

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 1609/Ahd/2019
(Assessment Year: - 2014-15)

Income-Tax Officer, Ward 1(1)(1), Vadodara	Vs.	M/s. Evexia Lifecare Ltd., (Earlier known as Kavit Industries Ltd.) 9 th Floor, Galav Chambers, Sayajigunj, Vadodara-390020 [PAN : AAACJ 4907 C]
(Appellant)	..	(Respondent)
Appellant by :	Shri Tushar Hemani, Sr. Advocate & Shri Parimalsinh B. Parmar, AR	
Respondent by:	Shri Prathvi Raj Meena, CIT-DR	
Date of Hearing	16.04.2025	
Date of Pronouncement	10.07.2025	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the Revenue against the order of the learned Commissioner of Income-tax (Appeals-3), Vadodara (in short 'the CIT(A)') dated 28.08.2019 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2014-15.

2. The solitary grievance of the Revenue is as follows:-

"On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in deleting the additions of Rs.48,52,75,000/- made u/s 68 of the Income-tax Act, 1961 without appreciating the findings of Assessing Officer and not considering the fact that the assessee has failed to establish the identity and creditworthiness of the share applicants as well as the genuineness of transactions during the assessment proceedings."

3. The brief facts of the case are that the assessee-company is engaged in the business of various trading activities. During the year under consideration, the assessee company has shown net loss of Rs. 5,76,478/- from business as against turnover of Rs. 74,33,691/-. The assessee had filed return of income on 06.10.2014 declaring total income at Rs. 85,710/-. The case was selected for scrutiny assessment under CASS. The Assessing Officer thereafter completed the assessment u/s 143(3) of the Act vide order dated 30.12.2016, determining the total income of the assessee at Rs.48,53,60,710/-, making addition of Rs.48,52,75,000/- u/s. 68 of the Act on account of share application money received from nine different parties during the year under consideration. The Ld. CIT(A) deleted the entire addition of Rs.48,52,75,000/-.

3.1 During the year under consideration, the assessee issued 40000000 convertible equity warrants on preferential basis @15 (Rs. 10 face value and Rs.5 premium) per warrant to be converted into equivalent number of equity shares of the company of Rs. 10 each within 18 months from the date of allotment of warrants. Against the issue of share convertible equity warrants, the assessee received share application money from nine companies with aggregate amount of Rs.48,72,50,000. Preferential warrants issued by the company was converted on 23.07.2014 i.e. in FY 2014-15. The said equity shares converted from warrants have lock in period of 3 to 1 year from date of allotment.

3.2 The Assessing Officer received information from Investigation Wing of the Department that above said companies are managed and controlled by a person named Shri Shirish Chandrakanth Shah and the enquiry conducted by the investigation wing of the Income-tax Department revealed that the group of companies belonging to the above said person are providing only accommodation entries and hence there was no genuine business activity. Hence, in order to examine the genuineness of transactions, the Assessing Officer issued notices u/s

133(6) of the Act to both the parties specified above. The parties responded to the notices and furnished copy of bank statements, income tax acknowledgement, audited financial statements, ledger account of the assessee, copies of share certificates. They explained their sources as receipts on sale of shares and securities. The Assessing Officer examined the bank statements of all the parties and noticed that they have entered into transactions amongst their group concerns only. Further, the funds were seen received from other group concerns only. Accordingly, the Assessing Officer held that the creditworthiness of these share applicants was not found to be proved. Accordingly, the Assessing Officer held that the share application transactions are not genuine transactions. The Assessing Officer concluded that the investors and investee both are paper companies and funds invested by these companies are merely accommodation entries.

3.3 The Ld. CIT(A) deleted the addition holding that the assessee-company as well as investors were conduit companies. The Ld. CIT(A) relied on the judgement of the Hon'ble High Court of Delhi in the case of Pr.CIT v. Vijay Conductors India Pvt. Ltd., wherein the Hon'ble Court has held that no addition u/s 68 shall be made in the case of conduit companies. Before the Ld. CIT(A), the assessee itself relied on the statement of Shri Shirish C Shah who stated that the entire conduit companies were controlled by him. The Ld. CIT(A) held that the assessee-company acted as conduit and real income was earned in the hands of Shri Shirish C. Shah, the entry operator.

3.4 With regard to the assessee-company, now known as Evexia Lifecare Limited, formerly known as Kavita Industries Ltd, has received monies on account of convertible preferential shares from the following companies:-

- 4 -

Sr. No.	Name of the share applicants	No. of shares applied during the year.	Value of shares	Receipt during the year.
1	Raghuvir International Pvt. Ltd.	9000000	13,50,00,000	13,56,00,000
2	Shree Sai baba Exim Pvt. Ltd.	7000000	10,50,00,000	7,55,75,000
3	Silvercade Trading Pvt. Ltd.	4000000	6,00,00,000	6,48,00,000
4	Krystalklear Properties Pvt. Ltd.	3900000	5,85,00,000	3,52,00,000
5	Aprateem Trading Pvt. Ltd.	3600000	5,40,00,000	4,68,00,000
6	Ethan Construction Pvt. Ltd.	3300000	4,95,00,000	2,08,00,000
7	Saint Infrastructure Pvt. Ltd.	3200000	4,80,00,000	3,25,00,000
8	Gill Entertainment Pvt. Ltd.	3100000	4,65,00,000	2,70,00,000
9	Indivar Traders Pvt. Ltd.	2900000	4,35,00,000	4,70,00,000
		40000000	60,00,00,000	48,52,75,000

4. Before us, the Ld. DR argued that under the amended provisions of Companies Act, i.e. section 100, the public/listed company can call ordinary meeting. Lest to say, the decision of allotment of preferential shares was made in extra ordinary meeting without going for public issue. However, the assessee company ought to have prepared a report of such meeting and it should have filed with the Registrar of the Company within 30 days of meeting. The assessee has not filed report of such meeting to the ROC. At the first instance, the assessee had issued preferential allotment of 4,00,00,000 warrants convertible into equity shares of the face value of Rs.15 each and premium of Rs.5 each by extra ordinary meeting without, going to public issue, and these preferential issues were later converted in equity on 23/07/2014 in next year. With regard to the listing of its share with BSE, Ld. DR argued that the SEBI might have allowed the assessee's shares for listing of different set of regulations, but the vital compliance under the Companies Act has not been adhered by the assessee company. Therefore, there appears intention and not negligence on the part of the assessee company, i.e.

mens rea. Ld. DR argued that the entire gamut was to give a legal shape of issue under the hood of preferential allotment that too without going the public. The assessee has not submitted its report to the ROC is also circumstantial evidence to prove that there is routing of unexplained income in the colour of share allotment and share premium.

4.1 Ld. DR argued that on perusal of the financial health of all the above applicants, it is clearly evident that the creditworthiness of all the share applicants is under serious doubt as the assessee has not discharged its onus. The Ld. DR brought to our notice that M/s Raghuvir International Pvt Ltd , AAGCR 6132F, who has contributed an amount of Rs.13.56 crores and the company namely Shree Saibaba Exim Pvt Ltd. which contributed Rs.7.55 crores, has not even filed return of income for 5 years from FYs. 2008-09 to 2012-13. For the AY 2014-15, the said companies have filed return of income with a loss of (-) Rs. 23036/- and Rs.(-) 25221/- respectively. The Ld. DR argued that, similarly, the company Silvercade Trading Pvt. Ltd., AAPCS3875B, which contributed Rs. 6,48,00,000/-, has not filed return of income for FYs 2008-09 and 2009-10 and for FYs 2010-11, 2011-12 & 2013-14 filed its return of income with a loss of (-)Rs.6200/-, (-) Rs.12756 & (-) Rs.45171 respectively. In a similar way, the company M/s. Aprateem Trading Pvt Ltd, AAKCA3649Q, which contributed Rs.4,68,00,000/-, has not filed return of income for the AYs 2008-09 and 2009-10 and filed the return of income with a loss of Rs. (-)7425 and Rs.(-) 5784301/- for FYs 2011-12 and 2013-14 respectively.

4.2 The Ld. DR further submitted that M/s. Indivar Traders Pvt. Ltd., AACCI1585K, which invested Rs. 4.70 crores, did not file its return for FY 2008-09 and, though returns were filed in later years, the reported income was minimal. M/s. Gill Entertainment Pvt. Ltd., AADCG6752B, which contributed Rs. 2.70 crores, did not file a return for FY 2013-14, and for other years reported either

zero or negative profits. The case of M/s. Krystaiklear Properties Pvt. Ltd., PAN: AADCK1456A, which contributed Rs. 3.52 crores, but for all six years from FY 2008-09 to FY 2013-14, it declared either negative income or substantial losses, including Rs. (-)1.76 crores in FY 2012-13 and Rs. (-)4.21 crores in FY 2013-14. Likewise, M/s. Saint Infrastructure Pvt. Ltd., AARCS1810N, which contributed Rs. 3.25 crores, either did not file returns or filed returns showing zero or negative income for all relevant years, including losses of Rs. (-)15,750/- and Rs.(-) 28,130/- in FYs 2011-12 and 2013-14, respectively. The company M/s. Ethan Construction Pvt. Ltd., AACCE2711P, which invested Rs. 2.08 crores, also reflects a similar pattern of financial weakness, with losses of Rs. (-)5.86 crores in FY 2011-12, Rs. (-)68.16 lakhs in FY 2012-13, and Rs. (-)1.21 crores in FY 2013-14.

4.3 Further, the Ld. DR argued that all the allottees have received fund just before making investment/purchase of preferential shares of the assessee company. It was argued that, considering human probabilities, and for the sake of arguments, we can say coincidence may happen, but in the instant case, coincidences happen in the case of all the allottees and that too in the similar fashion. To elaborate, in most of the case of allottees, fund transfer was from Allied Computers International, Satya Retail Pvt. Ltd. etc. Further, immediately on receipt of funds from the third parties, these 9 allottees have transferred fund to the assessee company. The Ld. DR relied on the Hon'ble Apex Court's ruling in the case of Sumati Dayal vs CIT [1995] 80 TAXMAN 89 (SC), it is held that apparent is not real. What has been shown by the assessee is glossy picture of the allotment. The Ld. DR vehemently argued that the assessee has used colourable device to routing its unaccounted income in the shape of preferential allotment. However, it is pertinent to mention here that whatever the transaction would be, the end beneficiary is only the assessee company. The Ld. DR also relied on the judgment of Hon'ble Apex Court in the case of CIT Vs Biju Patnaik, 160 ITR 674 (SC).

5. On the other hand, Ld. AR argued that the assessee has furnished the ledger Account Confirmations together with the Bank Account Statements, Transaction Holding Statements and from respective contributors. Further, complete details with respect to the share application money showing notice of meeting, resolution of meeting, name of the applicants, number of shares to be issued, balance confirmation of each party, statement of transaction from their respective DPs pre and post allotment status were also submitted to enable verification of identity and genuineness of the share application money. The Ld. AR argued that the assessee has furnished the following comprehensive evidence in support of the genuineness of the receipt of application money during assessment proceedings:

- List of names of applicant companies along with number of warrants and amount who have subscribed to the Convertible Equity warrants on Preferential basis.
- Share application Form.
- Ledger Confirmation of the parties for such investment.
- Bank Statement of applicant companies.
- Demat statement of applicant companies
- Duly sworn Affidavit confirming the investment in preferential issue of the assessee company along with particulars of number of warrants applied for and complete details of payment made with name of the bank as well as PAN and registered address of the applicant company.
- ITR Ack. Along with computation of total income of the applicant companies.
- Audited Balance sheet and profit & Loss A/c of all applicant companies
- Copy of PAN Card
- Certificate of Incorporation.
- Form No. INC-22 filed with ROC in support of identity and address.
- Source of funds of the appellant companies

5.1 It was also argued by the Ld. AR that the assessee-company company had also furnished the following further documents in support of genuineness of the share application money received from various applicant companies:

- (a) Bank Book of Axis Bank and Dhanlaxmi Bank wherein the share application money received is credited.
- (b) Bank Statements of Axis bank and Dhanlaxmi Bank reflecting credit of share application money received during the year
- (c) Copy of Board resolution and Shareholder resolution wrt increase in Authorised Share Capital
- (d) Copy of Board resolution for issue of preferential allotment with BSE
- (e) Copy of application for preferential allotment with BSE
- (f) Copy of approval of BSE for issuance of preferential shares
- (g) Copy of resolution for allotment of equity shares to applicants
- (h) Application copy of BSE for issue of shares to each applicant and copy of acknowledgment of BSE.
- (i) Copy of approval letter from CDSL and allotment of distinct number of shares from BSE.

5.2 The Ld. AR also argued that, on the basis of the above comprehensive details furnished by the appellant company, the learned Assessing officer issued notices under section 133(6) of the Act to the applicant companies and it was submitted that the said companies i.e. each shareholder had duly confirmed the investment made by them in the preferential issue of the applicant company and had also submitted the relevant details/information in support of their investments along with their reply filed directly before the learned Assessing Officer in support of their investment.

5.3 It was also argued by the Ld. AR that that primary burden cast upon the assessee to prove the genuineness of the increase in share capital was sufficiently

discharged by it before the Assessing Officer. The Ld. AR argued that when the appellant company as well as the shareholders responded to the Departments notices, all details have been filed then it was on the part of revenue to further deeply examine the modus operandi of the companies with the help of investigation. The Ld. AR submitted that no such investigation/inquiries were undertaken by the Assessing Officer, and even at the remand proceedings, only a general list of alleged shell companies is heavily relied on by the Assessing officer. The financial statement of the shareholder companies might have given some indication about abnormalities in their working but that merely cannot be basis to doubt the genuineness and credit worthiness because in various investment companies also one can find that there are no fixed assets and investments are regularly made in other companies. The Ld. AR argued that duty is heavily casted on the Revenue in such type of cases where the burden of proving has been shifted by the assessee to the revenue by way of furnishing all requisite documents and evidences. It was also argued that it is on the revenue to further dig out some material information including the statements of persons at helm of affairs of such companies, when the Assessing Officer while confirming the addition has merely taken the information from published List and public domains but nowhere any further investigation was carried out even when necessary details were available with him. The Ld. AR relied upon the judgment of jurisdictional Tribunal (ITAT Ahmedabad) in case of Saanika Industries Private Limited vs ACIT (ITA No. 207/Ahd/2016) wherein on similar facts, the Tribunal confirmed the additions in respect of the shareholder who was particularly investigated by the Investigation Wing of the IT department and statement under section 131 of the IT Act was also available. However, the additions in respect of other parties were deleted where all the documentary evidences were submitted by the appellant and no strong counter-evidences were available with the Assessing Officer.

5.4 Ld. AR submitted a paper-book containing 453 pages and case-law compilation of 94 pages which have been duly perused. Further, Ld. AR relied on

the order of the Ld. CIT(A) wherein the Ld. CIT(A) mentions the details submitted by the assessee which have been already mentioned above in this order at paragraph 5 & 5.1.

5.5 The Ld. AR argued that, no doubt, the Assessing Officer has admitted that Shri Shirish C Shah had systematically maintained user ID and password of bank accounts of various companies including that of appellant company. Blank cheque books of various companies alongwith some cheques duly signed by directors of the companies were also seized during search. Documents evidencing transfer of funds from one company to other company and by other company to third company and so on were also seized. AO further concludes that all transactions were carried out at the instances of Shri Shirish C Shah and the fact that directors of the various shell companies were merely tool in the hands of Shri Shah and Shri Shah only knew all the affairs of company, the real income is assessed in the hands of Shri Shah. Finally, the Assessing Officer assessed income of conduit company including all the investors as such in this case at return of income i.e. NIL. The Ld. AR relied on the extract of order u/s 143(3) r.w.s. 153 passed in case of M/s. Silvercade Trading Pvt Ltd., which is reproduced as under:-

"2. During the course of search and survey, hard copies of various documents were seized. Similarly softcopies of computer back up etc was also seized.

3. Statements of Shri Shirish C Shah and other have also been recorded u/s 132(4) as well as 131(1 A) of the Act. The documents seized during the course of search includes inter alia documents relating to various companies which were either associated or were under direct or indirect control of Shri Shirish C Shah. During the course of search, soft copies of books of accounts of such companies were seized from computer of Shri Shirish C Shah. It is also revealed that Shri Shirish C Shah had systematically maintained User ID and password of bank accounts of various companies including that of the assessee company. Blank cheque books of various companies along with some cheques duly signed by directors of the companies were also seized during the course of search.

4. *Documents evidencing transfer of funds from one company to other company and by other company to third company and so on were also seized.*

5. *During the course of search and from statements of Shri Shirish C Shah, it was revealed that he had been engaged in providing various sorts of accommodation entries to various parties through such entities which were directly or indirectly either associated or controlled by him.*

6. *Considering the fact that all the transactions were carried out at the instances of Shri. Shirish C Shah and the fact that directors of the assessee company were merely tool in the hands of Shri Shirish C Shah and Shri Shirish C Shah only knew all the affairs of company, the real income from these transactions is assessed in the hands of Under the circumstances, the total income of the assessee company is assessed as it is i.e. as per its return of income only i.e. Rs.NIL....”*

5.6 The Ld. AR argued that the assessee cannot be taxed u/s 68 of the Act as all the ingredients relating to identity, genuineness and creditworthiness have been duly proved. The Ld. AR alternatively argued that the assessee being one of the conduits, no addition can be made in the hands of the assessee. The Ld. AR submitted that the amounts received by the assessee have already been given as long-term loan and advances to 34 entities which have been duly reflected in the balance-sheet of the assessee. The Ld. AR relied on the judgment of Hon’ble High Court of Delhi in the case of Pr. CIT Vs. Vijay Conductors (I) Pvt Ltd. The Ld. AR further submitted that the companies/entities which paid the amounts to the assessee have in turn received funds from various entities namely Satya Retail Pvt Ltd., Allied Computers International (Asia) Ltd., Aristo Media & Entertainment Pvt. Ltd. etc. For the sake of ready reference, the details given by the Ld. AR are reproduced as under:-

Details of source of funds

F Y 2013-2014

Details of Receipt of Funds from Preferential Allottees

Atreya Petrochem Ltd

Sr. No	Name of Allottees	PAN No	Shares Applied	Total Consideration (In Rs.)	Date of Receipt	Application Amount Received	Date of Receipt	Amount Received	Name of Party	PAN No.
	Silvercude Trading Pvt. Ltd.	AAACR6132F	4,000,000	60,000,000	16-Dec-13	12,500,000	16-Dec-13	12,500,000	SATYA RETAIL PRIVATE LIMITED	AAALCS4608N
					17-Dec-13	15,000,000	17-Dec-13	15,000,000	SATYA RETAIL PRIVATE LIMITED	AAALCS4608N
					19-Dec-13	15,100,000	19-Dec-13	15,100,000	SATYA RETAIL PRIVATE LIMITED	AAALCS4608N
					5-Mar-14	3,000,000	5-Mar-14	3,000,000	SUHASIT STAR TRADING PVT LTD	AAAPCS3728K
					13-Mar-14	6,500,000	13-Mar-14	6,500,000	YANTRA NATURAL RESOURCES LIMITED	AAACCS4221Q
					14-Mar-14	2,200,000	14-Mar-14	2,200,000	NISHOTTAM TRADERS PVT LTD	AAACCN7655D
					14-Mar-14	1,900,000	14-Mar-14	1,900,000	YANTRA NATURAL RESOURCES LIMITED	AAACCS4221Q
					18-Mar-14	800,000	18-Mar-14	2,500,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD	AAICA2155K
					19-Mar-14	7,800,000	18-Mar-14	3,100,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD	AAICA2155K
						64,800,000	18-Mar-14	64,800,000	SPECIALITY PAPERS LIMITED	AAECS0861Q
	Apneem Trading Pvt Ltd	AAKCA3649Q	3,000,000	54,000,000	22-Jan-14	20,000,000	22-Jan-14	20,000,000	SUHASIT STAR TRADING PVT LTD	AAAPCS3728K
					28-Jan-14	2,500,000	28-Jan-14	2,500,000	ALISH TRADERS PVT LTD	AAICA1021G
					7-Feb-14	6,300,000	7-Feb-14	4,800,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD	AAICA2155K
					19-Mar-14	18,000,000	7-Feb-14	1,500,000	BLACK HORSE MEDIA & ENTERTAINMENT PVT LTD	AAADCB3849G
						46,800,000	19-Mar-14	18,000,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
	Indivar Traders Pvt Ltd	AAACCI1585K	2,900,000	43,500,000	7-Feb-14	6,300,000	7-Feb-14	6,300,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
					13-Mar-14	100	13-Mar-14	100	OWN BALANCE	N A
					21-Mar-14	20,000,000	21-Mar-14	37,000,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
					22-Mar-14	14,500,000	21-Mar-14	2,500,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
					22-Mar-14	2,500,000	22-Mar-14	2,500,000	GANIKA INFRASTRUCTURE PVT LTD	AAECCG6329H
					22-Mar-14	3,700,000	22-Mar-14	3,700,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
						47,000,100		49,500,100		
	Gill Entertainment Pvt Ltd	AAACCG6752B	3,100,000	46,500,000	18-Feb-14	2,500,000	18-Feb-14	2,500,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD	AAICA2155K
					20-Feb-14	2,500,000	20-Feb-14	2,500,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD	AAICA2155K
					19-Mar-14	22,000,000	19-Mar-14	22,000,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
						27,000,000		27,000,000		
	Kysalklear Properties Pvt Ltd	AAADCK1456A	3,900,000	58,500,000	22-Jan-14	2,500,000	22-Jan-14	2,500,000	GCV SERVICES LIMITED	AAABCG1251H
					22-Jan-14	20,000,000	22-Jan-14	20,000,000	SUHASIT STAR TRADING PVT LTD	AAAPCS3728K
					25-Jan-14	12,700,000	25-Jan-14	12,700,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
						35,200,000		35,200,000		
	Saint Infrastruct : Pvt Ltd	AAARCS1810N	3,200,000	48,000,000	22-Jan-14	22,500,000	22-Jan-14	22,500,000	SUHASIT STAR TRADING PVT LTD	AAAPCS3728K
					6-Mar-14	5,000,000	6-Mar-14	5,000,000	ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AAADCA412E
					10-Mar-14	5,000,000	8-Mar-14	5,000,000	PRABHAV INDUSTRIES LIMITED	AAACE4247Q
						32,500,000		32,500,000		

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Aireya Petrechem Ltd

Details of Receipt of Funds from Preferential Allottees

F Y 2013-2014

Details of source of funds

Sr. No	Name of Allottees	PAN No	Shares Applied	Total Consideration (in Rs.)	Date of Receipt	Application Amount Received	Date of Receipt	Amount Received	Name of Party	PAN No.
	Ethim Construction Pvt Ltd	AACCE2711P	3,300,000	49,300,000	7-Feb-14 21-Mar-14 25-Mar-14	6,300,000 13,000,000 1,500,000	7-Feb-14 21-Mar-14 24-Mar-14	6,300,000 13,000,000 1,500,000	ABJIAH REAL ESTATE PVT LTD ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD	AACA0617L AADCA41ZE AADCA41ZE
	Shree Sribaba Exim Private Limited	AAATCS6800N	7,000,000	105,000,000	03.12.2013 06.12.2013 09.12.2013 11.12.2013 12.12.2013 05.03.2014 08.03.2014 24.03.2014 24.03.2014 25.03.2014 25.03.2014 25.03.2014 25.03.2014 29.03.2014	4,400,000 15,000,000 10,000,000 10,000,000 10,000,000 2,300,000 175,000 4,500,000 7,000,000 1,500,000 1,500,000 1,500,000 2,700,000 5,000,000	03.12.2013 06.12.2013 09.12.2013 11.12.2013 12.12.2013 05.03.2013 08.03.2014 24.03.2014 24.03.2014 25.03.2014 25.03.2014 25.03.2014 25.03.2014 29.03.2014	4,400,000 15,000,000 10,000,000 10,000,000 10,000,000 2,300,000 175,000 4,500,000 7,000,000 1,500,000 1,500,000 1,500,000 2,700,000 5,000,000	ARISTO MEDIA AND ENTERTAINMENT SATYA RETAIL PRIVATE LIMITED ARISTO MEDIA & ENTERTAINMENT PVT LTD SATYA RETAIL PRIVATE LIMITED SATYA RETAIL PRIVATE LIMITED ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD ADLA TRADERS PVT LTD ABJIAH REAL ESTATE PVT LTD ABJIAH REAL ESTATE PVT LTD GOLDING MERCANTILE P LTD MARISHA REAL ESTATE P LTD GOLDING MERCANTILE P LTD C AND K REALATOR P LTD AALYYA TRADERS P LTD	AAICAJ155K AALCS4608N AAICAJ155K AALCS4608N AALCS4608N AADCA41ZE AAICAJ155K AAICAJ155K AADCC9482G AAGCM3G0B AAGCM3G0B AAGCM3G0B AADCC7962P AALCS4608N
	Raghuvir International Pvt Ltd	AAGCR6132F	9,000,000	135,000,000	09.12.2013 11.12.2013 12.12.2013 13.12.2013 13.03.2014 13.03.2014 20.03.2014 24.03.2014	15,000,000 10,000,000 15,000,000 10,000,000 5,100,000 40,000,000 34,000,000 6,500,000	09.12.2013 11.12.2013 12.12.2013 13.12.2013 13.03.2014 13.03.2014 20.03.2014 24.03.2014	15,000,000 10,000,000 15,000,000 10,000,000 5,100,000 40,000,000 34,000,000 6,500,000	ARISTO MEDIA & ENTERTAINMENT PVT LTD SATYA RETAIL PRIVATE LIMITED SATYA RETAIL PRIVATE LIMITED SATYA RETAIL PRIVATE LIMITED ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD SILVERCADE TRADING P LTD ALLIED COMPUTERS INTERNATIONAL (ASIA) LTD C AND K REALATOR P LTD	AALCS4608N AALCS4608N AALCS4608N AALCS4608N AADCA41ZE AAGCR6132F AADCA41ZE AADCC7962P
						20,800,000		20,800,000		
						75,575,000		75,575,000		
						135,600,000		135,600,000		

5.7 The Ld. AR has also relied on the following judgements:-

- i. Pr. Commissioner of income Tax Vs. Vijay Conductors India Pvt. Ltd., ITA 683/2015 (Delhi High Court)
- ii. Pr. Commissioner Of Income Tax vs. Vijay Conductors India Pvt. Ltd., ITA 683/2015 (Delhi High Court)
- iii. Omni Farms (P.) Ltd. vs. Deputy Commissioner of Income Tax (HQ), (2016) 46 ITR 505 (Delhi)
- iv. Principal Commissioner of Income-tax-14 vs. Alag Securities (P.) Ltd., (2020) 425 ITR 658 (Bombay)
- v. ITO vs. KFC Industries Pvt. Ltd., ITA Nos. 2463/Ahd/2018
- vi. Chintan Niketan Bhandari vs. DCIT, IT(SS)A Nos. 495, 496, 497, 498, 499, 500 & 1604/Ahd/2019
- vii. Anil Chhaganlal Jain vs. ACIT, ITA No.369/Mum/2017
- viii. ITO vs. Ms. Greeksoft Institute of Financial Market PV. Lid., ITA. No. 3969/Mum/2017

6. We have heard the arguments of both the parties and gone through the entire material before us.

6.1 The moot arguments of the Revenue are that the assessee is the beneficiary of the amounts received out of the entry operation perpetuated by Shri Shirish C. Shah who has been an accepted entry operator. The Revenue has also argued that the ITAT Bombay has already treated Shri Shirish C. Shah as Entry Operator who routed funds through a web of investor companies acted as conduit in channelizing the amounts to various entities. The assessee being the beneficiary of the accommodation entries received has been rightly taxed under Section 68 of the Act. On the other hand, the Ld. AR argued that the assessee if deemed to be the recipient of the monies on standalone basis as an entity, he has discharged all the requirements to prove the identity, genuineness and creditworthiness of the companies from which the amounts have been received. Alternatively, since the monies have been received and utilized by transfer them to different entities, the assessee be treated as not the final beneficiary but as a conduit.

6.2 We have given our thought as to whether the assessee is the final beneficiary of the accommodation entry operation or a conduit. To be a conduit, the assessee has to be a company floated, managed and operated by Shri Shirish C. Shah. We find that the assessee company is neither floated nor operated by Shri Shah who is the entry operator. The assessee is engaged in the business of manufacturing lubricants oil, hydraulic oil and meta-sulfite. The assessee has its registered office at Vadodara and is an independent entity doing business of lubricant oils. The Board of Directors are Mr. Jayesh Thakkar, Shri Chirag Thakkar, Ms. Kalyani Rajeshirke, Shri Yogesh Griglani, Ms. Kirti Joshi, Shri Salil Patel and Shri Kartik Mistry. The company is audited by one Shri Abhitesh Dubey who is based at Vadodara and not a part of the conglomerate of proxy directors and make belief audit reports created by Shri Shirish Shah while routing the monies through web of entities of conduit companies. The revenue from operations of the assessee is to the tune of Rs.74.23 lakhs. The existing share capital was Rs.6.45 crores as on 31.03.2013. The assessee issued 4 crores convertible equity warrants against which the assessee has received Rs.48,52,75,000/- on account of convertible equity warrant on preferential basis at Rs.15/- per warrant including premium of Rs.5/-. The total warrants were to be eventually converted into equivalent numbers of equity shares of assessee-company. It is a fact on record that the assessee has received amounts of Rs.48.52 crores on account of convertible equity warrants from the companies which are operated by Shri Shirish C. Shah. This fact is not even disputed by the Revenue and the Revenue treated the assessee as the conduit company. This is where the Ld. CIT(A) fallen into a grave error. The assessee issued convertible equity warrants, received monies, doing independent business, having independent directors unrelated to Shri Shirish C. Shah, and hence by any stretch of imagination, the assessee cannot be treated as a conduit. Hence, it is hereby held that determining commission in the hands of the assessee by the Ld. CIT(A) cannot be affirmed.

6.3 The assessee has also submitted (i) amount of share application money, (ii) application form for share warrants, (iii) Confirmation, (iv) Bank statement of share applicant, (v) demat a/c of share applicant, (vi) affidavit of director of assessee, (vii) acknowledgement copy of ITR & STI, (viii) Balance-sheet and Profit & Loss a/c, (ix) PAN card, (x) Certificate of Incorporation and (xi) Form 18 filed with ROC of companies who have contributed monies to the assessee namely Raghuvir International Pvt. Ltd., Shree Saibaba Exim Pvt. Ltd., Silvercade Trading Pvt. Ltd., Krystalklear Properties Pvt. Ltd., Apratem Trading Pvt. Ltd., Ethan Construction Pvt. Ltd., Saint Infrastructure Pvt. Ltd., Gill Entertainment Pvt. Ltd. and Indivar Traders Pvt. Ltd. It is also an undisputed fact on record and proved that these entities have been part of the entry operation perpetuated by Shri Shirish C. Shah and all the evidences to prove that these are the accommodation entries given by the above 9 conduit companies for the benefit of the assessee. The assessee is the ultimate beneficiary but the Ld. CIT(A) erroneously held the assessee to be a conduit company.

6.4. Further, we have given our careful consideration to the rival contentions, the voluminous documentary evidence placed on record, and the detailed factual matrix that emerges from the assessment proceedings, appellate findings, and the additional material furnished during the course of hearing. The second core issue is whether the assessee has satisfactorily discharged the statutory burden under section 68 of Act in respect of the sum of Rs.48,52,75,000/- received during the year on account of preferential allotment of convertible equity warrants to nine companies, which the Revenue characterized as accommodation entries.

6.5 At the outset, we note that the assessee has placed on record a large set of documents typically relied upon in such cases—application forms for warrants, confirmations from investors, copies of their PAN cards, ITR acknowledgments, financial statements, demat accounts, ROC incorporation records, and replies under section 133(6). Having gone through these documents, financials,

evidences collected, statement of Shri Shirish C. Shah that he is an entry operator and the decision of the ITAT to treat him as an entry operator [M/s ASN Polymers Pvt. Ltd. Vs. ITO], these documents can be said to have been made only masquerade the entry operation as genuine transactions. Thus, the assessee is taking the shelter declaring itself as a conduit. These documents are prepared only as a back-up for well-designed entry operator. The conduct of the assessee further proves that the entire amount received as share application money was not retained or applied in the assessee's business and in fact routed out as an unsecured interest-free advances to 34 entities which has nothing to do with the assessee's business. However, in the context of unexplained credits under section 68 of the Act, it is well settled that the presence of documentation, is not conclusive. The test is one of substance, not form. It must be shown that the documents presented reflect a transaction which is not only legal on paper but genuine in commercial intent, supported by credible financial capacity, and consistent with ordinary business logic/practice.

6.6 In the present case, we find that the investor companies have been shown to have negligible income, meagre capital, and no business history commensurate with the quantum of investment made in the assessee company. The bank accounts of the investors exhibit a telltale pattern: funds were deposited shortly before cheques were issued to the assessee, and in some cases, bank balances before the infusion were nil or minimal. No independent source of these deposits has been credibly explained. The "source of source" chart provided by the assessee is a tabular form without any primary supporting evidence, such as ledger accounts or income statements of the fund providers. On these facts, the creditworthiness of the investor companies remains unsubstantiated.

6.7 As regards the genuineness of the transaction, we find it extremely unlikely that independent investors, acting in their own commercial interest, would invest such substantial amounts in the assessee, a company without any demonstrated

growth trajectory or profitability, without conducting any due diligence, seeking any valuation, or documenting any commercial rationale. There is no material to suggest that the investors even engaged in correspondence with the assessee prior to investment, or that their boards recorded such decisions. What we see is a uniform pattern of mechanical documentation and immediate fund transfer, without any behavioral indication of independent investment intent.

6.8 Compounding the problem is the assessee's own handling of the funds. The entire amount received as share application money was not retained or applied in the assessee's business. Instead, it was immediately routed out as unsecured, interest-free advances to 34 entities, most of which are unconnected to the assessee's business. No loan agreements, repayment terms, or security instruments were produced. The parties to whom advances were given are themselves entities with low financial profiles, and several bear signs of being under the same group control as the investors. The timing of these disbursements, occurring almost immediately after receipt of share application money, evidences a pre-arranged flow of funds designed to layer and launder the actual source.

6.9 This fund trail clearly supports the Revenue's position that the entire structure was a facade, orchestrated to create the illusion of genuine capital infusion. The assessee's claim that it merely acted as a conduit is not supported by any documentary evidence. There is no contract, no instruction, and no correspondence indicating that the assessee was acting on behalf of another person or entity. Even if one were to accept, for argument's sake, that the funds belonged to an external party (e.g., the so-called entry operator), it was incumbent on the assessee to identify that real beneficiary and demonstrate the fiduciary or agency relationship. That has not been done. We must emphasize that when an assessee takes the position that it is not the real beneficiary but a facilitator, it bears a corresponding burden to explain who the real beneficiary is and to prove the circumstances under which the transaction occurred. Section 68 mandates an

explanation, not merely a denial of ownership. The assessee cannot escape addition by offering a vague theory of an unnamed third party having orchestrated the transaction, especially when it has enjoyed custody, control, and benefit of the funds.

6.10 Furthermore, the argument that the entry operator, Mr. Shirish C. Shah, was responsible for the design of the transaction is irrelevant unless the assessee can establish that it was contractually or legally obligated to receive, hold, and disburse the funds on someone else's behalf. In the absence of such a relationship and having retained control over the fund inflow and outflow, the assessee must be regarded as the true economic owner of the money.

6.11 We also reject the finding of the CIT(A) that the assessee merely earned a 0.3% commission on facilitating the entry. This conclusion is based on conjecture and ignores the fact that no commission income was shown by the assessee, no service agreement was placed on record, and there is no evidence of any agency arrangement. The finding that the assessee was merely a conduit rests on an erroneous premise and fails to engage with the real nature of the transaction.

6.12 Taking all the above factors into account namely, the absence of financial capacity in the investors, the contrived pattern of fund inflow and immediate diversion, the lack of business rationale in the application of funds, and the failure to disclose any ultimate beneficiary, we hold that the assessee has not discharged its burden under section 68. The explanation furnished is neither satisfactory nor credible. The legal presumption that unexplained credits are income of the assessee, unless otherwise explained, therefore operates fully in this case. With regard to the case-laws relied on by the Ld. AR before us, we find that the decision in the case of Pr. CIT Vs. Vijay Conductors India Pvt Ltd (supra) is not applicable in the present facts of the case as the same are different to the present case. In case of Omni Farms (P.) Ltd., the assessee was also part of the same group entities but in the present case the assessee herein is saying that he is not part of the same

group. It has been already proved and held by us that the assessee is not a conduit. The decision of the Ahmedabad Tribunal in the cases of KFC Industries Pvt Ltd (supra) & Chintan Niketan Bhandari (supra), the facts are distinguishable. In case of Anil Chhaganlal Jain (supra) and M/s. Greeksoft Institute of Financial Market Pvt. Ltd., the factual aspect is different than the present case. In respect of Alag Securities Pvt Ltd (supra), the assessee was also part of the said group of entities therein and thus is different from the present assessee's case.

We are in agreement with the case-laws relied upon by the Ld. DR, i.e.,

- CIT Vs. Independent Media Pvt Ltd., 25 Taxman 276
- CIT Vs. Nova Promoters & Finlease Pvt Ltd, 342 ITR 169
- TP Abdullah Vs. ACIT, 20 Taxman 402
- CIT Vs. Nipun Builders & Developers Pvt Ltd, 30 Taxman 292

These case-laws, in fact, highlight that merely of paper evidence will not be sufficient to prove the case of the relevant assessee/s while taking the cognizance of the transactions which are disputed by the Revenue. In the case of CIT Vs. Independent Media Pvt. Ltd., 25 Taxman 276, the Hon'ble Delhi High Court has upheld addition by the Assessing Officer on account of bogus share application money and has held that the facts and circumstances are to be viewed from the angle of preponderance of human probabilities and hence, the impossible task of proving that the transactions have emanated from the coffers of the assessee does not lie on the Assessing Officer. In this case, the Revenue for that matter even the assessee at times has not disputed that the fund contributing companies are entry operators. In the case of CIT Vs. Nova Promoters & Finlease (P) Ltd, 342 ITR 169(Del.), the Hon'ble Delhi High Court while considering various decisions has observed the Assessing Officer of material showing that the share subscriptions were collected as part of a pre-meditated plan, a smokescreen, conceived and executed with the connivance or involvement of the assessee, then it would be

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the case of addition u/s 68 of the Act. It was held that, in such a case, the Assessing Officer cannot sit back with folded hands till the assessee exhausts all the evidence or material in his possession and then come forward to merely reject the same without carrying out any verification or enquiry into the material placed before him. Similarly, in the case of T.P. Abdullah Vs. ACIT, 20 Taxmann 402, the Hon'ble Kerala High Court has held that mere production of confirmation letters, in this case, replies to notice u/s 133(6), the production of such material cannot lead to a conclusion that the AO has to discredit the same or call for further details in the event of non-satisfaction. The burden of the assessee is to offer satisfactory-explanation and if the materials and documents produced by the assessee does not lead to a proper, reasonable or acceptable explanation as regards the receipts in the books, the Assessing Officer is perfectly entitled to record his non-satisfaction.

6.13 In light of the above, we find that the Assessing Officer was fully justified in treating the amount of Rs.48,52,75,000/- as unexplained income of the assessee. The deletion of the addition by the CIT(A), based on an untenable conduit theory and on estimation of notional commission, is not sustainable. The Assessing Officer's order is restored, and the appeal of the Revenue is accordingly allowed in its entirety.

7. In the result, the appeal of the Revenue is allowed.

The order is pronounced in the open Court on 10.07.2025

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad; Dated 10/07/2025

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad