

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND
SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.81/Alld/2024
Assessment year:2015-16

Prayag Capitals India Limited, Village- Junedpur, Post-Hanumanganj, Allahabad. PAN:AACCP7782K (Appellant)	Vs.	Income Tax Officer, Ward-2(2), Now Ward-2(1), Allahabad (Respondent)
--	-----	---

Appellant by	Shri Aseem Thakkar, C.A.
Respondent by	Shri A. K. Singh, Sr. D.R.

ORDER

PER SUBHASH MALGURIA:J.M.

This appeal vide I.T.A. No.81/Alld/2024 has been filed by the assessee for assessment year 2015-16 against impugned appellate order dated 21/03/2024 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1063106082(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. In this appeal the assessee has raised the following grounds:

- "1. *The learned CIT(A), NFAC, Delhi/Commissioner of Income Tax (Appeals) Unit-3 Coimbatore has erred in confirming the addition of Rs.70,00,000/- made by the Assessing Officer for the alleged income from undisclosed sources.*

2. *The learned CIT(A), NFAC, Delhi/Commissioner of Income Tax (Appeals) Unit-3 Coimbatore has erred in confirming the addition of Rs.56,80,000/- out of total addition of Rs.1,01,80,000/- made by the Assessing Officer for the alleged income from undisclosed sources."*

2. In this case assessment order dated 20/12/2017 was passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 ("the Act" for short) whereby the assessee's total income was determined at Rs.1,82,90,050/- as against returned income of Rs.11,10,050/-. In the aforesaid assessment order an addition of Rs.1,71,80,000/- was made by treating the increase in the assessee's share capital of the aforesaid amount of Rs.1,71,80,000/- as the assessee's income from undisclosed sources. The relevant portion of the assessment order is reproduced as under:

".....Assessee was asked to explain the details regarding increase in capital by this office letter/email dated 07/12/2017. Vide letter/email dated 13/12/2017, the assessee has submitted some details. After perusal of the details submitted by the assessee, it is found that only one share holder Sakshi Barter Pvt. Ltd. has submitted his return and bank accounts which are as under:

<i>S.No.</i>	<i>Assessment year</i>	<i>Returned income</i>
1.	2013-14	4,830/-
2.	2014-15	780/-
3.	2015-16	18,670/-

Bank account No. 372001010036781 of M/s Sakshi Barter Private Ltd. for the period from 01/04/2014 to 31/03/2015

<i>Date</i>	<i>Withdrawals</i>	<i>Deposits</i>	<i>Balance</i>
01/04/2014		4,362	4,362
07/05/2014		2,76,000	2,80,362
19/08/2014	2,69,800		10,562
12/12/2014		70,00,000	70,10,562
12/12/2014	70,00,000		10,562

From the perusal of the above bank account and Income Tax return, it is crystal clear that M/s Sakshi Barter Pvt. Ltd has no capacity to contribute the share capital of Rs.70,00,000/-. It appears that the M/s Sakshi Barter Pvt. Ltd. is entry operator or shell company. Thus the creditworthiness the share holder is not proved, therefore the deposit of Rs.70,00,000/- as share capital is income of the assessee from undisclosed sources , therefore the addition of Rs.70,00,000/- is added to the income of the assessee. It will not be out of place to mention that in the bank account of M/s Sakshi Barter Pvt. Ltd, the money has come from a/c no. 372001010036736 and the assessee i.e. Prayag Capitals India Limited has again transferred Rs.67,25,000/-(i.e Rs.15,00,000/- on 16.12.2014, Rs.30,00,000/- on 01.01.2015 and Rs.22,25,000/- on 31.03.2015) in the same bank account i.e a/c no. 372001010036736 from where the money was came in the a/c of M/s Sakshi Barter Private Ltd .

Addition Rs. 70, 00,000/-

Further the assessee has neither furnished the identity nor creditworthiness of the person who has made the deposit of Rs.1,01,80,000/- (i.e. Rs.1,71,80,000 - Rs.70,00,000/-), against share capital . Thus the assessee has failed to prove all 3 ingredients of the cash credits i.e. identity of the depositors, creditworthiness of the depositors as well as genuineness of the deposit, therefore, I made the addition of Rs.1,01,80,000/- from undisclosed source.

Addition:Rs.1,01,80,000/-

2.1 The assessee filed appeal against the aforesaid addition of Rs.1,71,80,000/- in the office of the learned CIT(A). Vide impugned appellate order dated 21/03/2024, the learned CIT(A) upheld the addition of Rs.70,00,000/- received by the assessee from M/s Sakshi Barter Private Limited. Out of the remaining amount of Rs.1,01,80,000/-, (1,71,80,000 – 70,00,000/-), the learned CIT(A) deleted Rs.45,00,000/- (received by the assessee from M/s Innovative Infraplus) and confirmed the remaining amount of Rs.56,80,000/-. Thus, out of the aforesaid total addition of Rs.1,71,80,000/-, addition amounting to Rs.45,00,000/- was deleted and the remaining amount of Rs.70,00,000/- plus Rs.56,80,000/- i.e. Rs.1,26,80,000/- was confirmed. During the appellate proceedings in the

office of the learned CIT(A), additional evidences were filed by the assessee. The learned CIT(A) admitted the additional evidences and obtained remand report on the same from the Assessing Officer. The order of the learned CIT(A) was passed after due consideration of the remand report of the Assessing Officer.

3. The present appeal before us has been filed by the assessee against the aforesaid impugned appellate order dated 21/03/2024 of learned CIT(A). In the course of appellate proceedings in Income Tax Appellate Tribunal, paper book in two parts was submitted from the assessee's side containing the following particulars:

SR. NOS.	PARTICULARS	I P
I. PAPER BOOK FILED BEFORE CIT(A)		
1.	Copy of reply dtd.22./11/2017 filed before A.O. with enclosures thereto as under:-	
1.1.	Copy of Ackn. receipt for the Return of Income filed, Computation on Income, Audit Report with Audited Accounts for A.Yr.2015-16.	
1.2.	Copy of Bank book of with Bank Statement for F.Yr.2014-15.	
1.3.	Copy of Form No.PAS-3 for Additional Capital with Resolution in respect of the same with complete details filed before ROC.	
1.4.	Copy of Letter dtd.22/11/2017 for the Turnover Mismatch reconciled filed before A.O.	
2.	Copy of reply dtd.13/12/2017 filed before A.O with enclosures thereto as under:-.	

2.1. Copy of Share Application Form with confirmation, Ackn receipt of Sakshi – Barter P. Ltd. for A.Yrs.2013-14 to 2015-16 with Bank Statement for F.Y.2014-15.

2.2. Copy of Share Application Forms of Shareholdres.

3.Evidences in respect of Addition made of Rs.70,00,000/-Sakshi Barter Pvt. Ltd.

3.1..Copy of Audit Report with Audited A/Cs.for F.Yrs.2013-14 and 2015-16.

4. Evidences in respect of transactions with Innovative Infraplus India Ltd.

4.1. Copy of A/c ,Contra account with confirmation for F.Yr.2014-15.

4.2. Ackn receipt for Return of Income filed by Innovative Infraplus India - Ltd. for A.Yr.2015-16,Computation of Income, Audit report with Audited Accounts, Copy of relevant Bank Statement .

5. Evidences in respect of addition made of Rs.1,01,80,000/- in respect of Shareholders as under:-

5.1.Ilesh M.Nikhare:-

Copy of Ack. Receipt for ROI filed for A.Yr.2015-16 , Copy of Aadhar Card & PAN Card.

5.2.Kunal Doshi:-

Copy of Ack. Receipt for ROI filed for A.Yr.2015-16,Copy of PAN Card.

5.3.Lovely Doshi :-

Copy of Ack. Receipt for ROI filed for A.Yr.2015-16,Copy of PAN Card, Election Card.

Copy of intimation for transfer of shares by Kunal Doshi & Lovely Doshi filed before ROC .

5.4. Raguvendra Kulkarni :-

Copy of PAN Card, Election Card, with address.

5.5. Sonal Shah:-

Copy of Aadhar Card & PAN Card.

5.6. Bhumi Shah:-

Copy of PAN Card.

5.7. Snehan Dave:-

Copy of Ack. Receipt for ROI filed for A.Yr.2015-16 ,Copy of PAN Card and Passport.

5.8. Ripal Dave:-

Copy of PAN Card and Aadhar Card

5.9. Snehan Dave HUF :-

Copy of PAN Card .

5.10. Sonal C. Patel :-

Copy of Ack. Receipt for ROI filed for A.Yr.2015-16 , Copy of PAN Card and Election Card.

5.11. Awani Kunjan Patel:-

Proof of PAN from IT site as she has migrated out of India.

5.12. Bhupendra Shah :-

Copy of PAN Card.

- 5.13. Ashok Bhadoriya :-**
Copy of Ack. Receipt for ROI filed for A.Yr.2015-16 ,Copy of PAN Card and Aadhar Card. 1
- 5.14. Deshraj Jha :-**
Copy of Ack. Receipt for ROI filed for A.Yr.2015-16, Copy of PAN Card and Aadhar Card. 1
- 5.15. Chandresh D. Patel :-**
Copy of Ack. Receipt for ROI filed for A.Yr.2015-16,Copy of PAN Card and Driving Licence. 1
6. Copy of advertisement given in newspaper intimating change of registered office address of the appellant company.

1.Copy of Written Submisisions dtd.05.06.2020 Filed before CIT(A).

2.Copy of ackn receipts for the the WS with paper book filed online.

3.1 Paper book containing total of five parts was filed by the learned D.R. during appellate proceedings in Income Tax Appellate Tribunal, as per the following details:

Index (of Additional evidences)

S. No.	Description of Documents enclosed, being the ITR details of the alleged Investors/ Subscribers
1.	Sakshi Barter Pvt. Ltd. (AAQCS2905P)- <ul style="list-style-type: none">• AO's status report and "processed details"• ITR for A.Y. 2014-15 [u/s 139(1) filed on 20.09.2014]• ITR for A.Y. 2015-16 [u/s 139(1) filed on 22.09.2015]

	<ul style="list-style-type: none"> • ITR for A.Y. 2016-17 (filed on 22.12.2021 in response to notice u/s 148 dated 28.06.2021) • ITR for A.Y. 2016-17 (filed on 03.09.2022 in response to another notice dated 26.07.2022) • Assessment order u/s 143(3) dated 09.04.2014 for A.Y. 2012-13 • Assessment order u/s 143(3) dated 11.07.2016 for A.Y. 2014-15 • Assessment order u/s 147 r/w 144B dated 30.05.2023 for A.Y. 2016-17 • Assessment order u/s 147 r/w 144B dated 11.05.2023 for A.Y. 2017-18
2.	Ilesh M Nikhare (AFEPN6010N) - ITR details not available to me
3.	Kunal Doshi (AKOPD4871A) - ITR details not available to me
4.	Lovely Kunal Doshi (BDDPD6483K) <ul style="list-style-type: none"> • AO's status report and "processed details" • ITR for <u>A.Y. 2015-16</u> [u/s 139(4) filed on 31.03.2017] • ITR for A.Y. 2016-17 [u/s 139(4) filed on 16.02.2018]
5.	Raghvendra Kulkarni (AXKPK9650P) - ITR details not available to me
6.	Sonal Shah (BFCPS4513J) - ITR details not available to me
7.	Bhoomi P. Shah (DCQPS1850B) <ul style="list-style-type: none"> • "Processed details" • ITR for <u>A.Y. 2015-16</u> [u/s 139(1) filed on 25.08.2015], which is the only year for which ITR is filed (no ITRs are filed by her for any other year upto date)
8.	Snehan Dave (AEEPD4860M) <ul style="list-style-type: none"> • AO's status report and "processed details" • ITR for A.Y. 2014-15 [u/s 139(4) filed on 23.07.2015] • ITR for A.Y. 2015-16 [u/s 139(4) filed on 16.12.2015] • ITR for A.Y. 2016-17 [u/s 139(4) filed on 27.01.2018]
9.	Ripal Dave (AJNPD9632M) - ITR details not available to me
10.	Snehan Dave HUF (AAUHS7728F) <ul style="list-style-type: none"> • AO's status report (Never filed ITR for any A.Y.)
11.	Sonal C Patel (AYIPP9183F) <ul style="list-style-type: none"> • ITR for <u>A.Y. 2015-16</u> [u/s 139(4) filed on 31.03.2017] • ITR for A.Y. 2016-17 [u/s 139(4) filed on 31.03.2017] • ITR for A.Y. 2017-18 [u/s 139(1) filed on 30.07.2017]
12.	Awani K Patel (AQZPP8358H) <ul style="list-style-type: none"> • AO's status report and "processed details" • ITR for A.Y. 2011-12 [u/s 139 filed on 20.08.2011], which is

	the last year for which ITR is filed (no ITRs are filed by her for any succeeding year thereafter)
13.	Bhupendra Shah (AHBPS5448Q) - ITR details not available to me
14.	Ashok Bhadoriya (APCPB9259H) - ITR details not available to me
5.	Deshraj Jha (BJIPD7110A) <ul style="list-style-type: none"> • AO's status report • ITR for A.Y. 2014-15 [u/s 139(4) filed on 22.12.2014] • ITR for A.Y. 2015-16 [u/s 139(1) filed on 16.07.2015] • ITR for A.Y. 2016-17 [u/s 139(4) filed on 30.03.2017]
16.	Chandresh Patel (ASSPP6184A) <ul style="list-style-type: none"> • "Processed details" • ITR for A.Y. 2014-15 [u/s 139(1) filed on 24.07.2014] • ITR for A.Y. 2015-16 [u/s 139(1) filed on 29.06.2015] • ITR for A.Y. 2016-17 [u/s 139(1) filed on 27.05.2016]

INDEX

S. No.	Description of Documents enclosed, being the ITRs etc. of the alleged Investors/Subscribers
1.	<p>Sakshi Barter Pvt. Ltd. (AAQCS2905P), incorporated on 06.09.2011</p> <ul style="list-style-type: none"> • ITR for A.Y. 2012-13 (initial year) • ITR for A.Y. 2013-14 • ITR for A.Y. 2014-15 (already filed in part-2/page 402-415) • ITR for A.Y. 2015-16 (already filed in part-2/page 416-429) • ITR for A.Y. 2016-17 (already filed in part-2/page 430-443) • Order u/s 143(3) dt. 9.4.2014 for A.Y.12-13 /(Page- 458-459) • Order u/s 143(3) dt. 11.7.2016 for A.Y.14-15 /(Page- 460-461) • Order u/s 147 dt. 30.5.2023 for A.Y.16-17 /(Page- 462-468) • Order u/s 147 dt. 11.5.2023 for A.Y.17-18 /(Page- 469-475) • ITR for A.Y. 2017-18

	<ul style="list-style-type: none"> • ITR for A.Y. 2018-19 • ITR for A.Y. 2019-20 • ITR for A.Y. 2020-21 • ITR for A.Y. 2021-22 • ITR for A.Y. 2022-23 • ITR for A.Y. 2023-24 • ITR for A.Y. 2024-25
2.	<p>Ilesh M Nikhare (AFEPN6010N)</p> <ul style="list-style-type: none"> • ITR for A.Y. 2014-15 • ITR for A.Y. 2015-16
3.	<p>Kunal Doshi (AKOPD4871A)</p> <ul style="list-style-type: none"> • “Processed Summary” • ITR for A.Y. 2014-15 • ITR for A.Y. 2015-16 • ITR for A.Y. 2016-17
4.	<p>Lovely Kunal Doshi (BDDPD6483K)</p> <ul style="list-style-type: none"> • AO’s status report and “processed details” (page 476-477) • ITR for <u>A.Y. 2015-16</u> (already filed in part-2/page 478-480) • ITR for A.Y. 2016-17 (already filed in part-2/page 481-483)
5.	<p>Raghvendra Kulkarni (AXKPK9650P)</p> <ul style="list-style-type: none"> • “Processed Summary” (ITRs not filed for AY 11-12 to 20-21) • Computation u/s 143(1) for A.Y. 2009-10 • Computation u/s 143(1) for A.Y. 2010-11
6.	<p>Sonal Shah (BFCPS4513J)</p> <ul style="list-style-type: none"> • AO’s status report and “processed details” (ITRs not filed upto A.Y. 2023-24)
7.	<p>Bhoomi P. Shah (DCQPS1850B)</p> <ul style="list-style-type: none"> • “Processed details” (already filed in part-2/page 484) • ITR for A.Y. 2015-16 (already filed in part-2/page 485-488)
8.	<p>Snehan Dave (AEEPD4860M)</p> <ul style="list-style-type: none"> • AO’s status report and “processed details” (page 489-491) • ITR for A.Y. 2014-15 (already filed in part-2/page 492-502) • ITR for A.Y. 2015-16 (already filed in part-2/page 503-513) • ITR for A.Y. 2016-17 (already filed in part-2/page 514-524)
9.	<p>Ripal Dave (AJNPD9632M)</p> <ul style="list-style-type: none"> • “Processed Summary” • ITR for A.Y. 2014-15 (being the 1st year of ITR filing) • ITR for A.Y. 2015-16 • ITR for A.Y. 2016-17

10.	<p>Snehan Dave HUF (AAUHS7728F)</p> <ul style="list-style-type: none"> • AO's status report (Never filed ITR for any A.Y.)/ Page- 525
11.	<p>Sonal C Patel (AYIPP9183F)</p> <ul style="list-style-type: none"> • "Processed Summary" • ITR for A.Y. 2015-16 (already filed in part-2/page 526-527) • ITR for A.Y. 2016-17 (already filed in part-2/page 528-529) • ITR for A.Y. 2017-18 (already filed in part-2/page 530-534)
12.	<p>Awani K Patel (AQZPP8358H)</p> <ul style="list-style-type: none"> • AO's status report and "processed details" (page-535-537) • ITR for A.Y. 2011-12 (already filed in part-2/page 538-545)
13.	<p>Bhupendra Shah (AHBPS5448Q) - not registered in the e-filing portal/ (Never filed ITR for any A.Y)</p>
14.	<p>Ashok Bhadoriya (APCPB9259H)</p> <ul style="list-style-type: none"> • "Processed Summary" • ITR for A.Y. 2014-15 (original-31.07.2014/revised 20.08.2015) • ITR for A.Y. 2015-16 • ITR for A.Y. 2016-17
15.	<p>Deshraj Jha (BJIPD7110A)</p> <ul style="list-style-type: none"> • AO's status report (already filed in part-2/page 546) • ITR for A.Y. 2014-15 (already filed in part-2/page 547-548) • ITR for <u>A.Y. 2015-16</u> (already filed in part-2/page 549-551) • ITR for A.Y. 2016-17 (already filed in part-2/page 552-554)
16.	<p>Chandresh Patel (ASSPP6184A)</p> <ul style="list-style-type: none"> • "Processed details" (already filed in part-2/page 555) • ITR for A.Y. 2014-15 (already filed in part-2/page 556-557) • ITR for <u>A.Y. 2015-16</u> (already filed in part-2/page 558-560) • ITR for A.Y. 2016-17 (already filed in part-2/page 561-571)
17.	<p>Ashvin Shantilal Trivedi (Director of Sakshi Barter Pvt. Ltd. -Sl. No. 1)</p> <ul style="list-style-type: none"> • "Processed Summary" • ITR for A.Y. 2013-14 • ITR for A.Y. 2014-15 (not filed) • ITR for A.Y. 2015-16 (not filed) • ITR for A.Y. 2016-17 <p>("processed summary of sl. No. 11 above/Sonal C Patel")</p>

Index

S. No.	Description of Documents enclosed
1	<p data-bbox="435 478 724 516"><u>As per AO's records:</u></p> <ul data-bbox="483 527 1346 1776" style="list-style-type: none"><li data-bbox="483 527 873 564">• PAN detail of the appellant<li data-bbox="483 617 1156 655">• "Processed summary" (A.Y. 2012-13 to 2024-25)<li data-bbox="483 707 1346 793">• Individual Transaction Statement (with Director's details-03 in no.)<li data-bbox="483 846 1346 932">• ITR for A.Y. 2015-16 (under appeal)-without admitting audit liability u/s 44AB<li data-bbox="483 984 1346 1071">• AO's letter dated 24.12.2024 confirming that audit report was not e-filed [u/s 44AB r/w Rule 12(2)]<li data-bbox="483 1123 1346 1209">• Notice u/s 143(2) dated 12.09.2016 (by registered post & email)/not responded<li data-bbox="483 1262 1179 1299">• Notice u/s 142(1) dated 01.02.2017/not responded<li data-bbox="483 1352 1346 1472">• Notice u/s 142(1) dated 01.08.2017 (by registered post/served personally also on Shri Madan M. Jaiswal, one of the 03 Directors of the appellant Company/not responded<li data-bbox="483 1524 1346 1644">• AO's letter u/s 133(6) dated 01.08.2017 to the UBI and appellant's statement of UBI a/c no. 372001010036791 obtained from the bank<li data-bbox="483 1696 1346 1782">• Notice u/s 142(1) dated 05.09.2017 sent to all the three Directors (by registered post)/not responded

- **Penalty show cause notice u/s 274 r/w 271(1)(b) dated 26.10.2017 (by registered post)/not responded**
- **Penalty order u/s 271(1)(b) & demand notice dated 10.11.2017**
- **Show Cause Notice u/s 144 dated 17.11.2017 (by registered post)**
- **Assessee's 1st reply dated 22.11.2017 (received by Courier)** alongwith following enclosures:-
 - Authority letter dated 22.11.2017 authorizing Mr. Ashish Thakkar, CA (by whom the said reply was sent from Ahmedabad), in which even the name of the assessee remained unchanged as M/s Navkar Builders Limited, Ahmadabad
 - **Balance Sheet, P/L a/c** (without schedules/notes thereof) & Computation of Income
 - Form No. SH-7 (Notice to Registrar of any alteration of share capital), with details of 16 persons to whom fresh 17,18,000 No. of equity shares-each for Rs. 10/- were allotted on 15.12.2014 (for sum total of Rs. 1,71,80,000/-)

(Page No. 70-72)
 - Form No. PAS-3 (Return of allotment)
 - G.A.R. 7 & Form No. MGT- 14 (filing of resolutions and agreements to the registrar)
 - Bank statement (UBI a/c)
 - Shri Ashish Thakkar, CA/AR's email dated 06.12.2017 alongwith aforesaid reply dated 22.11.2017
- Another **Final Show Cause notice u/s 144 dated 07.12.2017** (by registered post and email), thereby asking for more specific details and evidences in reference to the assessee's reply dated 22.11.2017 regarding fresh share capital
- Assessee's emails dated 13.12.2017 & 14.12.2017 stating that the response will be dispatched to the AO by 15.12.2017
- Assessee's **2nd/final reply dated 13.12.2017** (received **by speed post** from Ahmedabad) alongwith following enclosures:-
 - Confirmation letter, ITR-V & UBI a/c statement of **M/s Sakshi Barter Pvt. Ltd.** for subscription of fresh share capital of Rs. 70,00,000/-.
 - Share application forms of all 16 persons (print quality, as originally supplied by the assessee/completely illegible)

	<ul style="list-style-type: none"> • Impugned assessment order u/s 143(3) dated 20.12.2017 & demand notice • AO's order sheets
2.	<p>Text of relevant legislation</p> <ul style="list-style-type: none"> • Finance Bill, 2012 (proposing for insertion of proviso to section 68) • Finance Act 2012 (inserting two provisos to section 68 w.e.f. 01.04.2013) • Provisos to Section 68 (as it existed w.e.f. 01.04.2013 to 31.03.2023 i.e. prior to its substitution w.e.f. 01.04.2023) • Section 2(18)
	<p><u>CASE LAWS</u> relied on</p>
I	<p>for the proposition that the genuineness of a transaction (attracting provisions of section 68) has to be considered in the light of <u>SURROUNDING CIRCUMSTANCES</u> and applying <u>TEST OF HUMAN PROBABILITIES</u></p>
1.	<p>[1995] 214 ITR 801 (SC), Sumati Dayal v. CIT</p> <p>Wherein (<u>para-12</u>), considering surrounding circumstances & applying the <i>test of human probabilities</i>, it was concluded that the appellant's claim about the amount being her winning from horse races was not genuine.</p>
2.	<p>[2019] 410 ITR 379 (Delhi), Pr. CIT v. NDR Promoters (P.) Ltd.</p> <p>Wherein (<u>para-13</u>), "...the transactions in question were clearly sham and make-believe with excellent paper work to camouflage their bogus nature....The reasoning given is contrary to human probabilities, for in the normal course of conduct, no one will make investment of such huge amounts without being concerned about the return and safety of such investment."</p>
3.	<p>[2019] 177 ITD 160 (Delhi-Trib.), ITO v. Synergy Finlease (P.) Ltd.</p> <p>Observing that:- "<u>(para-23)</u>...Merely presenting of documents of incorporation of the company and making payment for application of the shares through bank in itself ... or admitting the fact of share application made, is in itself not sufficient to justify the genuineness of the transaction.... It is against the human probability that anyone will invest ... without having any net worth of the company or any future prospectus of earning by the company..."</p>
II	<p>for the proposition that merely Confirmation letters, bank account statements (or transactions through banking channel), PAN, ITR, Balance Sheet and Share application forms etc. are not sufficient to prove creditworthiness and</p>

	genuineness of the transactions in terms of section 68
4.	<p>[2019] 412 ITR 161 (SC), PCIT v. NRA Iron & Steel (P.) Ltd. (A.Y. 2009-10)</p> <p>Observing that:- “(para-13)...The authorities below have erroneously held that merely because the Respondent Company – Assessee had filed all the primary evidence, the onus on the Assessee stood discharged....The lower appellate authorities failed to appreciate that the investor companies which had filed income tax returns with a meagre or nil income had to explain how they had invested such huge sums of money in the Assessee Company - Respondent. Clearly the onus to establish the credit worthiness of the investor companies was not discharged....(Para14) The practice of conversion of un-accounted money through the cloak of Share Capital/Premium must be subjected to careful scrutiny. This would be particularly so in the case of private placement of shares, where a higher onus is required to be placed on the Assessee since the information is within the personal knowledge of the Assessee. The Assessee is under a legal obligation to prove the receipt of share capital/premium to the satisfaction of the AO...”</p>
5.	<p>[2015] 230 Taxman 268 (SC), Navodaya Castle (P.) Ltd. v. CIT Dismissing SLP against (2014) 367 ITR 306 (Delhi)</p> <p>Wherein held that:-“... (Para14) Certificate of incorporation, PAN etc. are relevant for purchase of identification, but have their limitation when there is evidence and material to show that the subscriber was a paper company and not a genuine investor....the Supreme Court in CIT v. Durga Prasad More [1971] 82 ITR 540 (SC) had observed:—“... a party who relies on a recital in a deed has to establish the truth of those recitals, otherwise it will be very easy to make self-serving statements in documents either executed or taken by a party and rely on those recitals....The taxing authorities were not required to put on blinkers while looking at the documents produced before them. They were entitled to look into the surrounding circumstances to find out the reality of the recitals made in those documents.”...(Para18)...In case of private limited companies, generally persons known to directors or shareholders...Upon receipt of money, the share subscribers do not lose touch and become incommunicado. Call money, dividends, warrants, etc. have to be sent and the relationship remains a continuing one....It would be also incorrect to universally state that an Inspector must be sent to verify the shareholders/subscribers at the available addresses....Creditworthiness is not proved by showing issue and receipt of a cheque or by furnishing a copy of statement of bank account, when circumstances requires that there should be some more evidence of positive nature to show that the subscribers had made genuine investment or had, acted as angel investors after due diligence or for personal reasons. The final conclusion must be pragmatic and practical...”</p>
6.	<p>[2014] 227 Taxman 373 (SC), N. Tarika Property Invest (P.) Ltd. v. CIT Dismissing SLP against (2014) 221 Taxman 14 (Delhi)</p>

Held that:- “....(Para24)...in the ...CIT v. NR Portfolio (P.) Ltd [IT Appeal No. 1018 of 2011 and 1019 of 2011] vide Judgment dated 22nd November, 2013 we have held that mere production of PAN Number or assessment particulars does not establish the identity of a person...(Para-26)...Mere production of incorporation details, PAN Numbers or income tax returns may not be sufficient when surrounding and attending facts predicate a cover up. The production of incorporation details, PAN numbers or income tax details may indicate towards completion of paper work or documentation but genuineness, creditworthiness and identity of investment and the investors are deeper and obtrusive than mere completion of paper work or documentation...(Para27)...The mere filing of share application is not enough as the said application is not an unimpeachable document and does not on its own prove the genuineness or authenticity of the transaction. It can at best be treated as a corroborative document. Since the share application form is not an unimpeachable document, it cannot on its own be treated as sufficient for cross-verification of the transaction. We have already held that that mere production of PAN Number or assessment particulars does not establish the identity of a person. The identification of a person includes the place of work, the staff and the fact that it was actually carrying on business and further recognition of the said company/individual in the eyes of public.

7. [2014] 222 Taxman 157 (Delhi), CIT v. N.R. Portfolio (P.) Ltd

Held that:-“....(Para 30)...What we perceive and regard as correct position of law is that the court or tribunal should be convinced about the identity, creditworthiness and genuineness of the transaction. The onus to prove the three factum is on the assessee as the facts are within the assessee's knowledge. Mere production of incorporation details, PAN Nos. or the fact that third persons or company had filed income tax details in case of a private limited company may not be sufficient when surrounding and attending facts predicate a cover up. These facts indicate and reflect proper paper work or documentation but genuineness, creditworthiness, identity are deeper and obtrusive. Companies no doubt are artificial or juristic persons but they are soulless and are dependent upon the individuals behind them who run and manage the said companies. It is the persons behind the company who take the decisions, controls and manage them. (Para 31)...Identity, creditworthiness or genuineness of the transaction is not established by merely showing that the transaction was through banking channels or by account payee instrument. It may, as in the present case required entail a deeper scrutiny. It would be incorrect to state that the onus to prove the genuineness of the transaction and creditworthiness of the creditor stands discharged in all cases if payment is made through banking channels. Whether or not onus is discharged depends upon facts of each case. It depends on whether the two parties are related or known to each; the manner or mode by which the parties approached each other, whether the transaction was entered into through written documentation to protect the investment, whether the investor professes and was an angel investor, the quantum of money, creditworthiness of the recipient, the object and purpose for which payment/investment was made etc. These facts are basically and primarily in knowledge of the assessee and it is difficult for revenue to prove and establish the negative. Certificate of incorporation of company, payment by banking channel, etc. cannot in all

	<p>cases tantamount to satisfactory discharge of onus. The facts of the present case noticed above speak and are obvious. What is unmistakably visible and apparent, cannot be spurred by formal but unreliable pale evidence ignoring the patent and what is plain and writ large.</p>
8.	<p>[2012] 342 ITR 169 (Delhi), CIT v. Nova Promoters & Finlease (P) Ltd. Held that:- “....(Para 29)...The finding that the share application monies have come through account payee cheques is, at best, neutral. The question required a thorough examination and not a superficial examination.... The fact that the companies which subscribed to the shares were borne on the file of the ROC is again a neutral fact. Every company incorporated under the Companies Act, 1956 has to comply with statutory formalities. That these companies were complying with such formalities does not add any credibility or evidentiary value. In any case, it does not ipso facto prove that the transactions are genuine...”</p>
9.	<p>[2021] 277 Taxman 594 (SC), Sadiq Sheikh v. CIT Dismissing assessee's SLP against [2020] 122 taxmann.com 39 (Bom.)</p> <p>Wherein the Hon'ble Bombay High Court observed that-“(para-31) In <i>CIT v. P. Mohankala</i> [2007] 161 Taxman 169/291 ITR 278 (SC), it is held that the mere furnishing of particulars or the mere fact of payment by an account payee cheque or mere submissions of a confirmatory letter by the creditor, is, by itself, not enough to shift the onus on the Revenue....(para-36)...<i>Nemi Chand Kothari (supra)</i> [20024] 264 ITR 254 (Gowhati),....(i) The inquiry under section 68 need not necessarily be confined to the transactions,... between the assessee and his creditor, but between the creditor and his sub-creditor;....(para-39)...Even according to us, merely pointing out to a source and the source admitting that it has made the payments is not, sufficient to discharge the burden placed on the assessees by Section 68 of the said Act. If this were so, then, it would be sufficient for assessees, to simply persuade some credit- less person or entity to own up having made such huge payments and thereby evade payment of property tax on the specious plea that the Revenue, can always recover the tax from such credit- less source, if possible.....(para-40)...Now coming to the perversity in the findings of factthe ITAT, has simply ignored or bypassed all such circumstances by observing that the Revenue was not entitled to inquire into the source of the source....</p>
10	<p>[2018] 258 Taxman 160 (SC), Pavankumar M. Sanghvi v. ITO Dismissing SLP against [2018] 404 ITR 601 (Gujarat),</p> <p>Wherein the Hon'ble Gujarat High Court was posed with the substantial question of law as to whether the ITAT was justified in confirming the addition u/s 68 for unsecured loan though there was confirmation from the lender?</p> <p>The Hon'ble High Court noted from the order of the CIT(A) (confirmed by the ITAT) that- “(para-2)It is also important to bear in mind the fact that lending for an interest @12% p.a. without any security is not something which people do for rank outsiders....</p>

11.	<p>[2024] 468 ITR 111 (Calcutta) PCIT v. BST Infratech Ltd.</p> <p>Held that:- “....(Para 34)...As held in <i>N.R. Portfolio (P.) Ltd. (supra)</i> whether or not the onus is discharged depends on facts of each case as well as it depends on whether the two parties are related or known to each other; the manner or mode by which the parties approach each other, the quantum of money, the object and purpose for which payment/investment was made. As held earlier certificate of incorporation of the companies, payment by banking channel etc. cannot tantamount to satisfactory discharge of onus and the facts of the case on hand speaks for itself as it is obvious. Thus, the principle of Preponderance of Probabilities applies with full force to the case on hand which leads to the irresistible conclusion that the finding rendered by the CIT(A) is legal and valid. (Para 36)...The department would be well justified in considering the surrounding circumstances, the normal human conduct of a prudent investor, the probabilities that may spill over and then arrive at a decision.</p>
12.	<p>[2014] 221 Taxman 143 (Andhra Pradesh) (Mag.), Gayathri Associates v. ITO</p> <p>Held (Head note):- “...bank account details filed by assessee was not enough to satisfy requirement of section 68”</p>
13.	<p>Smt. Puja Grover vs. ACIT (ITA No. 140/A/2024) order dated 20.03.2025 authored by Hon’ble Subhash Malguria, JM in the sitting bench.</p>
14.	<p>[2015] 375 ITR 123 (Calcutta), CIT v. Maithan International</p> <p>Held that:- “....(Para 11)...When payment by cheque does not establish the creditworthiness of the lender, mere examination of the pass-book or the bank statement or the letter of confirmation or the balance sheet of the lender is also not enough.... It is well established that credits allegedly based on loan from parties, who are not possessed of sufficient means cannot be accepted as genuine.... The source of the apparent source is a relevant enquiry...(Para 12)...Mere examination of the bank pass book, profit and loss account and balance sheet, as we already have indicated, is not enough....”</p>
15.	<p>[2024] 158 taxmann.com 42 (Ahmedabad - Trib.), Maharaja Corporate Services (P.) Ltd. v. ITO</p> <p>Held that:- “....(Para 12)... simply because a transaction has been carried out through banking channels or confirmation of the parties has been furnished would not make a non-genuine transaction into genuine one, and all the concerning facts of the case to be looked into in totality...”</p>
III.	<p>For the proposition that if the explanation offered is not satisfactory in the opinion of the AO, then AO’s opinion itself constitutes a prima facie evidence against the assessee, which can be used against the assessee by holding that the receipt was of an income nature u/s 68</p>

16.	<p>[2007] 291 ITR 278 (SC), CIT v. P. Mohanakala</p> <p>Wherein the Hon'ble Supreme Court held that:- “ (para-9)...We may at this stage profitably note that the Assessing Officer, the Commissioner of Appeals and the Tribunal in one voice held that the explanation offered by the assesseees as regards cash credit entries is not acceptable...(para-10)...The High Court reversed the finding of fact and allowed the appeals... (para-21)...We are required to notice that section 68 of the Act itself provides, where any sum is found creditedthe same may be charged to income-taxif the explanation offered by the assesseees is in the opinion of the Assessing Officer not satisfactory. Such opinion found itself constitutes a <i>prima facie</i> evidence against the assesseees, viz., the receipt of money, and if the assesseees fail to rebut the said evidence the same can be used against the assesseees by holding that it was a receipt of an income nature.... The burden in this regard was on the assesseees...</p>
IV	<p>for the proposition that <u>where the lenders/creditors were NOT PRODUCED to establish their creditworthiness and genuineness of the transactions, the additions u/s 68 were justified</u></p>
17.	<p>[2012] 204 Taxman 135 (Allahabad), Sagittraious Builders & Colonisers v. CIT</p> <p>Held that:- “....(Para 8)...even though Sri Wazir Ahmad had appeared before the Assessing Officer, the identity of the creditor having been established, yet the appellant had failed to prove the source of the deposit made by Sri Wazir Ahmad as his capacity to advance of Rs. 88,000/-could not be established. Mere explanation of Sri Wazir Ahmad that he had borrowed the money from his close relatives, would not be sufficient without there being any further proof of the identity of the persons who had lent the money to Sri Wazir Ahmad.... In the absence of any further material being brought on record by the appellant, the Assessing Officer was fully justified in making the addition under Section 68...Sri Jamal Ahmad, suffice it to mention that Sri Jamal Ahmad did not appear before the Assessing Officer ... and the appellant also did not take any steps to produce him...”</p>
18.	<p>[2018] 254 Taxman 184 (Bombay), Konark Structural Engineering (P.) Ltd. v. DCIT</p> <p>Held that:- “....(Para 12)...neither before the CIT (A) nor before the Appellate Tribunal, the appellant offered to procure presence of those 23 persons....the appellant-assessee had failed to establish the creditworthiness of the subscribers and even genuineness-of the transactions.”</p>
19.	<p>[2013] 350 ITR 407 (Delhi), CIT v. Nipun Builders & Developers (P.) Ltd.</p> <p>Held that:- “....(Para 12)...<u>There has been no examination by the Tribunal of the assessment proceedings in any detail in order to demonstrate that the</u></p>

	<p><u>assessee has discharged its onus to prove not only the identity of the share applicants, but also their creditworthiness and the genuineness of the transactions. No attempt was made by the Tribunal to scratch the surface and probe the documentary evidence in some depth, in the light of the conduct of the assessee and other surrounding circumstances in order to see whether the assessee has discharged its onus under Section 68...."</u></p>
<p>20.</p>	<p>[2020] 181 ITD 437 (Delhi-Trib.), Par Excellence Leasing and Financial Services (P.) Ltd. v. ACIT</p> <p>Held that:- "...(<u>Para 17</u>)...the learned Assessing Officer required the assessee to produce the controlling persons of the share applicant companies ...for examination, but the assessee though filed certain parties' details, failed to produce them. No valid reasons are forthcoming for such conduct of the assessee....we find it difficult to hold that merely because certain documents are filed by the assessee, the identity and creditworthiness of the share applicants and the genuineness of the transactions stood proved."</p>
<p>21.</p>	<p>[2018] 96 taxmann.com 602 (Delhi - Trib.), Pee Aar Securities Ltd. v. DCIT</p> <p>Held that:- "...(<u>Para 28</u>)...The assessee has not been able to produce the principal officers of these entities,... The operations carried out by these entities, are only to facilitate financial manoeuvring for the benefit of its clients, or, with that predominant underlying objective, to give the colour of genuineness to these entities. These shell entities, which are routinely used to launder unaccounted monies, are a fact of life.... Even a layman, much a Member of this specialized Tribunal, cannot be oblivious of these ground realities. It would, therefore, not really be appropriate for us to be swayed by the documents like PAN cards, board resolutions passed by these entities, copies of distinctive share certificates, copies of letter from these two entities confirming the fact of share subscriptions and extracts from the minutes of meeting of the directors.... the bank statements ...show the lack of genuineness.... It is impossible for even a layman, leave aside Members of this specialized Tribunal, to come to the conclusion that these transactions represent bonafide investment transactions...there is nothing else about the genuine business activities, even if any, of the investor companies....and we are to take the call on genuineness only on the basis of these two bank statements for a limited period....Hon'ble Supreme Court has, in the case of Durga Prasad More (supra), observed that ...This faith in the Tribunal by Hon'ble Courts above makes the job of the Tribunal even more onerous and demanding and, in our considered view, it does require the Tribunal to take a holistic view of the matter, in the light of surrounding circumstances, preponderance of probabilities and ground realities, rather than being swayed by the not so convincing, but apparently in order, documents and examining them, in a pedantic manner, with the blinkers on....genuineness of transactions is to be examined in the light of the prevailing ground realities, and that is precisely what we have done.... The assessee does not know anything about these companies or these persons.... It is also a settled legal position that the onus of the assessee, of explaining nature and source of credit, does not get discharged merely by filing confirmatory letters, or demonstrating that the transactions are done through the banking channels or even by filing the income tax</p>

	assessment particulars....”
V.	for the proposition that where the <u>AMOUNT</u> of share capital was <u>NOT RETURNED</u> or <u>REFUNDED BACK</u>, it could not be said that the same was genuine
22.	[2019] 102 taxmann.com 392 (Delhi), Alfa Bhoj Ltd. v. DCIT Wherein (para-7), the share capital amount was not returned/refunded back to the alleged subscriber”. The addition u/s 68 was held justified.
VI.	for the proposition that the proviso to section 68 inserted by the Finance Act, 2012 w.e.f. 01.04.2013 casts double obligation on the assessee, viz.- 1st to explain nature and source of credits in its account books and then 2nd explanation by the creditor also (i.e. to explain source of the source)
23.	[2023] 157 taxmann.com 638 (Raipur - Trib.) Purvi Finvest Ltd. v. DCIT Held that:- “....(Para 28)...the assessee company had failed to comply with the directions of the A.O. to produce the directors of the Kolkata-based share applicant/subscriber companies for necessary examination before him...(Para 32)... Considering the principles which the Hon'ble Supreme Court had laid down in the case of NRA Iron & Steel (P.) Ltd. (supra), we find that ... though the assessee company in the present case before us had also filed copies of PAN, returns of income, audit reports, and bank statements of the share applicant/subscriber companies ...the same on such standalone basis would not justify discharge of the onus that was cast upon it as regards proving ...we may observe that as the aforesaid judgment of the Hon'ble Apex Court in the Case of NRA Iron & Steel (P.) Ltd. (supra) was rendered in the context of pre-amended Sec. 68 of the Act; therefore, pursuant to the insertion of the "1st proviso" to Sec. 68 of the Act vide the Finance Act, 2012 w.e.f. 1-4-2013 ... a much heavier onus was therein cast upon it to substantiate the authenticity of the share application money that was credited in its books of accounts....as held by the Hon'ble Supreme Court in the case of NRA Iron & Steel (P.) Ltd. (supra), if the assessee is not able to provide a satisfactory explanation of the nature and source of the investments made, then it is open to the revenue to hold that it is the income of the assessee, and there would be no further burden on the revenue to show that the income is from any particulars source....(Para 41)...Because the assessee company had grossly failed to discharge the onus that was cast upon it ...by satisfying the double facet conditions contemplated in the ... Sec. 68 ...therefore, finding no infirmity in the view taken by the lower authorities who had rightly held the entire amount as unexplained cash credit u/s. 68 of the Act, we uphold the same....”

Written submission

Part-A (tabular details of ITRs of the alleged Investors/Subscriber)

S. No.	Name/PAN	Subscripti on amount (Rs.)	Details as per ITRs/for A.Y.			Remarks	
			Particulars	2014-15	2015-16		2016-17
1.	Sakshi Barter Pvt. Ltd. (AAQCS2905P)	70,00,000	Operational Revenue	0	28,952	0	As per Note -1 below
			NP/TI	783/-	18,674	(-) 3,100	
			Liabilities				
			Share capital	3,56,800	3,56,800	3,56,800	
			Securities Premium Reserve	6,39,43,200	6,39,43,200	6,39,43,200	
			Total sources of funds	6,43,07,164	6,43,20,427	6,43,09,057	
			Assets:				
			Fixed assets	0	0	0	
			Unlisted equities	67,00,000	1,34,24,000	1,10,24,000	
			Bank balance	10,941	10,562	47,328	
			Loans/advances	5,75,00,000	5,05,00,000	5,28,63,234	
			Total assets	6,43,07,164	6,43,20,427	6,43,11,557	
2.	Ilesh M Nikhare (AFEPN6010N)	8,50,000	Could not get the ITRs, if any.			Note-2 below	
3.	Kunal Doshi (AKOPD4871A)	8,10,000	Could not get the ITRs, if any.			Note-3 below	

P

4.	Lovely Kunal Doshi (BDDPD6483K)	6,90,000	Gross Salary Returned Income	ITR not filed	3,43,801 2,56,560	4,17,575 2,67,580	Note -4 below	
5.	Raghvendra Kulkarni (AXKPK9650P)	1,00,000	Could not get the ITRs, if any.				Note-5 below	
6.	Sonal Shah (BFCPS4513J)	6,00,000	Could not get the ITRs, if any.				Note-6 below	
7.	Bhoomi P. Shah (DCQPS1850B)	6,00,000	Gross Salary Returned Income	ITR not filed	2,17,561 2,17,560	ITR not filed	Note-7 below	
8.	Snehan Dave (AEEP4860M)	5,00,000	Operational Revenue	13,56,221	15,09,434	17,00,566	Note-8 below	
			Total Income	3,11,184/-	1,13,510	4,48,780		
			Liabilities					
			Capital	25,11,715	24,74,041	27,63,635		
			loans	19,97,034	7,64,518	42,24,933		
			Total Sources of funds	45,08,749	72,24,883	69,88,568		
			Assets:					
			Fixed assets	29,24,243	54,75,793	50,34,363		
			Securities	6,92,444	6,68,636	8,00,746		
			Equity shares	54,413	5,54,413	5,54,413		
			Cash & Bank	8,60,655	4,24,047	3,92,010		
			Total Assets	45,08,749	72,24,883	69,88,568		
9.	Ripal Dave (AJNPD9632M)	5,00,000	Could not get the ITRs, if any.				Note-9 below	
10.	Snehan Dave HUF (AAUHS7728F)	3,00,000	Not a return filer				Note-10 below	
11.	Sonal C Patel (AYIPP9183F)	8,50,000	Income from other sources/ Returned income	ITR not filed	2,67,170	2,69,160	Note-11 below	
12.	Awani K Patel (AQZPP8358H)	8,60,000	Stop filer (last ITR filed for A.Y. 2011-12)				Note-12 below	
13.	Bhupendra Shah (AHBPS5448Q)	8,50,000	Could not get the ITRs, if any.				Note-13 below	
14.	Ashok Bhadoriya (APCPB9259H)	9,10,000	Could not get the ITRs, if any.				Note-14 below	
15.	Deshraj Jha (BJIPD7110A)	9,10,000	Gross receipts	1,50,250	9,10,000	76,18,424	Note-15 below	
				salary & other sources only	u/s 44AD	u/s 44AD		
			Returned Income	1,50,250	2,41,200	7,45,559		

Q

16.	Chandresh Patel (ASSPP6184A)	8,50,000	Gross receipts	2,22,670	8,50,000	1,77,824	Note-16 below	
				salary & other sources only	u/s 44AD			
			Returned Income	2,22,670		2,69,570		
			Liabilities	NA	NA			
			Capital	-	-	3,69,909		
			Total Sources of funds	-	-	3,69,909		
			Assets:	NA	NA			
			Fixed assets	-	-	1,26,969		
			Debtors	-	-	37,426		
			Cash & Bank	-	-	1,35,088		
			Loans and advances	-	-	70,426		
			Total Assets	-	-	3,69,909		
	Total	1,71,80,000	Impugned addition u/s 68					

Part-B (Notes on each of the above)

I. **Sakshi Barter Pvt. Ltd. (AAQCS2905P):-**

The ITRs filed by it indicate that this company was **incorporated** (newly) on **06.09.2011** i.e. in A.Y. 2012-13 (being the year of incorporation). Thus, **A.Y. 2015-16** (disputed year in the present appeal) is the **4th** year of its existence. In such a short span of less than 4 years, it has amassed "**securities premium reserve**" at **Rs. 6,39,43,200/-**, which is its main source of funds (its own paid up share capital being only Rs. 3,56,800/-) **without any operational activities** and without any fixed assets. Its corresponding assets are mainly investments in "**unlisted equities**" (Rs. 1,34,24,000/- as at 31.03.2015) and "loans/advances" (Rs. 5,05,05,000/- as at 31.03.2015) with meagre cash & bank balances). Apparently, this company has not carrying out any genuine business activity and has no source of generating operational revenue anyway. Its income is very negligible as may be seen from the above table. Its bank a/c statement (**page-106 of my paper book part-1 dated 04.04.2025**) itself indicates that prior to the impugned transaction with the assessee its bank balance was only Rs. 10,562/- as on 09.08.2014 but, thereafter there is a deposit entry of Rs. 70,00,000/- by a cheque on 12.12.2014 and on the very same day i.e. on 12.12.2014 itself there is a corresponding withdrawal of the same amount by cheque by which the impugned transaction is claimed to have been made. *Interestingly, such huge investments are hardly yielding any income to this entity (Sakshi Barter Pvt. Ltd.). Obviously, it is nothing but a shell company existing on papers only and its sources of funds (mainly securities premium reserve) and application of funds (mainly investments in unlisted equities and loans/advances) clearly*

R

indicate that it is acting only as a pass through entity for financial transactions. Its creditworthiness and genuineness of the transaction being shown by the assessee in its name is obviously not proved.

2. **Hesh M Nikhare (AFEPN6010N):-**

Despite my efforts, the AO of this PAN has not yet provided me his "processed details" & ITR, if any but; the acknowledgement of his ITR (ITR-4S) filed on 28.08.2015 for A.Y. 2015-16 has been placed by the Id.AR in his paper book dated 08.10.2024 (page no. 156), showing **returned income** therein at Rs. 2,22,700/- only. The **transaction of Rs. 8,50,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid total income of Rs. 2,22,700/-. Thus, his creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

3. **Kunal Doshi (AKOPD4871A):-**

Despite my efforts, the AO of this PAN has not yet provided me his "processed details" & ITR, if any but; the acknowledgement of his ITR (ITR-1 applicable for salaries person) filed on 23.01.2016 for A.Y. 2015-16 has been placed by the Id.AR in his paper book dated 08.10.2024 (page no. 159), showing returned income at Rs. 3,15,490/- only. The **transaction of Rs. 8,10,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid **total income of Rs. 3,15,490/-**. Thus, his creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

4. **Lovely Kunal Doshi (BDDPD6483K):-**

The "processed summary" (pp-477 herein) indicates that she was not a return filer upto A.Y. 2014-15. She filed her ITR for the 1st time for A.Y. 2015-16 (impugned year in the present appeal) u/s 139(4) on the last day i.e. 31.03.2017 in ITR-1 (applicable for salaried person). Thereafter, though she has regularly filed her ITRs year after year but it needs to be appreciated that she has small salary income, having returned total income at Rs. 2,56,560/- for A.Y. 2015-16. The **transaction of Rs. 6,90,000/-** shown by the assessee in her name is apparently not commensurate with her aforesaid total income of Rs. 2,56,560/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

5. **Raghvendra Kulkarni (AXKPK9650P):-**

Despite my efforts, the AO of this PAN has not yet provided me his "processed details" & ITR, if any but, even the Id.AR in his paper book dated 08.10.2024 (page no. 166-168), has included his PAN, Aadhar & Voter Card only. Thus, in the absence of any evidence by the Id.AR regarding proof of filing of ITRs by the said person, the only conclusion is that he is not a return filer. Thus his creditworthiness and so also the genuineness of **transaction of Rs. 1,00,000/-** shown by the assessee in his name is apparently not proved.

S

6. **Sonal Shah (BFCPS4513J):-**

Despite my efforts, the AO of this PAN has not yet provided me her "processed details" & ITR, if any but, even the Id.AR in his paper book dated 08.10.2024 (page no. 169-170), has included her **PAN & Aadhar only**. Thus, in the absence of any evidence by the Id.AR regarding proof of filing of ITRs by the said person, the only conclusion is that she is **not a return filer**. Thus her creditworthiness and so also the genuineness of **transaction of Rs. 6,00,000/-** shown by the assessee in her name is apparently not proved.

7. **Bhoomi P. Shah (DCQPS1850B):-**

The "processed summary" (pp-484 herein) indicates that she filed her ITR only for A.Y. 2015-16 and never before, nor ever thereafter. Her ITR for A.Y. 2015-16 (impugned year in the present appeal) is in ITR-1 (applicable for salaried person), wherein **returned income of Rs. 2,17,561/-** is shown. The **transaction of Rs. 6,00,000/-** shown by the assessee in her name is apparently not commensurate with her aforesaid total income of Rs. 2,17,561/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

8. **Snehan Dave (AEEP4860M):-**

The "processed summary" (pp-490-491 herein) indicates that though she has regularly filed her ITRs year after year starting from A.Y. 2008-09 & upto 2023-24 but it needs to be appreciated that her **returned income for A.Y. 2014-15** (preceding year) & **A.Y. 2015-16** (disputed year in the present appeal) was **only Rs. 3,11,184/- & 1,13,510/-** respectively. The **transaction of Rs. 5,00,000/-** shown by the assessee in her name is apparently not commensurate with her aforesaid total income of Rs. 1,13,510/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

9. **Ripal Dave (AJNPD9632M):-**

Despite my efforts, the AO of this PAN has not yet provided me her "processed details" & ITR, if any but, even the Id.AR in his paper book dated 08.10.2024 (page no. 176-178), has included her **PAN & Aadhar only**. Thus, in the absence of any evidence by the Id.AR regarding proof of filing of ITRs by the said person, the only conclusion is that she is **not a return filer**. Thus her creditworthiness and so also the genuineness of **transaction of Rs. 5,00,000/-** shown by the assessee in her name is apparently not proved.

10. **Snehan Dave HUF (AAUHS7728F):-**

AO of this PAN has intimated (pp-525, herein) that this person/HUF has **never filed any ITR for any A.Y.** Thus its creditworthiness and so also the genuineness of **transaction of Rs. 3,00,000/-** shown by the assessee in its name is apparently not proved.

T

11. **Sonal C Patel (AYIPP9183F):-**

She is **not** found to have filed any ITR for & upto 2014-15. Her ITR for A.Y. 2015-16 (impugned year in the present appeal) is in ITR-2A, wherein returned income of Rs. 2,67,170/- is shown. The **transaction of Rs. 8,50,000/-** shown by the assessee in her name is apparently not commensurate with her aforesaid **total income of Rs. 2,67,170/-**. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

12. **Awani K Patel (AQZPP8358H):-**

She is a **stop filer** after A.Y. 2011-12 (which is the last A.Y. for which she filed her ITR) as per the AO's status report & "processed summary" (**pp-535-537 herein**). No ITR is filed by her thereafter for any A.Y. The creditworthiness and so also the genuineness of the impugned **transaction of Rs. 8,60,000/-** shown by the assessee in her name is apparently not proved.

13. **Bhupendra Shah (AHBPS5448Q):-**

Despite my efforts, the AO of this PAN has not yet provided me his "processed details" & ITR, if any but, even the Id.AR in his paper book dated 08.10.2024 (**page no. 185**), has included his PAN **only**. Thus, in the absence of any evidence by the Id.AR regarding proof of filing of ITRs by the said person, the only conclusion is that he is not a return filer. Thus his creditworthiness and so also the genuineness of **transaction of Rs. 8,50,000/-** shown by the assessee in his name is apparently not proved.

14. **Ashok Bhadoriya (APCPB9259H) :-**

Despite my efforts, the AO of this PAN has not yet provided me his "processed details" & ITR, if any but the acknowledgement of his ITR (ITR-4S) filed on 28.08.2015 for A.Y. 2015-16 has been placed by the Id.AR in his paper book dated 08.10.2024 (**page no. 186**), showing **returned income** therein at **Rs. 2,34,860/-** only. Thus his creditworthiness and so also the genuineness of **transaction of Rs. 9,10,000/-** shown by the assessee in his name is apparently not proved.

15. **Deshraj Jha (BJIPD7110A) :-**

His **returned income** for A.Y. 2014-15 (preceding year) & A.Y. 2015-16 (disputed year in the present appeal) was **only Rs. 1,50,250/- & 2,41,200/-** respectively. In A.Y. 2014-15 he had declared income from salary & other sources only whereas, in A.Y. 2015-16 (under appeal) he had shown business income u/s 44AD on gross receipts of Rs. 9,10,000/-. The **transaction of Rs. 9,10,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid total income of Rs. 2,41,200/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

U

16. Chandresh Patel (ASSPP6184A) :-

The "processed summary" (pp-555 herein) indicates that though he has regularly filed her ITRs from A.Y. 2008-09 to 2024-25 (except A.Y. 2012-13 & 2022-23) but it needs to be appreciated that his **returned income for A.Y. 2014-15** (preceding year) & **A.Y. 2015-16** (disputed year in the present appeal) was **only Rs. 2,22,670/- & 2,34,220/-** respectively. The **transaction of Rs. 8,50,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid total income of Rs. 2,34,220/-. Thus, his creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

Part-C (conclusion)

The foregoing appraisal of the relevant evidences/additional evidences undoubtedly leads to conclude that the creditworthiness of all the (16) alleged investors/subscribers remain unproved and so also the genuineness of the transactions appearing in their names in the books of a/cs of the assessee appellant. Thus, the impugned addition made u/s 68 to the total income of the assessee appellant is justified and deserves to be upheld.

Prayer

It is humbly prayed that the above documents may kindly be considered in the present appeal of the assessee, which is devoid of merits and deserves to be dismissed.

3.2 Written submissions were initially filed by the learned D.R. in aforesaid paper book part-III. Later the written submissions were revised in the aforesaid paper book part-5. At the time of hearing, the learned D.R. submitted that the revised written submissions, as contained in aforesaid paper book part-5 should be considered and earlier written submissions may be ignored. The revised written submissions filed by learned D.R., as contained in aforesaid paper book part-5 are reproduced below for ready reference:

Paper Book Part-5/“Revised Written Submission”

(A)-Tabular details of ITRs of the alleged Investors/Subscribers

L. Sakshi Barter Pvt. Ltd. (AAQCS2905P), incorporated on 06.09.2011

Name/ PAN	Subscription on amount (Rs.)	Details as per ITRs/for A.Y.					
		Particulars ITR at pages	A. Y. 12-13 572-584	13-14 585-595	14-15 402-415	15-16 416-429	16-17 430-443
Sakshi Barter Pvt. Ltd.	70,00,000	ITR Date	17.08.2012	3.9.2013	20.9.2014	22.9.2015	22.12.2021
		Revenue	0	0	0	0	0
Incorporated on- 06.09.2011		Other Income	28,964	1,13,592	5,921	28,952	0
		Total Income	791	4,825	783	18,670	(-)3100/-
		LIABILITIES					
		Paid up Capital	3,56,800	3,56,800	3,56,800	3,56,800	3,56,800
		Securities Premium	6,39,43,200	6,39,43,200	6,39,43,200	6,39,43,200	6,39,43,200
		Total Sources of funds	6,43,00,547	6,43,06,872	6,43,07,164	6,43,20,427	6,43,11,557
		ASSETS					
		Fixed Assets	0	0	0	0	0
		Securities- Unquoted	6,42,00,000	6,42,00,000	67,00,000	1,34,24,000	1,10,24,000
		Quoted	0	0	0	0	0
		Loans and Advances	0	0	5,75,00,000	5,75,00,000	5,28,63,234
		Bank Balance	7,045	6,978	10,941	10,562	47,328
		Cash in hand	95,246	99,894	96,223	3,85,865	3,76,995
		Total Assets	6,43,00,547	6,43,06,872	6,43,07,164	6,43,20,427	6,43,11,557
		Key Persons	-	Ashwin Shantilal Trivedi Jayesh Shah			
		Beneficial owners (share %)	Gunja Thakur (14.01%) Manoj Kr. Bothra (14.01%) Naman Commosales Pvt.Ltd. (19.62%) Pragya Tie- up (10.31%)	Gunja Thakur (28.31%) - Naman Commosales Pvt. (19.62%) Pragya Tie-up (10.31%)			Not Stated

Sakshi Barter Pvt. Ltd. (continued from pre-page)

Details as per ITRs/for A.Y.								
Particulars (Slut pages)	A. Y. 17-18 596-620	18-19 621-657	19-20 658-695	20-21 696-733	21-22 734-773	22-23 774-807	23-24 808-851	24-25 852-896
TR Date	30.10.2017(O) 24.12.2021(R) 03.09.2022(R)	31.3.2019	26.10.2019	28.01.2021	8.3.2022	19.10.2022	30.10.2023	28.10.2024
Revenue	0	0	0	0	0	0	0	0
Other Income	1,25,800	1,21,800	75,600	82,250	63,540	1,50,914	1,58,453	1,61,952
Total Income	98,060	85,810	22,605	18,270	3,860	3,240	16,320	30,250
LIABILITIES								
Paid up Capital	3,56,800	3,56,800	3,56,800	3,56,800	3,56,800	3,56,800	3,56,800	3,56,800
Securities Premium	6,40,20,317	6,39,43,200	6,39,43,200	6,39,43,200	6,39,43,200	6,39,43,200	6,41,24,217	6,39,43,200
Total Liabilities and Liabilities	6,44,12,117	6,44,66,472	6,44,66,739	6,45,28,686	6,44,77,365	6,44,83,462	6,45,00,117	6,46,33,861
ASSETS								
Fixed Assets	0	0	0	0	0	0	0	0
Securities-Quoted	0	0	0	0	0	72,500	84,660	72,500
Unquoted	1,33,00,000	1,33,00,000	1,33,00,000	1,51,12,160	88,12,160	88,12,160	88,00,000	88,12,160
Debits and Advances	5,06,13,234	5,06,13,234	5,06,13,234	4,69,58,234	5,28,08,234	5,52,79,057	5,54,48,757	5,55,94,513
Bank Balance	0	18,192	4,659	8,228	6,357	7,489	10,274	10,356
Cash in hand	4,98,883	5,35,046	5,48,846	24,50,064	28,50,614	2,97,165	1,56,426	1,28,124
Total Assets	6,44,12,117	6,44,66,472	6,44,66,739	6,45,28,686	6,44,77,365	6,44,83,462	6,45,00,117	6,46,33,861
Key Persons	Ashwin Shantilal Trivedi (AGQPT5593H)							
Beneficial owners (share %)	Not Stated		Madhuveer Com18 Networks Ltd. (100%) (AACCT3820A)					

V-8

S. No.	Name/PAN	Subscripti on amount (Rs.)	Details as per ITRs/for A.Y.				Remarks
			Particulars	2014-15	2015-16	2016-17	
2.	Ilesh M Nikhare (AFEPN6010N)	8,50,000	ITR	30.07.2014	28.08.2015		Note-2 below
			Total Income	2,18,630 Salary & other sources – incl. commissio n	2,22,700 Salary & other sources		
			Employer's Name	Navkar Builders Ltd	Not mentioned		
3.	Kunal Doshi (AKOPD4871A)	8,10,000	ITR	20.01.2016	23.1.2016	7.3.2018	Note-3 below
			Total Income	2,14,480 Salary & other sources	3,15,490 Salary & other sources	4,33,630 Salary & other sources	
			Employer's Name	Not mentioned	Anar Project Ltd.	Anar Project Ltd.	
4.	Lovely Kunal Doshi (BDDPD6483K)	6,90,000	Gross Salary	ITR not filed	3,43,801	4,17,575	Note -4 below
			Returned Income		2,56,560	2,67,580	
5.	Raghvendra Kulkarni (AXKPK9650P)	1,00,000	ITRs are not filed for A.Y. 2011-12 to 2020-2021. Total Income for A.Y. 2009-10 & 2010-11 Rs. 146540 & 175660 respectively.				Note-5 below
6.	Sonal Shah (BFCPS4513J)	6,00,000	ITRs are not filed upto A.Y. 2023-24				Note-6 below
7.	Bhoomi P. Shah (DCQPS1850B)	6,00,000	Gross Salary	ITR not filed	2,17,561	ITR not filed	Note-7 below
			Returned Income		2,17,560		
8.	Snehan Dave (AEEPDP4860M)	5,00,000	Operational Revenue	13,56,221	15,09,434	17,00,566	Note-8 below
			Total Income	3,11,184/-	1,13,510	4,48,780	
			Liabilities				
			Capital	25,11,715	24,74,041	27,63,635	
			loans	19,97,034	7,64,518	42,24,933	
			Total Sources of funds	45,08,749	72,24,883	69,88,568	

V-9

			Assets:				
			Fixed assets	29,24,243	54,75,793	50,34,363	
			LT/Securities- Quoted	3,21,944	3,37,636	4,34,500	
			Unquoted	3,70,500	3,31,000	3,66,246	
			ST/Equity shares	54,413	5,54,413	5,54,413	
			Bank Balance	5,88,102	1,14,214	76,805	
			Cash in hand	2,72,553	3,09,833	3,15,205	
			Total Assets	45,08,749	72,24,883	69,88,568	
9.	Ripal Dave (AJNPD9632M)	5,00,000	ITR Date	11.12.2015	31.3.2017	27.1.2018	Note-9 below
			Sales & Commission	8,35,010	7,92,500	9,84,200	
			Business Profit	2,85,826	2,67,320	2,91,066	
			Capital Gain	(ST)12,181	(LT) 4,303	0	
			Other Sources	42,077	51,693	52,213	
			GTI	3,40,084	3,23,316	3,43,279	
			Total Income	2,37,255	3,21,690	2,90,770	
			Liabilities				
			Capital	14,50,690	17,20,680	19,74,001	
			Unsecured Loans	4,69,536	3,99,999	3,99,999	
			Total Liab.	19,20,226	21,20,679	23,74,000	
			Assets				
			Fixed Assests	4,97,136	4,58,309	4,24,741	
			Investments/LT Quoted	2,82,000	19,52,51	3,28,000	
			Unquoted	4,44,099	4,65,505	4,86,469	
			Equity Shares/ST	2,16,764	7,16,704	7,16,704	
			Stock in trade	30,750	26,500	54,500	
			Cash	91,667	40,447	1,27,612	
			Bank Balance	70,545	39,139	57,150	
			Assets Total	19,20,226	21,20,679	23,74,000	
10.	Snehan Dave HUF	3,00,000	Not a return filer				Note-10

V-10

	(AAUHS7728F)						below
11.	Sonal C Patel (AYIPP9183F)	8,50,000	Income from other sources/ Returned income	ITR not filed	2,67,170	2,69,160	Note-11 below
12.	Awani K Patel (AQZPP8358H)	8,60,000	Stop filer (last ITR filed for A.Y. 2011-12)				Note-12 below
13.	Bhupendra Shah (AHBPS5448Q)	8,50,000	Not registered in the e-filing portal/ (Never filed ITR for any A.Y)				Note-13 below
14.	Ashok Bhadoriya (APCPB9259H)	9,10,000	ITR	(O)31.7.14 (R)28.8.15	28.8.15	31.3.17	Note-14 below
			Turnover	0	9,10,000	58,75,090	
			Total Income	1,53,540	2,34,860	6,33,922	
			Sources	Salary & other sources only	Salary & business profits u/s 44AD	Salary & business profits u/s 44AD	
				-			
15.	Deshraj Jha (BJIPD7110A)	9,10,000	Turnover	0	9,10,000	76,18,424	Note-15 below
			Sources	salary & other sources only	Salary & BP u/s 44AD	Salary & BP u/s 44AD	
			Returned Income	1,50,250	2,41,200	7,45,559	
16.	Chandresh Patel (ASSPP6184A)	8,50,000	Turnover	0	8,50,000	1,77,824	Note-16 below
			Sources	salary & other sources only	Salary & BP u/s 44AD	Salary, BP & other sources	
			Returned Income	2,22,670	2,34,220	2,69,570	
			Liabilities	NA	NA		
			Capital	-	-	3,69,909	
			Total Liab.	-	-	3,69,909	
			Assets:	NA	NA		
			Fixed assets	-	-	1,26,969	
			Sundry Debtors	-	-	37,426	
			Cash in hand	-	-	1,29,896	

V-11

		Bank Balance	-	-	5,192		
		Loans and advances	-	-	70,426		
		Total Assets	-	-	3,69,909		
	Total	1,71,80,000	Impugned addition u/s 68				

(B)-Notes on each of the above**1. Sakshi Barter Pvt. Ltd. (AAQCS2905P):- (Rs. 70,00,000/-)**

As mentioned in its ITRs, this company was incorporated on 06.09.2011 i.e. in A.Y. 2012-13 (with a very nominal paid up share capital of Rs. 3,56,800/- only), in which it had no revenue from operations and had only other income of Rs. 28,964/- but, still generated huge securities premium of Rs. 6,39,43,200/- in its very initial year of inception. It is against preponderance of probabilities that such a newly formed company with a meager amount of paid up share capital and no business activities could genuinely generate such a huge amount of securities premium in its very initial year which continues to remain its main source of funds right up to A.Y. 2024-25. A.Y. 2015-16 (the year involved in the present appeal) is the 4th year since its inception. Its corresponding assets are mainly investments in "unlisted equities" (Rs. 1,34,24,000/- as at 31.03.2015) and "loans/advances" (Rs. 5,05,05,000/- as at 31.03.2015) with meager cash & bank balances. Apparently, this company has not carried out any genuine business activity and has no source of generating operational revenue anyway. Its admitted income is very negligible. Its bank a/c statement (page-106 of my paper book part-1 dated 04.04.2025) itself indicates that prior to the impugned transaction with the appellant its bank balance was only Rs. 10,562/- as at 09.08.2014 but, thereafter there is a deposit entry of Rs. 70,00,000/- by a cheque on 12.12.2014 and on the very same day i.e. on 12.12.2014 itself there is a corresponding withdrawal of the same amount by cheque by which the impugned transaction is claimed to have been made. Interestingly, its huge investments are hardly yielding any income to it (Sakshi Barter Pvt. Ltd.). This entity was incorporated at Kolkata, in which 4 persons, namely-Gunja Thakur, Manoj Kumar Bothra, Naman Commosales Pvt. Ltd. and Pragya Tie-up Pvt. Ltd. were the main beneficial owners having 14.01%, 14.01%, 19.62% & 10.31% shares in it. In the 2nd year i.e. A.Y. 2013-14, share holding of Smt. Gunja Thakur increased to 28.31% whereas, shares holdings of Naman Commosales Pvt. Ltd. and Pragya Tie-up Pvt. Ltd. remained unchanged at 19.60% & 10.31% respectively but, the name of another main beneficial owner i.e. Shri Manoj Kumar Bothra (who had signed its ITR for A.Y. 2012-13) disappeared in the 2nd year i.e. A.Y. 2013-14 (for which its ITR was signed by Shri Ashwin Shantilal Trivedi as a Director). Upto A.Y. 2015-16 (to which the present appeal relates), the share holding position of the main beneficial owners remained the same as it was in A.Y. 2013-14. Thereafter, there is no disclosure about its main beneficial owners from A.Y. 2016-17 to A.Y. 2018-19. Subsequently, from A.Y. 2018-19, a new entity, namely- Madhveer Com18 Networks Ltd., Ahmedabad became the sole beneficial owner holding 100% shares of this entity (Sakshi Barter Pvt. Ltd.), which continues as such right upto A.Y. 2024-25. The ITRs of this entity (Sakshi Barter Pvt. Ltd.), however, continued to be signed by Shri. Ashwin Shantilal

V-12

Trivedi as it's Director right from A.Y. 2013-14 & upto A.Y. 2024-25. This is again quite strange when it's beneficial ownership was completely changed, how could the same person, namely- Shri Ashwin Shantilal Trivedi continue to be it's Director over the year. Address of this entity (Sakshi Barter Pvt. Ltd.) from A.Y. 2012-13 to 2014-15 was shown to be at Kolkata and thereafter, from A.Y. 2015-16 (being the year involved in the present appeal) to 2018-19, it was shown at Ahmadabad, however, thereafter, from A.Y. 2019-20 to 2024-25 it was again shown at Kolkata (except in A.Y. 2021-22, again shown at Ahmadabad). Shri. Ashwin Shantilal Trivedi, who continued to sign the ITRs of this entity (Sakshi Barter Pvt. Ltd.) as it's Director from A.Y. 2013-14 to 2024-25 is apparently not a regular return filer, being a man of small means (having nominal income from labour contract & supervision work in A.Y. 2013-14 & 2016-17, as per his ITR details as at [page/977-984](#)). All these facts clearly indicate that **it is nothing but a shell company existing on papers only** and its sources of funds (mainly securities premium reserve generated in it's 1st year) and application of funds (mainly investments in unlisted equities and loans/advances without yielding any significant amount of income) clearly indicate that **it is instrumental for money laundering only**. Therefore, its creditworthiness and genuineness of the **impugned transaction of Rs. 70,00,000/-** being shown by the assessee in its name is obviously not proved.

2. **Ilesh M Nikhare (AFEPN6010N):-** **(pp/897-913)**

He had filed ITRs for A.Y. 2014-15 & 2015-16 thereby declaring income from salary (from Navkar Builders Ltd., Ahmedabad) and other sources only. His **returned income** in A.Y. 2014-15 & 2015-16 was only Rs. 2,18,630/- & Rs. **2,22,700/-** respectively. The **impugned transaction of Rs. 8,50,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid total income. Thus, his creditworthiness and so also the genuineness of the **impugned transaction** shown by the appellant in his name is not proved.

3. **Kunal Doshi (AKOPD4871A):-** **(pp/914-924)**

Although his ITRs are regularly filed starting from A.Y. 2010-11 (except for A.Y. 2013-14), yet he has very nominal income. His ITRs for A.Y. 2014-15 & 2015-16 are filed declaring income from salary (from Anar Project Ltd., Ahmedabad) and other sources only. His **returned income** in A.Y. 2014-15 & 2015-16 was only Rs. 2,14,480/- & Rs. 3,15,490/- respectively. The **impugned transaction of Rs. 8,10,000/-** shown by the assessee in his name is apparently not commensurate with his aforesaid total income. Thus, his creditworthiness and so also the genuineness of the **impugned transaction** shown by the appellant in his name is not proved.

4. **Lovely Kunal Doshi (BDDPD6483K):-** **(pp/476-483)**

Her "processed summary" ([pp-477](#)) indicates that she was not a return filer upto A.Y. 2014-15. She **filed her ITR for the 1st time for A.Y. 2015-16** (impugned year in the present appeal) **u/s 139(4) on the last day i.e. 31.03.2017** in ITR-1 (applicable for salaried person). Thereafter, though she has regularly filed her ITRs year after year but it needs to be appreciated that she has small salary income, having returned total income at **Rs. 2,56,560/-** for A.Y. 2015-16. The **transaction of Rs. 6,90,000/-** shown by the assessee in her name is apparently not

V-13

commensurate with her aforesaid total income of Rs. 2,56,560/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

5. **Raghvendra Kulkarni (AXKPK9650P):-** **(pp/924A- 924C)**

His ITRs for A.Y. 2009-10 & 2010-11 were filed declaring nominal income of Rs. 1,46,540/- & 1,75,660/- respectively but, thereafter, his ITRs are not filed for A.Y. 2011-12 to 2020-21. Even the Id.AR in his paper book dated 08.10.2024 (page no. 166-168), has included his PAN, Aadhar & Voter Card only, which do not prove his creditworthiness and genuineness of the impugned transactions. Thus his creditworthiness and so also the genuineness of impugned transaction of Rs. 1,00,000/- shown by the assessee in his name is apparently not proved.

6. **Sonal Shah (BFCPS4513J):-** **(pp/925-926)**

She has filed ITR for A.Y. 2024-25 only. Her ITRs are not filed for & upto A.Y. 2023-24. Even the Id.AR in his paper book dated 08.10.2024 (page no. 169-170), has included her PAN, Aadhar & Voter Card only, which do not prove her creditworthiness and genuineness of the impugned transactions. Thus her creditworthiness and so also the genuineness of impugned transaction of Rs. 6,00,000/- shown by the assessee in her name is apparently not proved.

7. **Bhoomi P. Shah (DCQPS1850B):-** **(pp/484-488)**

Her "processed summary" (pp-484 herein) indicates that she filed her ITR only for A.Y. 2015-16 and neither before that nor thereafter ever. Her ITR for A.Y. 2015-16 (impugned year in the present appeal) is in ITR-1 (applicable for a salaried person), wherein returned income of Rs. 2,17,561/- is shown. The impugned transaction of Rs. 6,00,000/- shown by the assessee in her name is apparently not commensurate with her aforesaid total income of Rs. 2,17,561/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

8. **Snehan Dave (AEEP4860M):-** **(pp/489-524)**

His "processed summary" (pp/490-491) indicates that though he has regularly filed his ITRs year after year starting from A.Y. 2008-09 & upto 2023-24. In his ITRs for A.Y. 2014-15 to 2016-17 (pp-493/504/515), he has declared himself to be a Doctor running "Symbo Health Club" yet, his returned income for A.Y. 2014-15 (preceding year) & A.Y. 2015-16 (disputed year in the present appeal) was only Rs. 3,11,184/- & 1,13,510/- respectively, which in itself is not commensurate with the impugned transaction of Rs. 5,00,000/- shown by the assessee in his name. His balance sheets (pp-494/505), however, show the figures of short term investments in equity shares as at 31.03.2014 & 31.03.2015 at Rs. 54,413/- & 5,54,413/- respectively, which means an accretion of Rs. 5,00,000/- in A.Y. 2015-16. Though it indicates that he has made some fresh investments in equity shares of Rs. 5,00,000/- during A.Y. 2015-16 (the year in the present appeal) yet, in the absence of any other corroborative evidence like relevant bank account statements of this person (Snehan Dave) and the appellant, it can not be safely concluded or assumed that the said accretion exclusively represents the same transaction which the appellant claims to have made with the said person.

V-14

9. **Ripal Dave (AJNPD9632M):-**

(pp/927-961)

Her "processed summary" (pp-927 herein) indicates that she started filing ITRs only from A.Y. 2014-15 (and has regularly filed her ITRs upto 2023-24). Her returned income for A.Y. 2014-15 (preceding year) & A.Y. 2015-16 (year involved in the present appeal) was at Rs. 8,35,810/- & 7,92,500/- respectively, in which she has indicated to have carried out business under trade name of "Pal Boutique"(page-928/939). Her balance sheets (pp-929/940), show the figures of short term investments in equity shares as at 31.03.2014 & 31.03.2015 at Rs. 2,16,704/- & 7,16,704/- respectively, which means an accretion of Rs. 5,00,000/- in A.Y. 2015-16. Though it indicates that she has made some fresh investments in equity shares of Rs. 5,00,000/- during A.Y. 2015-16 (the year involved in the present appeal) yet, in the absence of any other corroborative evidence like relevant bank account statements of this person (Ripal Dave) and the appellant, it cannot be safely concluded or assumed that the said accretion exclusively represents the same transaction which the appellant claims to have made with the said person. Thus, the genuineness of the impugned transaction of Rs. 5,00,000/- shown by the appellant in her name is not proved.

10. **Snehan Dave, HUF (AAUHS7728F):-**

(pp-525)

AO of this PAN has intimated (pp-525) that this person/HUF has never filed any ITR for any A.Y. Even the Id.AR in his paper book dated 08.10.2024 (page no. 179), has included PAN only. Thus its creditworthiness and so also the genuineness of impugned transaction of Rs. 3,00,000/- shown by the assessee in its name is apparently not proved.

11. **Sonal C Patel (AYIPP9183F):-**

(pp/526-534)

Her "processed summary" (pp-985) indicates that she has not filed any ITR for & upto 2014-15. A.Y. 2015-16 (impugned year in the present appeal) is the 1st year for which she filed ITR-2A (applicable to persons not having income from business or profession), wherein income from other sources is shown at Rs. 2,67,170/-. The impugned transaction of Rs. 8,50,000/- shown by the assessee in her name is apparently not commensurate with her aforesaid total income of Rs. 2,67,170/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in her name is not proved.

12. **Awani K Patel (AQZPP8358H):-**

(pp/535-545)

She is a stop filer after A.Y. 2011-12 (which is the last A.Y. for which she filed her ITR) as per the AO's status report & "processed summary" (pp/535-537). No ITR is filed by her thereafter for any A.Y. Even the Id.AR in his paper book dated 08.10.2024 (page no. 184), has included PAN only. The creditworthiness and so also the genuineness of the impugned transaction of Rs. 8,60,000/- shown by the assessee in her name is apparently not proved.

13. **Bhupendra Shah (AHBPS5448Q):-**

(pp-962)

As per report of his AO (pp-962) he is not registered in the e-filing portal and has never filed ITR for any A.Y. Even the Id.AR in his paper book dated 08.10.2024 (page no. 185), has included his PAN only, which in itself is not enough to prove his creditworthiness and

V-15

genuineness of the impugned transaction of Rs. 8,50,000/- shown by the assessee in his name is apparently not proved.

14. **Ashok Bhadoriya (APCPB9259H) :-** (pp-963-976)

Although, as per his processed summary (pp-963), his ITRs are regularly filed starting from A.Y. 2011-12 (except for A.Y. 2012-13), yet he has very nominal income. **Returned income for A.Y. 2014-15 is shown at Rs. 1,53,540/-** (being income from salary and other sources only) whereas, income from salary and small business profit resulting into **returned income of Rs. 2,34,160 in A.Y. 2015-16**. The impugned transaction of Rs. 8,10,000/- shown by the assessee in his name is apparently not commensurate with his aforesaid total income. Thus, his creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

15. **Deshraj Jha (BJIPD7110A) :-** (pp-546-554)

His **returned income for A.Y. 2014-15** (preceding year) & **A.Y. 2015-16** (year involved in the present appeal) was **only Rs. 1,50,250/- & 2,41,200/-** respectively. In A.Y. 2014-15 he had declared income from salary & other sources only whereas, in A.Y. 2015-16 (under appeal) he had shown small business income u/s 44AD on gross receipts of Rs. 9,10,000/-. The impugned transaction of Rs. 9,10,000/- shown by the assessee in his name is apparently not commensurate with his aforesaid total income of Rs. 2,41,200/-. Thus, her creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

16. **Chandresh Patel (ASSPP6184A) :-** (pp-555-571)

His "processed summary" (pp-555) indicates that though he has regularly filed his ITRs from A.Y. 2008-09 to 2024-25 (except for A.Y. 2012-13 & 2022-23) but, it needs to be appreciated that his **returned income for A.Y. 2014-15** (preceding year) & **A.Y. 2015-16** (year involved in the present appeal) was **only Rs. 2,22,670/- & 2,34,220/-** respectively. In A.Y. 2014-15 he had declared income from salary & other sources only whereas, in A.Y. 2015-16 (under appeal) he had shown income from salary & small business income u/s 44AD on gross receipts of Rs. 8,50,000/-. The impugned transaction of Rs. 8,50,000/- shown by the assessee in his name is apparently not commensurate with his aforesaid total income of Rs. 2,34,220/-. Thus, his creditworthiness and so also the genuineness of the impugned transaction in his name is not proved.

(C)-Test of human probabilities

The bank account statements of the alleged investors/subscribers have never been brought on records by the appellant. It, being a closely held company, has not led any evidence as to how and since when it came to know about the alleged investors/subscribers. It has also not led any evidence as to whether the appellant itself approached the alleged investors/subscribers for raising funds through fresh share capital or it were the alleged subscribers/investors who approached to the appellant showing their keenness in subscribing its equity shares. It is seen that the appellant has not extended any benefit/return on the investments so claimed to have been made by the alleged investors. This fact is verifiable from the ITRs of the appellant as well as the alleged investors/subscribers. It must be appreciated that no prudent person would like to

V-16

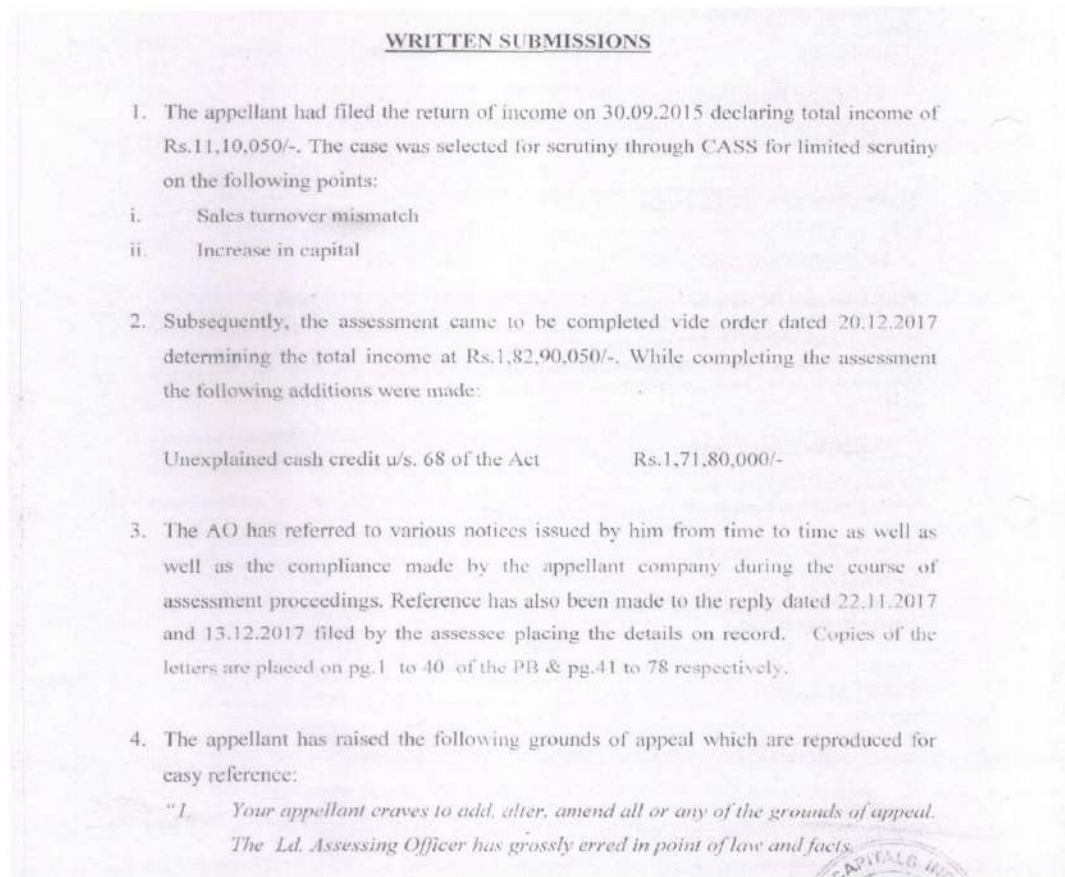
invest his/her hard earned money with such a company by whom no returns/benefits are extended to the investors. Furthermore, no prudent person would invest in such a company where, what to speak about returns/benefits, there is no security of even the principal amount of investment. The appellant has not led any evidence to show as to whether the said amounts of investments have ever been returned back to the alleged investors/subscribers or the same still continue to form its share capital/reserves and; if returned, then when and how much, with or without any benefits to them? The impugned transactions obviously **fail to stand the test of preponderance of human probabilities** for the aforesaid reasons. With the insertion of the **proviso to section 68** by the Finance Act, 2012 w.e.f. 01.04.2013 (i.e. w.e.f. A.Y. 2013-14 onwards), a closely held company is required to explain source of source also. In the facts and circumstances of the present case pertaining to A.Y. 2015-16, it is abundantly clear that the appellant company has miserably failed to discharge the double obligation casted on it.

(D)-Conclusion

The impugned addition (on account of unexplained fresh share capital) made u/s 68 to the total income of the assessee appellant is justified and deserves to be upheld.

4. At the time of hearing before us, the learned A.R. for the assessee submitted that the assessee had filed additional evidence along with written submissions in the course of appellate proceedings in the office of the learned CIT(A), which were forwarded by the learned CIT(A) to the Assessing Officer and the report of the Assessing Officer was obtained. The learned CIT(A) has passed the impugned order, the learned A.R. for the assessee submitted, after considering the Assessing Officer's aforesaid report. He drew our attention to the paper book filed from the assessee's side during appellate proceedings in Income Tax Appellate Tribunal (already referred to in foregoing paragraph No..... of this order) containing the copy of written submissions filed by the assessee during appellate proceedings in the office of the learned CIT(A). He also drew our attention to acknowledgement receipt in the written submissions and paper book

(including additional evidence) filed by the assessee during the appellate proceedings in the office of learned CIT(A). The learned A.R. for the assessee placed reliance on the written submissions filed by the assessee during appellate proceedings in the office of the learned CIT(A), which is being reproduced below for the ease of reference:



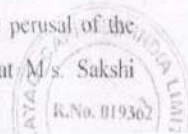
2. *In law and in the facts and circumstances of the appellants case, the Ld. Assessing Officer has grossly passing the assessment order without appreciating the facts and circumstances of the appellants case.*
3. *In law and in the facts and circumstances of the appellants case, the Ld. Assessing Officer has grossly erred in making addition of Rs.70,00,000/- on account of income from undisclosed sources.*
4. *In law and in the facts and circumstances of the appellants case, the Ld. Assessing Officer has grossly erred in making addition of Rs.1,01,80,000/- on account of income from undisclosed sources.*
5. *In law and in the facts and circumstances of the appellants case, the Ld. Assessing Officer has grossly erred in initiating penalty proceeding u/s. 271(1)(c) of the Income Tax Act.*
6. *Your appellant craves to alter, amend and withdraw of any ground/s of appeal.*

5. The effective ground of appeal being Ground no. 3 deals with the making of addition of Rs.70,00,000/- on account of income from undisclosed sources. The relevant discussion has been made on page 2 of the assessment order.

5.1 The AO has stated that the perusal of the details furnished by the appellant revealed that there was one shareholder namely M/s. Sakshi Barter Pvt. Ltd. who had submitted its return and bank accounts. The details of the returned income for the earlier three years are also been referred which is as under:

Sr. No.	A.Y.	Returned income
1.	2013-14	4,830/-
2.	2014-15	780/-
3.	2015-16	18,670/-

The AO has also referred to the bank account no. 372001010036781 of M/s. Sakshi Barter Pvt. Ltd. for the period 01.04.2014 to 31.03.2015. The AO has referred certain deposits and withdrawals made from the aforesaid bank account on page 2 of the assessment order. The AO has further reached a conclusion that the perusal of the bank account and the income tax return lead to a conclusion that M/s. Sakshi

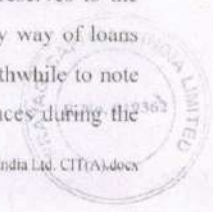


3

Barter Pvt. Ltd. had no capacity to contribute to the share capital of Rs.70,00,000/- . Doubts have also been raised on the amount received by presuming M/s. Sakshi Barter Pvt. Ltd. to be an entry operator or shell company. Accordingly, creditworthiness of the shareholder is stated to not be proved as per the AO and therefore, deposit of Rs.70,00,000/- as share capital is treated as income of the assessee from undisclosed sources. The AO has made a further observation that money has been introduced in the bank account of M/s. Sakshi Barter Pvt. Ltd. from account no. 372001010036736 and the appellant has again transferred Rs.67,25,000/- in the same bank account from where the money was withdrawn to be introduced in the bank account of M/s. Sakshi Barter Pvt. Ltd.. Accordingly, the AO has made an addition of Rs.70,00,000/- as undisclosed income of the appellant company.

6. At the outset it is submitted that during the course of the assessment proceedings, the appellant had furnished the following documents of M/s. Sakshi Barter Pvt. Ltd.
 - i. Confirmation of the share application made of Rs.70,00,000/- (pg.44 of the PB)
 - ii. Share application form which indicated the detailed address for communication and PAN no. including the cheque details mentioning cheque no., name of bank, date of issue etc. (Pg.42 of the PB)
 - iii. Acknowledgement of the return of income and IT particulars. (Pg.45 to 47 of the PB).
 - iv. Copy of audited accounts of M/s. Sakshi Barter Pvt. Ltd. (Pg.79 to 105 of the PB).

The AO has merely doubted the genuineness of the share application money received without verifying any of the evidences and other material which had been placed on record in support of the aforesaid transaction. Taking into consideration, the returned income and selective notings in the bank statement of M/s. Sakshi Barter Pvt. Ltd., the AO has reached a conclusion that the transaction is not genuine. At this stage, attention is drawn to the audited accounts of M/s. Sakshi Barter Pvt. Ltd. The perusal of the same would reveal that it is enjoying share capital and free reserves to the extent of Rs.6.42 crores. These amounts have come to be invested by way of loans and advances and other noncurrent investments. It would also be worthwhile to note that the share applicant company has not taken any loans and advances during the

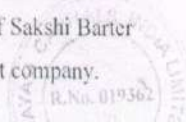


4

year under consideration for sourcing the share investment and has in fact utilized its own funds for subscribing to the share capital of the appellant company. All these facts have been conveniently ignored by the AO while assailing the financial position of the company and its capacity to make investment in the company.

6.1 The AO has cast doubts about the genuineness of M/s. Sakshi Barter Pvt. Ltd. and stated it to be an entry operator or a shell company. However, these are only doubts and suspicions of the AO and doubts and suspicion by themselves do not constitute evidences. The AO has to bring some material or evidence on record on the basis of which he can state with conviction that M/s. Sakshi Barter Pvt. Ltd. is a shell company or an entry operator. In fact, merely doubting the transaction and terming the lender as a shell company without any basis would not survive the test of law. The AO has not identified the source or any other information on the basis of which he has reached a conclusion that M/s. Sakshi Barter Pvt. Ltd. is an entry operator or a shell company. These are the personal views of the AO which are not backed or supported with any evidence. In fact, all evidences establishes the genuineness & creditworthiness of the transactions as have been furnished by the appellant and which have not been disproved or established to be incorrect or false by the AO. It is not the case of the AO that independent inquiries have been conducted with regards the transaction with Sakshi Barter Pvt. Ltd. which have revealed that the transactions are not genuine.

6.2 The AO has also referred to the bank account no. 372001010036736 from which funds have been transferred to M/s. Sakshi Barter Pvt. Ltd. These funds have further been introduced as share application money in the appellant company and the AO has also stated that the appellant company has thereafter transferred these funds to the same bank account no. 372001010036736. The AO has merely narrated the trail of transactions but not established how such transactions are not genuine. It is not the case of the AO that cash has been introduced in a particular bank account belonging to the assessee and which has further been routed through Sakshi Barter into the accounts of the assessee company. It is also not the case of the AO that undisclosed income of the appellant company has been reintroduced in the books of Sakshi Barter Pvt. Ltd. which has further been introduced in the books of the appellant company.



6.3 At this stage we are placing on record the following documents of Innovative Infra Plus India Ltd. (bank account no. 372001010036736) to establish the genuineness and creditworthiness of the transaction:

- i. Copy of audited accounts (Pg.114 to 135 of the PB),
- ii. Copy of ITR and other particulars (Pg.110 to 113 of the PB),
- iii. Bank statement of the aforesaid company (Pg.136 to 155 of the PB),
- iv. Copy of account/confirmation of M/s. Sakshi Barter Pvt. Ltd. (Pg.106 to 109 of the PB)

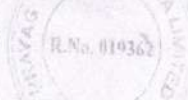
From the perusal of the accounts it would be revealed that M/s. Sakshi Barter Pvt. Ltd. had given loans in the earlier years to Innovative Infra Plus India Ltd. Since they wanted to make a share application in the assessee company the loan had come to be recalled. This amount came to be deposited in their bank accounts (Sakshi Barter Pvt. Ltd.) and which was utilized for making share application money to the appellant company. Therefore, the appellant company has not only explained the source of share application money i.e. being received from M/s. Sakshi Barter Pvt. Ltd. but has also gone one step further and explained the source of source and origin of origin of such share application money i.e. recalling of the loan granted by Sakshi Barter from Innovative Infra Plus India Ltd. Further, all evidences of genuineness and creditworthiness of transaction visavis Innovative Infra Plus Ltd. has also been placed on record and the trail of funds is also explained.

6.4 It is a trite and settled position of law that the appellant is not under any obligation to explain the source of source and origin of origin of the cash credit. Reliance is also placed on the following judicial pronouncements in support of our contention:

Murlidhar Lahorimal v CIT (2006) 280 ITR 512 (Guj.)

Section 68 requires that there has to be a credit in the books maintained by the assessee during the previous year; and the assessee offers no explanation about the nature and source of such credit; or the explanation offered by the assessee is not in the opinion of the assessing authority, satisfactory, then the sum so credited may be charged to tax as income of the assessee of the previous year. [Para 10]

As section 68 denotes, once there is a credit in the books maintained by the assessee, the primary onus is on the assessee, namely, to offer an explanation as to the nature and source of the credit. An assessee can be asked to prove the source of credit in books, but cannot be asked to prove the source of the source. [Para 11]



S. Hastimal v CIT (1963) 49 ITR 273 (Mad.)

Section 4 of the Income-tax Act, 1961 [Corresponding to section 3 of the Indian Income-tax Act, 1922] – Income – Chargeable as – Assessment year 1948-49 – Assessee was partner in a firm which started its business on 7-5-1947 said firm was dissolved in 1952 – In course of firm's assessment ITO found that assessee had contributed certain capital during relevant accounting year to aforesaid firm – Assessee explained that he borrowed aforesaid amount from one 'V' and obtained bank draft, that he cashed this draft and on 26-7-1947 obtained loan from bank against deposit of aforesaid amount and paid money to aforesaid firm – ITO found that bank draft enclosed by assessee was not given to him by 'V' but by 'G' who was stated by assessee to be agent of 'V' – ITO was unable to contact either 'V' or 'G' as their existence could not be located – He, therefore, rejected explanation of assessee and initiated proceedings under section 34 of 1922 Act in 1957 for relevant assessment and assessed said amount as income of assessee – Whether assessee could not have earned aforesaid amount from business between 7-5-1947 and 26-7-1947 and, therefore, his version that he borrowed money and out of that money he contributed capital seemed to be true – Held, yes – Whether, thus, assessee had been able to point out a source for sum in question and this could not refuted by a mere steady disability on part of department – Held, yes – Whether after lapse of ten years assessee should not be placed upon rack and called upon to explain not merely origin and source of his capital contribution but origin of origin and source of source as well – Held, yes – Whether, therefore, it could not be said that sum credited to capital account of assessee with firm represented income from undisclosed sources – Held, yes

At the outset it is submitted that the appellant company has furnished cogent and reliable evidences not only with the share application money received from Sakshi Barter Pvt. Ltd. but has also placed on record the source from where Sakshir Barter has made the share application. Therefore, even though under no obligation the source of source and origin of origin have been explained.

- 6.5 Apart from the above where the assessee, furnished cogent and reliable evidences in support of the share application money taken as has been admitted by the AO, the onus which has been cast upon the appellant to establish the genuineness and creditworthiness of the transaction shifts upon the revenue. It is for the Revenue to

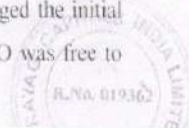
7

examine these evidences and reach a logical conclusion and point out why the evidences so furnished are not acceptable. Merely rejecting evidences without pointing out how the same are considered unreliable is not justifiable. In fact, the onus cast upon the appellant to establish the genuineness and creditworthiness of the cash credit has been duly discharged. Once all the evidences have been placed on record and no doubtful feature has been pointed out cannot be the reason for treating the same as unexplained cash credit. Infact, the AO has to bring some material or other evidence on record which establishes beyond doubt, the genuineness of the transactions. There is abject failure on the part of the AO to furnish any evidence or bring any other material on record by which the transaction can be questioned or doubted. Reliance is placed on the following judicial pronouncements in support of our contention:

Mod Creations (P) Ltd. (2013) 354 ITR 282 (Del.)

Section 68 of the Income-tax Act, 1961 - Cash credits - Assessment year 2002-03 - During relevant assessment year, assessee-company had raised unsecured loans from five persons who were its directors and shareholders - Payments were made through banking channels - During assessment proceedings, assessee furnished income-tax returns and bank statements of said creditors along with their affidavits stating therein source of funds which were used in lending amounts to assessee - Assessing Officer, however, held that both, genuineness of transactions as also creditworthiness of creditors remained unexplained and added amount of aforesaid credits to assessee's income - Whether, on facts, assessee had discharged initial onus placed on it and if revenue still had a doubt with regard to genuineness of transactions in issue or as regards creditworthiness of creditors, it would have had to discharge onus which had shifted on to it - Held, yes - Whether no such exercise having been undertaken by revenue authorities, addition under section 68 in hands of assessee was unjustified - Held, yes [In favour of assessee]

Even in the case of the appellant company complete evidences establishing the identity, creditworthiness and genuineness of transaction have been furnished of Sakshi Barter Pvt. Ltd. These evidences have not been discredited by the AO. During the appellate proceedings the evidence of source of source and origin of origin of the cash credit have been furnished. The appellant has duly discharged the initial onus placed on it and if there was any doubt or suspicion then the AO was free to



conduct his independent inquiries. The AO had chosen not to conduct inquiries by itself is suggestive of the fact that the credibility of the evidences were acceptable.

CIT v Jauharimal Goel (2008) 296 ITR 263 (All.)

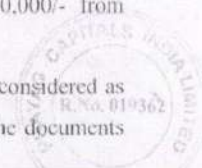
Section 68, read with section 69, of the Income-tax Act, 1961 - Cash credits - Assessment year 1987-88 - Whether section 68 applies when an amount is found deposited in books of account of assessee and not in third party - Held, yes - Whether assessee cannot be asked to prove source of source or origin of origin of a deposit - Held, yes - In books of account of assessee, certain deposits were found credited in name of his two daughters - Assessee explained that money was deposited by his daughters after withdrawing same from their bank accounts and that they had been assessed to tax under Amnesty Scheme - Assessing authority added said amounts as income of assessee under section 68 holding that he had introduced his black money by filing voluntary returns of his daughters - Tribunal, however, deleted addition on finding that assessee had discharged his burden in proving source of money - Whether there was any error in order of Tribunal - Held, no

Even in the case of the appellant company not only the credibility of cash credit from Sakshi Barter has been established beyond doubt and the AO has not brought any material on record to establish otherwise but even the source of source and origin of origin has been established beyond doubt.

7. The 4th ground of appeal is with regards the making of addition of Rs.1,01,80,000/- on account of income from undisclosed sources. The relevant discussion has been made on page 2 and 3 of the assessment order.

7.1 The AO has stated that the appellant had not furnished the identity not the creditworthiness of the persons who had made the deposit of Rs.1,01,80,000/- (1,71,80,000 - 70,00,000) against the share capital. It has therefore been alleged that the appellant had failed to prove all the three ingredients of the cash credits i.e. identity of depositors, creditworthiness of the depositors and genuineness of the deposit which has led to the making of an addition of Rs.1,01,80,000/- from undisclosed sources.

8. At the outset it is submitted that the amount of Rs.1,01,80,000/- being considered as alleged unexplained cash credits the appellant company is furnishing the documents



as mentioned therein to establish the genuineness and creditworthiness of the transaction:

Name of the share capital subscriber	Amount	Evidences / material furnished
Ilesh M. Nikhare	850000	<p>At Assessment Stage: Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to him</p> <p>At the appellate stage Aadhar & PAN card & Acknowledgement of return of income (Pg.156 to 158 of PB)</p>
Kunal Doshi	810000	<p>At the Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to him.</p> <p>At the appellate stage Presently the shares allotted to Kunal Doshi have been transferred by him and do not exist in his name. Confirmation of shares transferred by the Co., acknowledgement of return of income and PAN card are placed on pg.159 to 160 & 165 of PB.</p>
Lovely Doshi	690000	<p>At the Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to her.</p> <p>At the appellate stage Presently the shares allotted to Lovely Doshi have been transferred by her do not exist in her name. Confirmation of Lovely Doshi with regards transfer of her shares, company records indicating shares transferred, Acknowledgement of return of income, of Lovely Doshi including PAN & Election card are attached.(Pg.161 to 165 of PB)</p>
Raghuvendra Kulkarni	100000	<p>At the Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed.</p>

		<p>Share application form ROC compliance of the shares allotted to him.</p> <p>At the appellate stage</p> <p>Voter ID CARD & PAN card establishing the IT particulars. (Pg.166 to 168 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Sonal Shah	600000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to her.</p> <p>At the appellate stage</p> <p>Aadhar & PAN card establishing the IT particulars (Pg.169 & 170 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Bhoomi Shah	600000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to her.</p> <p>At the appellate stage</p> <p>PAN card establishing the IT particulars. (Pg.171 of PB) The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Snehan Dave	500000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to him.</p> <p>At the Appellate stage</p> <p>Copy of acknowledgement of return of income, passport & PAN card establishing the IT particulars. (Pg.172 to 175 of PB) The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Ripal Dave	500000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for</p>

		<p>providing evidences of share capital subscribed. Share application form ROC compliance of the share allotted to him.</p> <p>At the appellate stage</p> <p>Aadhar & PAN card establishing the IT particulars.(Pg.176 to 178 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Snehan Dave HUF	300000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the share allotted to him.</p> <p>At the appellate stage</p> <p>PAN card establishing the IT particulars.(Pg.179 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Sonal C. Patel	850000	<p>At the Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to her.</p> <p>At the appellate stage</p> <p>Copy of the acknowledgement of return of income is also furnished. Election voter ID & PAN card establishing the IT particulars are enclosed.(Pg.180 to 183 of PB) The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Awani K. Patel	860000	<p>Assessment Stage</p> <p>Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to her.</p> <p>Appeal stage</p> <p>Copy of screen shot of PAN from the website of Income Tax portal. (Pg.184 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist. It has</p>

		come to our information that the share applicant has migrated outside India.
Bhupendra Shah	850000	<p>Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted to him.</p> <p>At the appellate stage PAN card establishing the IT particulars (Pg.185 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist. The assessee is a senior citizen and does not have any taxable income.</p>
Ashok Bhadoriya	910000	<p>Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted.</p> <p>At the appellate stage Copy of the acknowledgement of the ROI is furnished. Aadhar & PAN card establishing the IT particulars are enclosed (Pg.186 to 189 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Deshraj Jha	910000	<p>Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted.</p> <p>At the appellate stage Copy of the acknowledgement of the ROI is furnished. Aadhar & PAN card establishing the IT particulars are enclosed (Pg.190 to 193 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.</p>
Chandresh D. Patel	8,50,000	<p>Assessment Stage Letter written to depositors /share applicants for providing evidences of share capital subscribed. Share application form ROC compliance of the shares allotted.</p> <p>At the appellate stage</p>



		Copy of the acknowledgement of the ROI is furnished. Driving License & PAN card establishing the IT particulars are enclosed (Pg.194 to 196 of PB). The address is mentioned in the share application money for undertaking inquiry if any doubts persist.
--	--	--

From the above it would be established beyond doubt that the share application money received by the appellant is genuine and the creditworthiness and genuineness of the transaction is established beyond doubt. All the transactions are undertaken with identifiable persons. The transactions have been undertaken through normal banking channels. In certain cases the share applicants have further transferred their share holding also.

- 8.1 During the course of assessment proceedings it was pointed out that there was a change in management and the registered office of the company was also being transferred as per the procedure laid under the Companies Act. Evidences of the procedure adopted for shifting of registered office as also advertisement given in prominent newspaper with regards the proposed transfer of registered office has also been placed on record. This fact has also been indicated in the statement of facts accompanying the appeal memo filed. Efforts have been made by the appellant company to contact various share applicants and obtain evidences of the investment made by them in the share capital of the appellant company. Letters were also written to the share applicants calling for such evidences from them and copies of the letters addressed to the share applicants/holders were also furnished during the course of assessment proceedings. Apart from that, the appellant company had placed on record share application forms which included the names, detailed postal address and other contact details, details of cheques including date, PAN, amount etc. The share application forms had been duly signed which signifies the confirmation to the effect of the share application money having been invested by them. Therefore, the AO had been furnished all such information by which he could have easily contacted the concerned parties and obtained the evidences directly if he was not satisfied. Efforts were also made by the appellant company to obtain all these details independently and evidence to this effect had also been placed on record. Subsequently, also we have contacted various share applicants and obtained necessary evidences in support of the share application money received. These are being furnished by way of additional

14

evidences since such evidences were not in possession of the appellant at that relevant point of time. It is therefore requested that these evidences may kindly be taken on record. A separate application for admission of additional evidences u/r 46A is also filed. The admission of such evidences will lead to the conclusion that the share application money received is genuine and deserves to be accepted.

In view of the above facts and circumstances and the various judicial pronouncements relied upon it is requested that the addition made by the AO be deleted and the returned income of the appellant company be accepted.

4.1 He also placed reliance on oral submissions/further written submissions made by the assessee during appellate proceedings in the office of the learned CIT(A), which have been included in the impugned order of the learned CIT(A), and is reproduced below for the ease of reference:

was given. After going through the affidavit the additional evidences are admitted.

II. STATEMENT OF FACTS

1. Appellant company is a Limited, unlisted company incorporated under the Companies Act, 1956 with the Registrar of companies, Kanpur, on 18.01.1996 bearing certificate of registration no. U65921UP1996PLC019362. The main object of the business of the company was to carry on the business of financial activities. The registered office of the company is situated at 117, Saraswati Nagar, Gali No. 2, Teachers Colony, Firozabad Firozabad UP 283203. Mr Madan mohan Jaiswal, Dakshesh R Shah and Hardik K Shah Directors of the company managing the affairs of the company on full time basis. 2. Return of the Appellant Company for above referred assessment year was filed on 30.09.2015 showing total income of Rs 1110050. The said return of income was processed u/s 143(1)(a) of the Income Tax Act without any adjustment in the returned income 3. The case was selected for scrutiny under CASS to examine the issue on sales turnover mismatch and

increase in capital of the company to the tune of Rs 17180000 during the year under consideration. Appellant was asked to submit various details/ information which were submitted to assessing officer vide letter dated 22.11.2017 which was acknowledged and asked further details vide letter dated 07.12.2017 and appellant submitted reply vide letter dated 13.12.2017 and submitted information regarding increase in share capital by issuing further equity shares as per list submitted along with share application from having full details of applicants/allottees. Further we requested respective allottees to furnish their details ie ITR copy, PAN, Bank statement etc. and appellant received details of one of the allottee ie Sajshi Bartyer Private Limited along with full details which was submitted to learned assessing officer during the course of assessment proceeding and learned assessing officer made addition to that extent without appreciating the facts of the case. Copies of share application received, Resolution passed in the meeting of the board of directors regarding allotment of shares and copy of return filed in the office of MCA / RoC under the Companies Act.(Annexure-1). It is also submitted that all the payments were received by account payee cheques from their respective bank accounts. Appellant had furnished full details of such share holders/allottees but learned assessing officer failed to discharge the obligation shifted on him from appellant. Addition made by learned assessing officer under prejudice, without appreciating the facts. It was under obligation to have inquire/confirmation for such deposit / share capital money when full details of whereabouts was on record during the course of assessment proceeding. It is submitted that appellant is a company registered under Companies Act and under obligation to audit its accounts and to file income tax return under the applicable regulation. 4. It is submitted before your honour that appellant had submitted level best details to learned assessing officer in view of their letter as registered office of the company shifted and procedure under companies act are under process which can be peruse from cutting of news paper for public notice for shifting of registered office of the company. Annexure-2 5. We may draw your kind attention to Table-B forming part of resolution of board of directors wherein full details of allottees ie Name, Address, PAN details

and number of shares allotted were given to learned assessing officer during the course of assessment proceeding and hence full details were on record to AO. Annexure-3. 6. With reference to discussion in assessment order regarding amount received from Sakshi Barter Private Limited that amount was paid by Prayag Capital India Limited to Sakshi on account of and transaction occurred were genuine and during the course of business, duly recorded in the Books legitimately and hence there is no question of treating the same as not genuine transactions. 7. It is submitted that appellant had furnished identity and credit worthiness was submitted by way of full details of applicants and their bank details as all payments were received by account payee cheques only. Please note that bank verifies KYC and under obligation to have full details including PAN, Residnece proof, Aadhar card etc otherwise banking account operation is not possible. Hence parties from whom received amount by account payee cheques are genuine having identity and also creditworthiness. 8. It was also open to learned assessing officer to call for information from respective parties as obligation shifted on him for doing the necessary at their end. And hence one cannot conclude that parties are bogus or not genuine. 9. Accordingly, income was assessed by making addition/disallowances to the tune of Rs. 17180000 as under. Returned income 1110050 Addition on account of income from undisclosed source 7000000 Addition on account of income from undisclosed source 10180000 17180000 Assessed income 18290050. Demand raised for RS 7526890 including interest u/s 234B and C of the Income Tax Act. 11. Penalty proceeding imitated u/s 271(1)(c) of the Income Tax Act.

III. GROUNDS OF APPEAL

- 1.0 Your appellant craves to add, alter, amend all or any of the grounds of appeal. The learned assessing officer has grossly erred in point of law and facts.
2. In law and in the facts and circumstances of the appellant s case, the learned assessing officer has grossly passing the assessment order with out appreciating the facts and circumstances of the appellant s case.
3. In law and in the facts and circumstances of the appellant s case, the learned assessing officer has grossly erred in making addition of Rs 70,00,000 on account of income from undisclosed sources.
4. In law and in the facts and circumstances of the appellant s case, the learned assessing officer has grossly erred in making addition of Rs 1,01,80,000 on account of income from undisclosed sources.
5. In law and in the facts and circumstances of the appellant s case, the learned assessing officer has grossly erred in initiating penalty proceeding u/s 271(1)(c) of the Income Tax Act. Your appellant craves to alter, amend, and with draw of any ground/s of appeal.

IV. FACTS IN DETAIL

(1) It is submitted that Shakshi Barter Private Limited company is a company registered under companies act bearing CIN U51909GJ2011PTC077317 on 06.09.2011 having its registered office situated at 201, Chiranjiv Complex, Near Mahalaxmi Five Road, Mahalaxmi Road, Ahmedabad GJ 380007 IN and business affairs of the company managed by its directors Mr Ashwin Shantilal Trivedi and Jayesh Narendrakumar Shah on full time basis. We may draw your kind attention to official site on Company Law Affairs, government of India wherein it indicates active status of the company and duly complied under the relevant act till date and hence question of assuming Shell Company does not arise.

2) Shakshi Barter Private Limited also having regular bank accounts and your owner are aware that company is under obligation to get accounts audited under the Act. Even Sakshi Barter Private Limited is having net worth of Rs 600 Lacs plus hence question of assuming shell company does not arise. A copy of Master Data appearing on web site of Government of India, Ministry of Company Law affairs attached herewith for your kind perusal. **Annexure-5.**

3) It is also submitted that said Sakshi Barter Private limited also confirmed the investment made and also justify its source of investment with its creditworthiness and capacity to invest is justified beyond doubt. We attach herewith confirmation received from said Sakshi Barter Private Limited along with its audited financials for your ready reference. **Annexure-6.**

4) It is submitted before your honour that Sakshi Barter Private limited received from Innovative Infraplus India Limited having bank account bearing no-372001010036736 with Union Bank of India. It is submitted that said Innovative Infraplus India Limited is a Public Company registered under companies Act bearing CIN U45201GJ2011PLC067537 having its registered office situated at 516, Pinnacle Business Park, Opp. Royal Orchid Flats, Corporate Road, Ahmedabad Ahmedabad GJ 380029.

5) It is submitted before your honour that banking transactions occurred during the course of respective companies with whom appellatant company received share application during the course of business never be doubted under prejudice in the absence of any evidences/ information or oven without any inquiry while making the addition during the course of assessment proceeding.

In view of the above it is submitted that amount received from Sakshi Barter Private limited fully disclosed and explained with documentary evidence and hence allegation made by learned assessing officer as undisclosed sources not justified.

The learned assessing officer has made addition of Rs 1,01,80,000/- holding that appellatant failed to prove all the three ingredients ie., identity, creditworthiness and genuineness of parties from whom share application money received and assumed to be a sham/shell company and addition made as income from the undisclosed sources. In this connection we have to submit as under for your kind consideration.

6) It is submitted before your honour that appellant increased its paid up capital to Rs 2,00,00,000/- in view of statutory compliance as directed by Reserve Bank of India vide its letter. A copy thereof also submitted for your kind perusal, **Annexure-7**. We may draw your kind attention to various statutory compliances which is under obligation on the part of the appellant under various regulations i.e., Income Tax, Company law, RBI Act etc., as may be applicable from time to time and appellant complied accordingly and no such Irregularity occurred. It is also submitted that appellant company also professionally managed having good creditworthiness of the promoters.

7) We may draw your kind attention to relevant provision of the Income Tax Act wherein addition made on account of share application in the hands of Company to the extent of share capital raised by way of issuing shares is not as per Act. As submitted appellant raised its capital by inviting share applications from the applicants in prescribed share application along with KYC norms and under compliance of the companies Act. On receiving application along with share application money from subscribers, appellant followed statutory compliance i.e., Board meeting for allotment of shares, filing returns of allotment to MCA, Govt of India, issuing share certificates and updation of members register to that extent and hence appellant in nowhere made any lapse neither statutorily nor verification / KYC guidelines are concerned and hence allotment of shares made genuinely, under compliances of applicable statute and disclosing full facts in audited financial statements for the year ended and disclosing same in income tax return while filing income tax return under consideration. Hence, in view of this, it is submitted before your honour that addition made by learned assessing officer under assumption is wrong requires for deletion in view of facts as submitted before your honour. Copies of audited financial for the year 2014-15 along with income tax return filed are submitted herewith. We also submit herewith resolution passed in the meeting of the board of directors for allotment of shares and other papers for your ready reference. From the perusal of these documents your good self will peruse that shares were allotted to parties, as per list attached, having name, address and PAN etc., are there with established financial transactions supported by our bank statements etc. All these documents are submitted herewith, **Annexure-8**.

8) It is further submitted before your honour that appellant justified for share capital money received by way of increase in share capital to the tune of Rs 1,71,80,000/- having full facts, records, papers, banking transactions, name, address and PAN status of the allottees of shares and hence all the three ingredients i.e., Identity, Creditworthiness and genuineness are established beyond doubt and hence addition made by the learned assessing officer under assumption mere surmise requires to delete.

9) It is submitted before your honour that learned assessing officer has to initiate reasonable inquiry and it is very clear that Section 68 does not absolve the responsibility of the Assessing Officer to prove that the cash credits constitute the income of the assessee. We may draw your kind attention in the case of **Supreme Court: CIT vs. Lovely Exports Pvt. Ltd. (2008) (216 CTR 195)** wherein their lordships held that no amount could be taxed in the hands of assessee company where names and address of shareholders are given to AO.

MACCP7782K- PRAYAG CAPITALS INDIA LIMITED
A.Y. 2015-16
ITBANFAC/S/250/2023-24/1063100023/04

10) We may also draw your kind attention in case of Hon'ble Delhi High Court in the case of CIT vs. Shiv Dhooti Pearls & Investment Ltd., (2016) 237 Taxman 104 (Del.) in which it was held as under:

"In terms of section 68, assessee is liable to disclose only source(s) from where he has himself received credit and it is not burden of assessee to show source(s) of his creditor nor is it burden of assessee to prove creditworthiness of source(s) of sub-creditors."

Judgment of Hon'ble jurisdictional Delhi High Court in the case of **CIT vs. Gangeshwari Metal (P.) Ltd., (2013) 30 taxmann.com 328 (Del.)** in which it was held as under:

"Where assessee in support of transaction of receipt of share application money brought on record various documents such as names and addresses of share applicants, etc., no addition could be made in respect of same under section 68."

And submitted that in the case of **CIT vs. Gangeshwari Metal (P.) Ltd.**, the Hon'ble jurisdictional Delhi High Court considered its decision in the case of Nova Promoters Finlease Pvt. Ltd., (supra), relied upon by the Ld. D.R. He has, therefore, submitted that order of the Ld. CIT (A) may be confirmed and appeal of the Revenue may be dismissed.

4.2 In response to a query from the Bench, the learned A.R. for the assessee submitted that the assessee had no objection to admission of additional evidence filed by learned D.R. in the course of appellate proceedings in Income Tax Appellate Tribunal.

5. Specifically, as regards the aforesaid addition amounting to Rs.70,00,000/-, received by the assessee from M/s Sakshi Barter Pvt. Ltd., the learned A.R. for the assessee took us through the paper book to show that the amount of Rs.70,00,000/- was routed through the bank account of M/s Sakshi Barter Pvt. Ltd. He also drew our attention to bank account of the assessee and M/s Sakshi Barter Pvt. Ltd. to establish this point. He further drew our attention to bank account of M/s Infraplus India Pvt. Ltd. The learned A.R. for the assessee took us through the detailed bank account of M/s Sakshi Barter Pvt. Ltd. to establish that there was gradual accretion

of fund in the bank account of M/s Infraplus India Pvt. Ltd. through steady process of multiple transactions with various parties during the preceding period from time to time. He also submitted that the assessee, M/s Sakshi Barter Pvt. Ltd., and M/s Infraplus India Pvt. Ltd. are entities of the same group. He furthermore submitted that addition in share capital of the assessee by way of capital contribution from M/s Sakshi Barter Pvt. Ltd. was a group decision as part of overall corporate strategy of the group and transactions within the groups were organized in a manner that M/s Sakshi Barter Pvt. Ltd. as well as M/s Infraplus India Pvt. Ltd. had sufficient funds for effecting the aforesaid transactions. The learned A.R. for the assessee contended that the impugned order of the learned CIT(A) and the assessment order passed by the Assessing Officer to the effect that the M/s Sakshi Barter Pvt. Ltd. was entry provider/shell company and capital contribution of the aforesaid amount of Rs.70,00,000/- by M/s Sakshi Barter Pvt. Ltd. was perverse finding and contrary to materials on record. He submitted that the assessee, M/s Sakshi Barter Pvt. Ltd. and M/s Infraplus India Pvt. Ltd. are registered companies, which filed return regularly and therefore, the identity was fully established. Further he submitted that the M/s Sakshi Barter Pvt. Ltd. had received funds from M/s Infraplus India Pvt. Ltd. (as discussed earlier) and M/s Infraplus India Pvt. Ltd. had gradually accumulated sufficient funds in order to transfer the aforesaid amount of Rs.70,00,000/- to M/s Sakshi Barter Pvt. Ltd. Thus, the capacity of M/s Sakshi Barter Pvt. Ltd. was also fully established. Further it was the bonafide group decision as part of over all strategy of the group which resulted in M/s Sakshi Barter Pvt. Ltd. transferring funds of Rs.70,00,000/- to the assessee as capital contribution. Thus, he submitted, all the three ingredients, namely identity, capacity and genuineness were established and the addition of aforesaid amount of Rs.70,00,000/- was contrary to evidence

and material on record. He submitted that the Assessing Officer be directed to delete this addition.

5.1 As regards the aforesaid addition of Rs.56,80,000/-, the learned A.R. for the assessee submitted that the aforesaid amount of Rs.56,80,000/- was the sum total of small amounts received from a number of individuals/HUF. He placed further reliance on the additional evidences filed by learned D.R. for Revenue for the contention that the amounts contributed by the aforesaid persons were consistent with their financial capacity and no adverse view could be taken considering that these were small amounts.

5.2 For the aforesaid addition of Rs.70,00,000/- as well as for the aforesaid addition of Rs.56,80,000/-, the learned A.R. for the assessee once again placed heavy reliance on the written submissions filed during appellate proceedings in the office of the learned CIT(A).

6. Learned Sr. D.R. placed reliance on the written submissions [already reproduced in foregoing paragraph (3.2) of this order]. He also highlighted that the assessee did not make compliance with notices issued by the Assessing Officer in the earlier part of the assessment proceedings which led to levy of non-compliance penalty u/s 271(1)(b) of the Act, amounting to Rs.10,000/-. It was only after final show cause notice issued by the Assessing Officer that the assessee filed submissions during assessment proceedings; he submitted. He also contended that M/s Sakshi Barter Pvt. Ltd. did not have adequate funds of its own to make capital contribution and had instead taken the funds from Infraplus India Pvt. Ltd. He also contended that merely because a transaction is routed through bank account need, it not be treated as a genuine transaction. For this proposition, he placed reliance on the various case laws, which were

included in the paper book filed from the side of Revenue [already reproduced in foregoing paragraph (3.2) of this order.]

6.1 In rejoinder, the learned A.R. for the assessee submitted that the assessment order had been passed u/s 143(3) of the Act. It was not a best judgment assessment order u/s 144 of the Act. Therefore, he submitted, a logical inference arises that the Assessing Officer was satisfied with the compliance made to the notices issued during the assessment proceedings. Further he submitted that the learned CIT(A) had admitted additional evidence within the provisions of Rule 46A of the I.T. Rules in accordance with law, which are now part of record and should be given full consideration. He also submitted that the learned CIT(A) had obtained remand report from the Assessing Officer in respect of additional evidence filed during the appellate proceedings before the learned CIT(A). Therefore, Revenue side had got full opportunity and there is no occasion at present for Revenue to hold any grievance against the assessee regarding lack of compliance.

7. We have heard both sides, We have perused the materials on record. We are of the view that accumulation of funds by Infraplus India Pvt. Ltd. through steady transactions with numerous parties, is, as submitted by learned A.R. for assessee, adequately explained. Further, the group decision that it should be M/s Sakshi Barter Pvt. Ltd. to make capital contribution in the assessee company is a bonafide decision as there is no material on record to the contrary to even remotely suggest that there was any malafide purpose behind it. Thus, the act of M/s Sakshi Barter Pvt. Ltd. taking funds from Infraplus India Pvt. Ltd. for the purpose of making capital contribution in the assessee company is treated as a genuine transaction. Further, the capacity of M/s Sakshi Barter Pvt. Ltd. to make capital

contribution is also established in view of transaction of Infraplus India Pvt. Ltd. with M/s Sakshi Barter Pvt. Ltd. and with other group entities and persons. M/s Sakshi Barter Pvt. Ltd. is a registered company and regular income tax assessee and therefore, the identity of M/s Sakshi Barter Pvt. Ltd. is also established. Thus, all the three ingredients, namely identity, capacity and genuineness are established. Accordingly, we hold that the aforesaid addition of Rs.70,00,000/- is to be deleted. We direct the Assessing Officer to delete the aforesaid addition of Rs.70,00,000/-. As regards the aforesaid addition of Rs.56,80,000/-, we have considered the rival submissions and material on record. It is not in dispute that the aforesaid amount has been received by the assessee from a number of individual persons/HUF [already mentioned in the submissions of learned A.R. for the assessee in foregoing paragraph (5.1) of this order]. Moreover, it is also found that the amounts received from individual persons/HUF are small amounts which are consistent with financial capacity of the individual persons/HUF. We are of the view that no adverse view should be taken having regard to the submissions made by the learned A.R. for the assessee during appellate proceedings in the office of the learned CIT(A) and the submissions made in the course of appellate proceedings in Income Tax Appellate Tribunal. Therefore, the Assessing Officer is directed to delete the aforesaid amount of Rs.56,80,000/-.

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

(Order pronounced in the open court on 29/07/2025)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:29/07/2025

*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T., Allahabad