

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1084/Del/2025  
Assessment Year: 2012-13

M/s. Viraj Software Pvt. Ltd., 28, Raja Garden, New Delhi	<b>Vs.</b>	Income Tax Officer, Ward-26(4), New Delhi
<b>PAN: AACCV5229M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	None
Department by	Ms. Ankush Kalra, Sr. DR

Date of hearing	03.12.2025
Date of pronouncement	03.12.2025

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This assessee's appeal for assessment year 2012-13, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2023-24/1055999284(1), dated 12.09.2023 involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Case called twice. None appears at the assessee's behest. Nor the assessee had put in appearance on the earlier hearing instances as well. We thus proceed *ex-parte* against the assessee/appellant.

2. Delay of 453days in filing of the assessee's instant appeal is condoned in larger interest of justice and in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. It next emerges with the able assistance coming from the Revenue side that the CIT(A) has affirmed the Assessing Officer's action, inter alia, initiated section 148/147 proceedings against the assessee thereby treating the amount of Rs.50 lakhs as unexplained credits followed commission expenditure @ 2%; coming to Rs. 1 lakh as unexplained expenditure vide following detailed lower appellate discussion: -

*"7. Decision*

*7. I have carefully examined the submission of the appellant as reproduced in the preceding paragraph and the facts emanating from the A.O.'s order, wherein addition has been made.*

*7.1 The assessee company filed return of its income on 30.03.2013 declaring loss of Rs. 5,515/-. Thereafter the same was processed u/s 143(1) on 12.05.2013. The case of the assessee, VIRAJ SOFTWARE PRIVATE LIMITED was reopened on the basis of information received from the Asst. Director of Income Tax (Investigation), Unit-6(3), New Delhi. The ADIT, Investigation Unit-6(3), New Delhi carried out a detailed investigation in the case of various concerns which were controlled and operated by one known accommodation entry provider Sh. Himanshu Verma. During the course of investigation, it was found that one of the beneficiaries of accommodation entries from the concerns of Shri. Himanshu Verma was the assessee company who had obtained funds in the garb of share application money from the shell company, M/s Rising Portfolio India Private Limited controlled and*

managed by Shri. Verma. The assessee company had received share application money through accommodation entries amounting to Rs. 50,00,000/- from shell company of Sh. Himanshu Verma during the relevant year. In order to examine the genuineness of the source of funds received as share application money by the assessee company, the case was reopened by issuing a notice u/s 148 dated 29.03.2019. In response, return of income was filed on 24.07.2019. Thereafter, notice u/s 143(2) dtd. 04.09.2019 and notices u/s. 142(1) of Act along with questionnaire were issued on 10.07.2019, 04.09.2019, 07.10.2019, 16.10.2019 & 07.11.2019 requiring the assessee to furnish the details as asked for, but the assessee did not comply. Thereafter, a final show cause notice dated 21.11.2019 was issued to the assessee which also remained non-complied. In the absence of any explanation and details submitted by the assessee, the AO having left with no other option completed the assessment u/s. 144 r.w.s.147 by making an addition of Rs. 50,00,000/- u/s.68 of the Act as unexplained cash credit and an addition of Rs. 1,00,000/- (being 2% of Rs. 50,00,000/-) u/s 69C of the Act as unexplained expenditure in lieu of obtaining accommodation entries from the operator. Aggrieved by the order, the appellant has filed this appeal.

8. Ground No.1 is in respect of challenging the reopening of the case of the assessee u/s 147/148. Therefore, at this stage it is imperative to first decide the issues covered in this ground of appeal.

8.1 Ground No. 1:

8.1.1 This ground relates to challenging the issue of notice u/s. 148 of I.T. Act. Before adjudicating the issues under dispute, it is pertinent to have a look at the statutory provision of income escaping assessment as envisaged under section 147 of IT Act, which stipulate

*"If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):*

*Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:*

*Provided further that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.*

*Explanation 1. Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.*

*Explanation 2 - For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:-*

*1. Where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;*

*1. Where a return of income has been furnished by the assessee but not assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return,*

*1. Where an assessment has been made, but-*

*1. Income chargeable to tax has been underassessed; or*

*2. Such income has been assessed at too low a rate; or*

*3. Such income has been made the subject of excessive relief under this Act, or*

*4. Excessive loss or depreciation allowance or any other allowance under this Act has been cornuted.*

*Explanation 3. For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the Income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148."*

*8.1.2 Hence, considering the above legal provisions before initiating action under section 147 of IT Act, the first and the foremost step is that AO should examine the information in his possession which he is going to rely on, for formation of his belief that income of the assessee has escaped assessment. The information should be specific clear and have nexus with the assessee. Further, the information should be available at the time of reopening of the assessment and not subsequent to the re-opening of the assessment by issuing a notice u/s. 148, 240 ITR (Nagpur) 12 & 311 ITR (P&H) 38. Further, the information should be specific and not general in nature. After the examination of the information, the AO has to form a belief that income has escaped assessment. Again, for formation of the belief the information should be credible and should have a live link and nexus with the belief about escapement of income. The belief is to be formed on the basis of the information available with the AO at that time. He cannot go ahead in re-opening of the assessment, issue a notice and then search for the material. It is also important to note that there should be reasons to form a belief and not reasons to suspect howsoever strong the suspicion, it may be (90 ITR Patna (TM) 90, 104 TTJ(Asr)353). Further, there is another aspect also to formation of the belief and that is the satisfaction should be the own satisfaction of the AO and not the borrowed satisfaction. If the AO re-opens an assessment simply on the basis of satisfaction recorded by some other authority like Sales Tax, Excise or Director Investigation and does not record his own satisfaction re-opening by the assessment has been held as bad. 313 ITR (Raj 231, SLP dismissed (St) 27, 135 ITD (Ahd) (Ahd) 1, 1, 220 220 CTR CTR Mad M 335 & (Raj) 361 & (Del) 531 125 TTJ (Del) 816, 236 CTR (Del) 362. Court in the of ACTT case ACTT Vs. DHARIYA 8.1.3 The Hon'ble Supreme Court in CONSTRUCTION CO. reported in 328 ITR 515 has held that having examined the record, we find that in*

*this case, the department sought reopening of the assessment based on the opinion given by the District Valuation Officer (DVO). The opinion of the DVO per se is not an information for the purposes of reopening assessment under section 147 of the Income Tax Act, 1961. The AO has to apply his mind to the information, if any, collected and must form a belief thereon. In the circumstances, there is not merit in the civil appeal. The department was not entitled to reopen the assessment.*

*8.1.4 After formation of the belief that income has escaped assessment, the next important step is that AO has to record reasons in writing that income has escaped assessment. The reasons should be clear specific and not vague, it should clearly point towards the escaped income and not based on any kind of suspicion, conjunctures and surmises. It is not only mandatory upon the AO to record the reasons but also it is mandatory upon the AO to supply the copy of the same to the assessee after he files his return enabling him to make his case.*

*248 ITR (P&H) 266, 203 CTR (Bom) 232, 258 ITR (Bom) 183, 96 TTJ (Hyd) 832, 106 TTJ(JP) 114, 112 TTJ(Del) 445, 218 CTR (Guj) 53, 114 ITD (Del) 166, 340 ITR (Bom) 66, 350 ITR (Bom) 120, 350 ITR (Guj) 131.*

*It is mandatory upon the AO to record the reasons for re-opening of the assessment, and after filing of the return it is the right of the assessee to obtain the copy of the reasons recorded by the AO. Once this request is made the AO is bound to provide the copy of the reasons recorded within a reasonable time but before starting the reassessment proceedings. After receiving the copy of the reasons recorded the assessee shall within a reasonable time file his objections to the reasons recorded with the AO. It is important to note here that objections must be filed within a reasonable time before the initiation of the reassessment proceedings. In case the assessee files his objections, the objections must be disposed off by the AO by way of speaking order. This procedure was settled by the Hon'ble Apex Court in the famous case of GKN Drive Shaft reported in 259 ITR(SC) 19. The AO gets its power to issue the notice and start the reassessment proceedings from the reasons recorded by him. It is clearly settled by Hon'ble Bombay High Court, in the case of Jet Airways 331 ITR 236, Delhi High Court, in the case of Ranbaxy Laboratories and Punjab & Haryana High Court in the case of Atlas Cycle 180 ITR that, if no addition is made in the assessment order by the Assessing Officer in respect of the escaped income recorded in the reasons of re-opening and the other additions are made in respect of other escaped income, which has no nexus with the reasons recorded then the AO loses his jurisdiction for making reassessment and the assessment order passed by him was treated to be invalid. This judgment was followed and discussed by various Benches of ITAT and the High Court in the following judgements: 108 TTJ(Asr)I, 108 ITD(Agra)115, 239 CTR(Bom)183, 242 CTR(Del)117, 339 ITR (Pat)272, 253 CTR(Guj)321, 258 CTR(Guj)168, 128 TTJ(Mum)514, 217 CTR(Raj)345, 237 CTR(Del)473, 220 CTR(Raj)629, 246 CTR(Chatti)255.*

*8.1.5 In impugned case, the AO has taken into consideration all legal steps before initiating action in terms of section 147/148 of I.T. Act. The reasons for reopening was based on the information received from the ADIT (Inv.) Unit 6(3), New Delhi regarding admittance of one Shri Himanshu Verma in respect of providing accommodation entries to the assessee concern in lieu of cash. In impugned case, the AO was supposed to issue notice by 31.03.2019 which was issued on 29.03.2019 after taking approval from competent authority, which is well within the time. Thereafter notices u/s.143(2)/142(1) were issued which is in accordance with the decision of Hon'ble Supreme Court in the case of Hotel Blue Moon as duly relied upon by the assessee. Copy of reasons recorded along with proforma for obtaining approval of the competent authority was also provided to the assessee. The assessee has not brought on record any cogent material suggesting that notices.*

*u/s.143(2)/142(1) were not issued within the stipulated time. Therefore, having considered entire facts of the case and position of law on this issue, the action of AO is found to be correct as it is based on proper appreciation of facts and following all the conditions as laid down in terms of section 147/148 of I.T. Act. Accordingly, the action of AO is upheld and objection raised through ground of appeal no. 1 is dismissed. As a result, ground of appeal 1 is dismissed.*

*9. Ground No.2 is related to the addition of Rs.50,00,000/- as unexplained cash credit u/s. 68 of the Act.*

*9.1 The fundamental question involved is that whether or not the AO was justified in making the addition of Rs 50,00,000/- as unexplained credit under section 68 in the hands of the assessee, and the most critical thing to be examined in this regard is explanation of the assessee with respect to these credits. There is no, and there cannot be any, dispute on the fundamental legal position that the onus is on the assessee to prove 'bonafides' or 'genuineness' of the share application money credited in his books of accounts. This approach finds support from the scheme of Section 68, which provides that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income tax as the income of that assessee for that previous year. The burden is thus on the assessee to prove the nature and source thereof, to the satisfaction of the Assessing Officer. Everything thus hinges on the explanation given by the assessee and on how acceptable is the explanation so given by the assessee. The next question is as to what the kind of explanation that the assessee is expected to give.*

*9.2 As noted by Hon'ble Delhi High Court, in the context of issuance of share capital and in the case of PCIT Vs Youth Construction Pvt Ltd [(2013)357ITR197 (Del)], "it involves three ingredients, namely, the proof regarding the identity of three applicants, their creditworthiness to purchase the shares and the genuineness of the transaction as a whole".*

*9.3 That is the approach adopted by Hon'ble Courts above all along. In the case of CIT v. United Commercial and Industrial Co (P.) Ltd [1991] 187 ITR 596 (Cal)], Hon'ble Calcutta High Court has held that under the scheme of Section 68" it was necessary for the assessee to prove prima facie the identity of creditors, the capacity of such creditors and lastly the genuineness of transactions".*

*9.4 Similarly, in the case of CIT v. Precision Finance (P.) Ltd [1994] 208 ITR 465 (Cal)], it was observed that "it is for the assessee to prove the identity of creditors, their creditworthiness and genuineness of transactions".*

*9.5 It is thus 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 assessment particulars. The genuineness of the transaction as a whole is thus a very important and critical factor in the examination of explanation of the assessee, as required under section 68, with respect to the share application monies received by an assessee.*

*9.6 It would thus appear that the appellant is not really right in approaching on the basis as if the onus is on the Assessing Officer to prove the alleged money laundering racket an onus that may perhaps be relevant only when the money laundering racket is being prosecuted, but that is not an issue at hand. As far as the issue involved in appeal is concerned, one need only to remain confined to the narrow issue of onus on the assessee to prove 'bonafides' or 'genuineness' of the*

*share application money credited in his books of accounts, and that is the call needs to be taken in the light of facts available on record and the ground realities of the commercial world. While proceeding to deal with the genuineness aspect, it is also important to bear in mind the fact that what is genuine and what is not genuine is a matter of perception based on facts of the case vis-a-vis the ground realities. The facts of the case cannot be considered in isolation from the ground realities.*

*9.7 The main allegation of the AO is that the assessee has received share application money through a pre-meditated plan by involving complex web of shell entities and multiple layering of the transfers from one company to another.*

*It will, therefore, be useful to understand as to how the shell entities, which the share applicants are alleged to be, typically function, and then compare these characteristics with the facts of the case and in the light of well settled legal principles. A shell entity is generally an entity without any significant trading, manufacturing or service activity, or with high volume low margin transactions- to give it colour of a normal business entity, used as a vehicle for various financial manoeuvres. A shell entity, by itself, is not an illegal entity, but it is their act of abatement of, and being part of, financial manoeuvring to legitimise illicit monies and evade taxes, that takes it actions beyond what is legally permissible. These entities have every semblance of a genuine business- its legal ownership by persons in existence, statutory documentation as necessary for a legitimate business and a documentation trail as a legitimate transaction would normally follow. The only thing which sets it apart from a genuine business entity is lack of genuineness in its actual operations. 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, and as much a part of the underbelly of the financial world, as many other evils. Even laymen, much less the responsible public servants like revenue officers and very well educated and very well-informed people like the learned counsel(s), cannot be oblivious of these ground realities.*

*9.8 While examining the issue of genuineness of the transactions entered into by the assessee, it is also important to keep in mind Hon'ble Supreme Court's observation, in the case of CIT v. Durga Prasad More [(1971) 82 ITR 540 (SC)], to the effect that "Science has not yet invented any instrument to test the reliability of the evidence placed before a court or tribunal. Therefore, the courts and Tribunals have to judge the evidence before them by applying the test of human probabilities".*

*9.9 Similarly, in a later decision in the case of Sumati Dayal v. CIT [(1995) 214 ITR 801 (SC)], Hon'ble Supreme Court rejected the theory that it is for allegor to prove that the apparent and not real, and observed that, "This, in our opinion, is a superficial approach to the problem. The matter has to be considered in the light of human probabilities. Similarly, the observation that if it is alleged that these tickets were obtained through fraudulent means, it is upon the allegor to prove that it is so, ignores the reality. The transaction about purchase of winning ticket takes place in secret and direct evidence about such purchase would be rarely available in our opinion, the majority opinion after considering surrounding circumstances and applying the test of human probabilities has rightly concluded that the appellant's claim about the amount being her winning from races is not genuine. It cannot be said that the explanation offered by the appellant in respect of the said amounts has been rejected unreasonably".*

*9.10 It would be a superficial approach to examine the claim of the assessee solely on the basis of documents filed by the assessee and overlook the clear unusual pattern in the documents filed by the assessee and pretend to be oblivious of the*

ground realities. As Hon'ble Supreme Court has observed, in the case of Durga Prasad More (supra), it is true that an apparent must be considered real until it is shown that there are reasons to believe that the apparent is not the real 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. If all that an assessee who wants to evade tax is to have some recitals made in a document either executed by him or executed in his favour then the door will be left wide open to evade tax. A little probing was sufficient in the present case to show that the apparent was not the real. 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".

9.11 An Appellate Authority cannot be superficial in its assessment of the genuineness of a transaction, and this call is to be taken not only in the light of the face value of the documents sighted / placed by the appellant on the record but also in the light of all the surrounding circumstances, the preponderance of human probabilities and ground realities. There may be a difference in subjective perception on such issues, on the same set of facts, but that cannot be a reason enough for the appellate authorities to avoid taking subjective calls on these aspects, and remain confined to the findings on the basis of irrefutable evidence. Hon'ble Supreme Court has, in the case of Durga Prasad More (supra), observed that "human minds may differ as to the reliability of a piece of evidence but in that sphere the decision of the final fact-finding authority is made conclusive by law". This faith in the appellate authorities by Hon'ble Courts above makes the job of the appellate authorities even more onerous and demanding and, it does require an appellate authority to take a holistic view of the matter, in the light of surrounding circumstances, the 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 blinkerson.

9.12 It would not be out of place to mention here that the phenomenon of shell entities being subjected to deep scrutiny by tax and enforcement officials is rather recent, and that, till recently, little was known, outside the underbelly of the financial world, about modus operandi of entry operators running shell entities. There were, therefore, not many questions raised about the genuineness of transactions in respect of shell entities. That is not the case any longer. Just because these issues were not raised in the past does not mean that these issues cannot be raised now as well, and, to that extent, the earlier judicial precedents cannot have blanket application in the current situation as well.

9.13 As Hon'ble Supreme Court has observed in the case in Mumbai Kamgar Sabha v. Abdul bahi Faizulla bhai AIR 1976 SC 1455 "It is trite, going by Anglophonic principles that a ruling of a superior court is binding law. It is not of scriptural sanctity but of ratio-wise luminosity within the edifice of facts where the judicial lamp plays the legal flame. Beyond those walls and de hors the milieu we cannot impart eternal vernal value to the decisions, exalting the precedents into a prison house of bigotry, regardless of the varying circumstances and myriad developments. Realism dictates that a judgment has to be read, subject to the facts directly presented for consideration and not affecting the matters which may lurk in the dark".

Genuineness of transactions thus cannot be decided on the basis of inferences drawn from the judicial precedents in the cases in which genuineness did come up for examination in a very limited perspective and in the times when shell entities were virtually non-existent.

9.14 The above approach has met the judicial approval as recently as 2018 when one of the decision of the Tribunal, in the case of Pawan kumar M Singhvi came up for consideration before Hon'ble Gujarat High Court, and Their Lordships of Hon'ble Gujarat High Court, in the judgment reported as Pawan kumar M Sanghvi Vs ITO [(2018) 90 taxmann.com 386 (Guj)] approved the said approach and declined to interfere in the matter by observing that "the Tribunal has minutely examined the position of the lenders, the circumstances under which, the amounts were allegedly loaned to come to the conclusion that the transactions were not genuine". The genuineness of the transactions and examination of circumstances in which money was received was thus approved to be the determinative factor. The matter did not end there. The assessee brought the matter before Hon'ble Supreme Court in a special leave petition, and Their Lordships of Hon'ble Supreme Court, in the judgment reported as Pawan kumar M Sanghvi Vs ITO [(2018) 97 taxmann.com.398 (SC)], dismissed the SLP and declined to interfere as well.

9.15 What essentially follows is that genuineness of a transaction is one of the most important, foundational and critical factors in determining whether explanation given by the assessee is acceptable or not is its genuineness and this genuineness is to be examined in the light of ground realities, rather than random extracts from judicial precedents isolated from their true context as an exposition of law on standalone basis. Undoubtedly, that is a subjective exercise, but that cannot be excuse enough to not to probe the matter properly for taking a well-considered call on whether the impugned share application monies received, in this case, a genuine transaction or not.

9.16 On a somewhat similar note, and particularly in the context of issuance of shares at high premium to the companies which are seemingly shell companies, Hon'ble Supreme Court has, in the case of PCIT Vs NRA Iron and Steel Pvt Ltd [(2019) 412ITR161 (SC)] observed that "The practice of conversion of unaccounted 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 illegal obligation to prove the receipt of share capital/premium to the satisfaction of the AO, failure of which, would justify addition of the said amount to the income of the assessee".

Taking note of these words of guidance of Their Lordships, it is clear that a superficial and pedantic approach would not suffice, and it is essential to examine the facts of the case in order to take a call on the genuineness of these transactions.

10. With these observations as made above, the actual facts of these cases are to be examined. The assessee has received share application monies from the Pvt. Ltd. companies the details of which are as below:

"The assessee had raised share application money of Rs. 50,00,000/- during the year under consideration. The capital of Rs. 50,00,000/- was raised by way of issuing of shares. These shares were received from the following shell companies which were operated/controlled by Shri Himanshu Verma:

Sl. No.	Name of Company from whom Share application money received	Amount of share application money received	Name of entry operator controlling the company
1.	M/s Rising Portfolio India Private Limited	Rs.50,00,000/-	Sh. Himanshu Verma
	Total	Rs.50,00,000/-	

10.1 Undoubtedly, the legal existence of the share applicant is not in doubt. The assessee is completely silent on the financial reports of M/s Rising Portfolio India Private Limited, their investors and has not furnished even the basic details such as copy of ITR, Profit and loss account, balance sheet etc. In the enquiry report made post search operation on entry operator, Shri Himanshu Verma, a list of bogus companies being operated by Shri Himanshu Verma has been mentioned in the enquiry report as noted by the AO in the assessment order. The name of M/s Rising Portfolio India Private Limited (the company from whom the assessee took accommodation entry) appears at Sl. No. 131 in the said list. In the statements recorded of Shri Verma and his partner, Shri Hari Shankar Yadav, they have admitted to have been involved in the business of providing accommodation entries through their bogus companies and no actual business was being carried out in any of the concern operated by them. It was noted by the AO that M/s Rising Portfolio India Private Limited was renamed as M/s TOCLOUD E-NET SOLUTIONS PRIVATE LIMITED. The notices sent were returned back unserved. No comments can be offered regarding the credit worthiness of the company in the absence of its Audit reports, if any, as none of such financial statement in respect of the company is submitted by the assessee. Nevertheless, this is difficult to believe that a group of companies controlled by Shri. Himanshu Verma investing Funds in half a crore and making such aggressive investments as buying shares, in the private limited and wholly unconnected companies like the assessee company-without any management control, will operate in such a modest manner.

10.2 Hence, it is clear that there were no business operations in the entity who has subscribed to the shares of appellant's company in huge amounts, unless, of course, routing the monies to other companies, or being a conduit company facilitating financial manoeuvrings, per se is treated as main business operations of the company.

10.3 There is not even a whisper of an idea about who are the persons behind these investments companies and other associated companies constituting this complex web of companies, indifferent tiers, and transferring monies from one company to another manner in almost a mechanical manner. There is complete opacity so far as the individuals behind this funding and the complex web of companies are concerned. The entities involved in the transactions only provide different layers to the transaction and de facto hide the true investor.

10.4 It is worth to note that the investments are in private companies, these investments are substantial vis-a-vis the size of the companies, are of huge amounts and without any management participation in the entities in which investments are made. These features are, by any standard, most unusual in real life business situations.

10.5 Here are tiers after tiers of the companies and there is nothing to show light on the actual owners. That defies logic, and such transactions do not take place in the real-life world. The perusal of bank accounts of the investing company shows huge amounts of credits coming in the banks followed by the debits of an equivalent amount immediately thereafter. These kinds of circular transactions, does not seem to be bonafide transactions. In view of the detailed analysis above, it is difficult to accept the plea of the appellant that it is a genuine transaction. That is contrary to preponderance of probabilities about a genuine transaction. The very foundation of the investment in the appellant company is itself out of the normal commercial world.

10.6 Clearly, all these transactions are circular transactions with opacity about the ultimate owners as evident from the fact that even the financial statements and bank statements of investing companies show similar features- negligible revenues,

shares issued at high premium and almost entire fund available passed on to other entities, and predominantly circular transactions, with low independent balances. It is a complex web of companies through which the investments in question are made far divorced from the realities of commercial world, and the transactions are deceptive in as much as each layer of companies has the source of funds in some other layer of companies operating at another level. The movement of funds is not transparent and the ultimate beneficial owners of this investment in the appellant company are not even known, leave aside there as on for their making such a risky investment, at unjustified premiums and without any participation or management control despite huge size of investment vis-a-vis the size of the company in which investment is made. The material on record does not reasonably evidence genuineness of the transactions.

10.7 A shell entity, as have noted earlier, is generally an entity without any significant trading, manufacturing or service activity, or with high volume low margin transactions-to give it colour of a normal business entity, used as a vehicle for various financial manoeuvres. A shell entity, by itself, is not an illegal entity but it is their act of abatement of, and being part of, financial manoeuvring to legitimize illicit monies and evade taxes, that takes it actions beyond what is legally permissible. These entities have every semblance of a genuine business- its legal ownership by persons in existence, statutory documentation as necessary for a legitimate business and a documentation trail as a legitimate transaction would normally follow. The only thing which sets it apart from a genuine business entity is lack of genuineness in its actual operations. 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, and as much a part of the underbelly of the financial world, as many other evils. The company investing in the share capital of the appellant clearly fits this description. Given these facts, and given the ground realities of shell companies facilitating such manoeuvres, the plea of the assessee cannot be accepted.

10.8 It is again retreated that the phenomenon of shell entities being subjected to deep scrutiny by tax and enforcement officials is rather recent, and that, till recently, little was known, outside the underbelly of the financial world, about modus operandi of shell entities. There were, therefore, not many questions raised about the genuineness of transactions in respect of shell entities. That is not the case any longer. Just because these issues were not raised in the past does not mean that these issues cannot be raised now as well, and, to that extent, the earlier judicial precedents cannot have blanket application in the current situation. As Hon'ble Supreme Court has observed in the case in *Mumbai Kamgar Sabha v. Abdulbahi Faizullahbai* AIR 1976 SC 1455

*"It is trite, going by Anglophone principles that a ruling of a superior court is binding law. It is not of scriptural sanctity but of ratio-wise luminosity within the edifice of facts where the judicial lamp plays the legal flame. Beyond those walls and de hors the milieu we cannot impart eternal vernal value to the decisions, exalting the precedents into a prison house of bigotry, regardless of the varying circumstances and myriad developments. Realism dictates that a judgment has to be read, subject to the facts directly presented for consideration and not affecting the matters which may lurk in the dark".*

Genuineness of transactions thus cannot be decided on the basis of inferences drawn from the judicial precedents in the cases in which genuineness did come up

*for examination in a very limited perspective and in the times when shell entities were virtually non-existent.*

*10.9 The assessee has received share application monies from the entity, M/s Rising Portfolio India Private Limited operated by Shri Himanshu Verma. Making huge investments in a nondescript small private limited company, without a share in management and control, is something extremely unusual unless the investor is very well known or close associate of the company in which investment is being made. Having considered entire facts of the case and evidences brought on record I find no infirmity in the order of AO, hence, addition made of Rs. 50,00,000/- is confirmed. As a result, ground no. 2 is dismissed.*

*11 Ground No.3 is in respect of addition of Rs.1,00,000/- on account of commission expenses @ 2% on the amount of accommodation entries availed of Rs.50,00,000/- . In view of the detailed discussion made above under para 10 of this order, it is apparent that the assessee has availed the services of the accommodation entry operator mainly Shri. Himanshu Verma, by way of rerouting their own money through the shell companies operated by Shri. Verma. It is clear that every service comes at a cost which have been ascertained by the AO @ 2%, which seems fair enough in view of the prevalent market rate in respect of such accommodation entries. Accordingly, I find no reasons to interfere with the stand of AO and hence, Ground No.3 of the appeal is also dismissed.”*

4. We have given our thoughtful consideration to the assessee's pleadings all along and the Revenue's vehement submissions supporting the impugned addition. We note from a perusal of the case file that the assessee appears to have availed an accommodation entry from M/s. Himanshu Verma group in the garb of share application money from shell entity M/s. Rising Portfolio India Pvt. Ltd. The Assessing Officer accordingly initiated section 148 proceedings wherein the assessee failed to prove genuineness of the said share application money. This made the Assessing officer to proceed under section 144 of the Act to treat the share application money in question as unexplained cash credits along with commission expenditure @ 2% thereupon and

the same stands confirmed in the CIT(A)'s detailed lower appellate discussion.

5. That being the case, we notice that the assessee has all along failed to file its relevant supportive evidence to rebut both the learned lower authorities' respective findings under challenge. We thus see no merit in all of its corresponding substantive grounds raised in the instant appeal which stand rejected in very terms therefore.

6. This assessee's appeal is dismissed.

***Order pronounced in the open court on 3<sup>rd</sup> December, 2025***

***Sd/-***  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 16<sup>th</sup> December, 2025.

*RK/-*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi