleted.*

*3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

2. Facts of the case in brief are that assessee filed its return of income declaring the Nil income. The case was scrutinized and found falling in the realm of Section 68 of the Act. The AO noticed that assessee had received equity shares money from twenty-one parties amounting to Rs.12,34,80,000/-. The assessee was asked to produce complete details regarding share application money received during the year under consideration. In reply, the assessee submitted before the AO confirmation of account, return of income, computation of income, bank statement, balance sheet, profit and loss account and capital account in case of all investors. Notices u/s 133(6) of the Act were issued to various investors, who submitted the details called for by the AO. Thereafter, AO issued show cause notice requiring assessee as to why Rs.12,34,80,000/- should not be added to the income of the assessee. Assessee filed reply which was considered by AO and he finally added Rs.6,52,00,0000/- as bogus share application money u/s 68 of the Act. It includes share application money of (i) Rs.6,44,00,000/- from M/s Jaisal Mechatronics Pvt. Ltd., (ii) Rs.4,00,000/- from C.N. Shukadia (HUF) and (iii) Rs.4,00,000/- from Shardaben Shukadia. Aggrieved by the addition made by AO, assessee preferred appeal before CIT(A).

3. Before CIT(A), assessee filed written submission which are at pages 4 to 12 of the appellate order. The appellant submitted that M/s Jaisal Mechatronics Pvt. Ltd. had applied under VSVS-2020 in respect of addition of Rs.6,00,00,000/- and the declaration is fully settled by issuance of Form-5. Since the source of fund was offered and taxes were paid, the consequential application of the same fund in case of the applicant cannot be sustained. The CIT(A) accepted this contention of assessee and deleted addition of Rs.6,00,00,000/- out of Rs.6,44,00,000/-. He confirmed remaining addition of Rs.44,00,000/- of share application money of M/s Jaisal Mechatronics Pvt. Ltd. He also sustained addition of Rs.4,00,000/- each in case of C.N. Shukadia (HUF) and Shardaben Shukadia by observing that they have filed return of income showing negligible income. Further, there are deposits of equivalent amount before advancement of sum of Rs.4,00,000/- each to the appellant. Hence, the CIT(A) confirmed Rs.8,00,000/- received from these two persons. In the result, addition of Rs.52,00,000/- (Rs.44,00,000/- + Rs.8,00,000/-) out of Rs.6,52,00,000/- was confirmed by the CIT(A).

4. Further aggrieved by the order of the CIT(A), the assessee has filed present appeal before the Tribunal. The Ld. AR of the assessee filed paper book and relied on various decisions. He submitted that out of total addition of Rs.6,52,00,000/- the CIT(A) has already granted relief of Rs.6,00,00,000/-. He submitted that the addition sustained by CIT(A) pertains to share application money of Rs.4,00,000/- each of C.N. Shukadia (HUF) and Shardaben Shukadia

and Rs.44,00,000/- out of Rs.6,44,00,000/- subscribed by M/s Jaisal Mechatronics Pvt. Ltd. He submitted that M/s Jaisal Mechatronics Pvt. Ltd has made the impugned investment out of share capital of Rs.8,10,00,000/-. The other addition of Rs.8,00,000/- relates to family members of Shri Sanjay Sukhadia, a director of the assessee-company. The Ld.AR submitted that Rs.44,00,000/- was out of share capital and profit of M/s Jaisal Mechatronics Pvt. Ltd. which is evident from the details furnished by the assessee at pages 64 to 77 of the paper book. The AR submitted that C.N. Shukadia (HUF) and Shardaben Shukadia have invested Rs.4,00,000/- each for which the appellant has submitted cross-conformation account, return of income of AY 2012-13, computation of income and bank statement which are at pages 78 to 88 of the paper book. These two persons are regularly assessed to tax and they are family members of Shri Sanjay Sukhadia, one of the directors of the assessee-company. The Ld. AR submitted that they are not entry providers and are genuine investors. The Ld. AR relied on the decisions in cases of (i) Earthmetal Electrical Pvt. Ltd. vs. CIT [Civil appeal No.6181/2010 of SLP No.217073/2009 (SC) (ii) Earthmetal Electrical Pvt. Ltd. vs. ITO [IA 590 of 2005 (Bom)], (iii) Earthmetal Electrical Pvt. Ltd. vs. ITO ITA No.239/Mum/2005 of 2005 dated 28.06.2005, (iv) CIUT vs. Lovely Exports Pvt. Ltd. (2008) 216 CTR 195 (SC), (v) CIT vs. Steller Investment (2001) 251 ITR 263 (SC), (vi) CIT vs. Ujala Dyeing & Printing Mills Pvt. Ltd. [SLP CC No.4635/2009 (SC)], (vii) CIT vs. Ujala Dyeing & Printing Mills Pvt. Ltd. [328 ITR 437 (Guj)], (viii) CIT vs. Himastu Bimet Ltd.

(2011) 12 taxman.com 87 (Guj) and (ix) Hindustan Inks & Resins Ltd. vs. DCIT  
(2011) 60 DTR 0018 (Guj)

5. On the other hand, Ld.Sr-DR for the Revenue supported the order of lower authorities. He stated that no separate document has been submitted for investment of Rs.44,00,000/- in case of M/s Jaisal Mechatronics Pvt. Ltd. unlike investment of Rs.6,00,00,000/- out of the declaration of VSVS, 2020. He further submitted that there are deposits before issue of cheque of Rs.4,00,000/- each in case of C.N.Shukadia HUF and Shardaben Shukadia. Hence, he requested to uphold the order of CIT(A).

6. We have heard both the parties and perused the materials on record. We have also deliberated upon the decisions relied upon by the Ld. AR of the assessee. We find that AO added Rs.6,52,00,000/- out of share application money of Rs.12,34,80,000/-. The CIT(A) deleted addition of Rs.6,00,00,000/- in case of M/s Jaisal Mechatronics Pvt. Ltd which had invested Rs.6,44,00,000/-. He deleted Rs.6,00,00,000/- because M/s Jaisal Mechatronics Pvt. Ltd. has offered Rs.6,00,00,000/- under VSVS-2020 and paid taxes thereon. The Ld. AR argued that the remaining amount of investment of Rs.44,00,000/- was out of share capital of Rs.8,10,00,000/- of the investor-company and its profit of Rs.72,37,800/- during the year. We have perused the relevant details and the evidences filed by the appellant. It is seen that M/s Jaisal Mechatronics Pvt. Ltd. is a group company of the appellant and it had share capital of the

assessee-company out of its share capital of Rs.8,10,00,000/-. The said M/s Jaisal Mechatronics Pvt. Ltd. has availed benefit of VSVS-2020 and paid taxes on amount of Rs.6,00,00,000/- disclosed under VSVS-2020. We also find that the said M/s Jaisal Mechatronics Pvt. Ltd. had declared profit of Rs.72,37,800/-. Therefore, explanation of the appellant as regards the nature and source of investment of Rs.44,00,000/- is accepted. The AO is accordingly, directed to delete the above addition.

6.1 The AO has also added Rs.4,00,000/- each on account of share capital subscribed by C.N.Shukadia HUF and Shardaben Shukadia. The Ld. AR has filed cross-confirmation account, acknowledgement of return filed for AY 2012-13, computation of income and bank statement of these two investors. The same are at pages 64 to 88 of the paper book. The Ld. AR submitted that they are family members of Shri Sanjay Shukadia, who is a director of the assessee-company. The AO has already accepted investment made by Shri Sanja Shukadia. Therefore, there is no reason to doubt the investment of other two investors from the same family. After considering the details submitted by the appellant and its explanation, we find that identity of the these two investors are duly established because they are regular filers of income tax return and are also family members of out of the directors of the assessee-company. They are not entry providers and are genuine investors in the company in which a family member is a director. The decision relied upon by the Ld. AR

also supports case of the assessee. The Ld. AR relied on the decision of Hon'ble Supreme Court's in the case of Earthmetal Electrical Pvt. Ltd.(supra), wherein it was decided as under:

*"We have examined the position. We find that the shareholders are genuine parties. They are not bogus and fictitious. Therefore, the impugned order is set aside."*

We find that in the present case, the investors are genuine and they are not bogus and fictitious. They are family members of one of the director of the assessee-company. They have also filed cross-conformation accounts, ITR, bank statements etc. In view of the above facts and decision cited supra, ground of assessee is allowed.

7. The other two grounds are general in nature and do not require separate adjudication.

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

Order pronounced under proviso to Rule 34 of ITAT, Rules, 1963 on 04/04/2025 in the open court.

**Sd/-**  
**(PAWAN SINGH)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**

सूरत /Surat

दिनांक/ Date: 04/04/2025

**Dkp Outsourcing Sr.P.S\***

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**लेखा सदस्य/ ACCOUNTANT MEMBER**

आदेश की प्रतिलिपि अद्योषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत