

आयकर अपीलिय अधिकरण “B” न्यायपीठ मुंबई मे ।

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No. 2091/Mum/2018

(निर्धारण वर्ष / Assessment Year 2008-09)

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| Diwali Capital & Finance Private Ltd. 113, Commerce House, 140, N.M. Road, Fort, Mumbai-400 001 | Vs. | Dy. Commissioner of Income Tax CC-2(3), 8 th Floor, Room No. 806 Old CGO Bldg, M.K. Road, Mumbai 400 020 |
| (अपीलार्थी / Appellant) | .. | (प्रत्यर्थी / Respondent) |
| स्थायी लेखा सं./PAN No AAACD3084A | | |

आयकर अपील सं./ ITA No. 3986/Mum/2017

(निर्धारण वर्ष / Assessment Year 2007-08)

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|---|-----|--|
| Dy. Commissioner of Income Tax, CC-2(2), Pratishtha Bhavan, 8 th Floor, M.K. Road, Mumbai-400 020 | Vs. | Diwali Capital & Finance Private Ltd. 113, Commerce House, 140, N.M. Road, Fort, Mumbai-400 001 |
| (अपीलार्थी / Appellant) | .. | (प्रत्यर्थी / Respondent) |

अपीलार्थी की ओर से / Appellant by : Shri Vimal Punamiya, AR

प्रत्यर्थी की ओर से / Respondent by : Shri Shri Chaitanya Anjaria, DR

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|--|------------|
| सुनवाई की तारीख / Date of hearing: | 17.10.2018 |
| घोषणा की तारीख / Date of pronouncement : | 10.01.2019 |



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आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/
PER MAHAVIR SINGH, JM:

In these appeals, one appeal filed by Revenue and one by assessee, are arising out of the orders of Commissioner of Income Tax (Appeals)-48 &4, Mumbai [in short CIT(A)], in appeals No. CIT(A)-48/I.T-52/DCCC-2(3)/2016-17, CIT(A)-4/IT-13/ITO-2(1)(2)/2015-16 vide orders dated 15.01.2018, 15.03.2017. The Assessments were framed by the Dy. Commissioner of Income Tax, Central Circle 2(3), Income Tax Officer-2(1)(2), Mumbai (in short 'DCIT' 'ITO'/ AO') for the A.Ys. 2008-09 & 2007-08 vide order dated 23.03.2016, 05.03.2015 under section 143(3) read with section 147 of the Income Tax Act, 1961 (hereinafter 'the Act').

2. The first issue in ITA No. 3986/Mum/2017 of Revenue's appeal is against the order of CIT(A) quashing the reassessment by quashing notice under section 148 of the Act. For this Revenue has raised the following ground No. 1: -

"1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in quashing the proceedings u/s 148 of the Income-tax Act, 1961 without appreciating that the information that (1) M/s Alka Diamond Industries P. Ltd. (2) M/s Artillegence Rio-Innovations Ltd. (3) M/s Microsoft Technology Put. Ltd. (4) M/s Nicco Securities Put. Ltd. and (5) M/s Navlakha Agrex Put. Ltd. were providing accommodation



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entries: was revealed during the course of search in the case of Praveen Kumar Jain and this particular information was not disclosed by the assessee either in the return of income or during the course of assessment proceedings under section 143(3) of the Income-tax Act, 1961 and the CIT(A) did not appreciate the ratio of the decision of Hon'ble Supreme Court in the case of Yogendra Kumar Gupta 57 taxmann.com 383 (SC)."

3. The Revenue has also raised the ground on merits challenging the deletion by CIT(A) raising ground No. 2 as under:

"2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of ₹ 4 Cr. Being unexplained share application money without appreciating that the assessee as well as (1) M/s Alka Diamond Industries P. Ltd (2) M/s Artillegence Bio-Innovations Ltd. (3) M/s Microsoft Technology Pvt. Ltd. (4) M/s Nicco Securities Pvt. Ltd and (5) M/s Navlakha Agrex Pvt. Ltd. failed to establish the genuineness of the transaction and the Ld. CIT(A) further failed to appreciate that the circumstantial facts revealed in the search conducted at the various premises of Praveen Kumar Jain wherein this systematic racket of converting unaccounted income into purported share capital was deleted which caused loss to



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the Nation by depriving the revenue on its unaccounted income.

4. Briefly stated facts are that the assessee is a Private Limited Company engaged in the business of Investments, Loans & Advances. Assessee-company invested in shares and securities for a long term perspective and gives loans and advances. It is the main investment company of the Vardhman Group engaged in the business of Builders and Developers for more than 35 years and has substantial stake in the flagship company of the Group. The valuation of the company is derived from the underlying assets being equity of its flagship company. It was claimed by the assessee that it is neither a shell company nor a beneficiary of the accommodation entries. The Original return of income was filed by the assessee on 22.10.2007 for the AY 2007-08. This return was processed under section 143(1) of the Act. Subsequently, the AO issued notice under section 148 of the Act, dated 26.03.2014. The AO for issuing notice under section 148 of the Act recorded the following reasons: -

“it is seen from the records that M/s Alka Diamond Industries Ltd has made investment of ₹ 1,10,00,000/- in the assessee company on various dates. A search has been conducted in the case of Praveen Jain Group. Shri Praveen Jain has given statement under the oath that he is indulged in providing accommodation entries. M/s Alka Diamond Industries Ltd is one of group company of Shri Praveen Jain which has investment in the assessee company to the tune of the company of Shri Praveen Jain which has



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investment in the assessee company to the tune of ₹ 1,10,00,000/-. Therefore, I have a reason to believe that the income chargeable to tax has escaped assessment for AY 2007-08 by reason of the failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment.”

The assessee received total share application money of ₹ 4 crores during the FY 2006-07 relevant to AY 2007-08 from various parties, details of which are as under: -

| <i>Sr. No.</i> | <i>Name</i> | <i>Amount</i> |
|----------------|--|--------------------|
| 1. | <i>Alka Diamonds Industries Ltd.</i> | <i>1,00,00,000</i> |
| 2. | <i>Artelligence Bio-Innovations Ltd.</i> | <i>75,00,000</i> |
| 3. | <i>Macrosoft Technology Pvt. Ltd</i> | <i>75,00,000</i> |
| 4. | <i>Nlcco Securities Pvt. Ltd</i> | <i>75,00,000</i> |
| 5. | <i>Navlakha Agrex Pvt. Ltd.</i> | <i>75,00,000</i> |
| 6. | <i>Total</i> | <i>4,00,00,000</i> |

5. During the course of assessment proceedings, the assessee submitted the details and documents which include share application form, confirmation received from applicants and returns of allotment of shares filed with ROC to establish the identity of the parties and genuineness of the transactions. The AO issued notice under section 148 of the Act for the reason that the investment has been made by Alka Diamond Industries Ltd. in the shape of share capital, share application money and accordingly, notice under section 133(6) of the Act was issued to all the above mentioned share applicants including Alka Diamond Industries Ltd. to verify the transactions. In response to the notice under section 133(6) of the Act of the share applicants filed the details called for but the AO made addition of share application money of ₹ 4 crores as



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unexplained under section 68 of the Act by observing in vide Para 4.6 and 4.7 as under:-

“4.6 Huge Share premium charged is not justified

It is seen that the assessee company has filed return of income showing total income of Rs. 611/-. The assessee company has no reserves, no fixed assets, no substantial profit earned. The book value of the shares of the assessee company is nominal and meagre figure. However, the above said parties have claimed to have subscribed to the shares of the assessee company at a huge premium of Rs. 290/-. The high share premium valued is totally unjustified in the light of the above facts. No prudent investor would invest in such a company and that too at a huge premium. Further stating that the assessee company is part of another group and therefore the claim that premium charged is justified is not acceptable simply because the investors have claimed to have applied for shares of assessee company and not any other company. And as per financial statements of the assessee company the share premium charged is totally unjustified. And from the balance sheet it is seen that the assessee company has merely used these so called funds to give advances to other companies being its own group companies. The assessee



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company has no justification to provide for charging such a huge premium for its shares. Another glaring fact is that the share application money is claimed to have been received in March 2007 and the assessee has stated that shares were allotted in March 2008. It is not known as to why the shares were allotted as late as after one year when the full application money was paid by the investors.

4.7 In this case the genuineness and identity of three parties out of five as mentioned above has already been unproved and non-genuine. The claim of having received share application money itself has been unproved and is a bogus and sham transaction as per the facts mentioned above in detail. The credit worthiness and capacity of the parties who has claimed to have invested has also been unproved. Thus the entire claim of having received Rs. 400,00,000/- by way of share application money is a bogus claim and is treated as unexplained cash credits of the assessee company. The amounts totaling to Rs. 4,00,00,000/- claimed to have been received from the above mentioned five parties under the garb of share application money is treated as unexplained cash credits and added u/s. 68 of the IT. Act to the total income of the assessee. Penalty proceedings u/s. 271(1)(c) of the I.T. act initiated separately for concealment of income



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and filing inaccurate particulars of income. Penalty proceedings u/s. 271 B of the IT. Act initiated for failure to get accounts audited u/s. 44 AB.”

Aggrieved, assessee preferred the appeal before CIT(A) and challenged the re-opening and CIT(A) first quashed the re-opening vide Para 3.4 as under: -

“3.4 I have circumspected the entire facts & circumstances of the case and have carefully considered the finding of the Assessing Officer, rival submissions of the Appellant and evidences on record. I find that Ld. Assessing Officer has reopened the completed assessment after expiry of 4 years from the end of relevant A.Y. on the basis of information received from the office of the DGIT (Inv.) that M/s. Alka diamond Industries Ltd. was a company floated by Mr. Praveen Kumar Jain, who was a Hawala Entry Operator. However, the Assessing Officer has made the addition of share application of other 4 companies. The reopening of the assessment made under section.143(3) was done on the basis of such information ignoring the fact that during the course of assessment proceedings in the case of M/s. Blue Stock Investments Pvt. Ltd in AY 2007-08, M/s Alka Diamond Industries Ltd. has explained the share investments hence, the very basis of reason is having no foundation. It is



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pertinent to mention that the Ld. Assessing Officer has only referred the general statement of Mr. Praveen Jain given during the course of search who had not specified as to which company is non-existing company and which one has given accommodation entry. It is to be also noted that in response to the notice under section 133(6), M/s Alka Diamond Industries Ltd. had furnished all the evidences by letter dated 30.01.2015 submitting the complete set of income tax return of AY 2007-08, copy of Ledger Account confirming the investments cop of its bank account revealing the investments and clarification regarding source of investments. The Ld. Assessing Officer has admitted the veracity of such evidences, as she has not rebutted it with contrary evidence. Further, she has not refuted the explanation of the investor company with any contrary evidence. She has only disallowed the claim on the ground that shareholding pattern of this company was not submitted and share application was not with regard to public issue. Obviously, at the time of recording reason, the Assessing Officer was not having any “tangible material or reliable evidence” for processing for making escapement assessment in a case where scrutiny was already made. The Hon’ble Delhi High Court has held in the case of Bawa Abhay Vs. DCIT 253 ITR 83 that the crucial expression under section 147 of the Act is “reason to belief”.



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It contemplates existence of reasons on which the belief is founded not merely a belief in the existence of reasons inducing the belief, such a belief may not be based merely on reasons but it must be founded on information. The Hon'ble Calcutta High Court has held in the case of Berger Paints India Ltd. vs. Assistant Commissioner of Income-tax, 266 ITR 462 that there must not only exist reasons for formation of belief that income has escaped assessment, but there must be also a rational connection or relevance bearing with the material for formation of belief. The Amritsar Bench of ITAT in the case of Pyramid Software and Technologies vs. DCIT 105 ITD 305 has held that the material which comes to the notice of Assessing Officer must be specifically evident, direct and not unspecific or vague. It is held that basis for initiating reassessment proceedings is to be judged solely on the basis of reasons recorded by the Assessing Officer. The Assessing Officer cannot support the reopening of the assessment by collecting the material or by making inquiry subsequently, after the date of initiation to the proceedings. The Hon'ble Patna High Court has held in the case of Commissioner of Income tax vs. Agarwalla Brothers, 189 ITR 786 (Pat) that it is only the recorded reasons which can indicate why the Assessing Officer was made to believe that the income has escaped assessment for the



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relevant assessment year. It is not authorized to refer to any other reason even if it can be otherwise inferred and/ or gathered from the reports. The Hon'ble Alahabad High Court has also held in the case of Dass Friends Builders Pvt. Ltd. vs. DCIT 280 ITR 77 that u/s. 147 of the Act the words "have reason to believe" and not "reason to suspect". ITAT Delhi Bench TM in the case of ACIT vs. STAr Ferro Alloys Pvt. Ltd. 90 ITD 63 has held that proceedings u/s 147 of the Act could not be restored to for making roving inquiries. Thus, I find that such issue of notice under section 148 is not sustainable in the light of decisions in the cases of Sound Casting Pvt. Ltd. vs. DCIT 250 CTR 119 (Bom), ACIT vs. Resham Petrotech Ltd. (2012), 136 ITD (Ahmd.), Jaishan Textile Mills Pvt. Ltd. vs. DCIT (2006) 284 ITR 542 (Bom) and German Remedies Ltd. vs. DCIT (2006) 287 ITR 494 (Bom). Motilal R. Todi Vs. ACIT 7(3), ITA No. 2910/Mum/2013 and Shaft Broadcast Pvt. Ltd. vs. ACIT 9(3), ITA No. 1819/Mum/2012, order dated 17.04.2013. thus, the Ground No. 1 is allowed."

6. The CIT(A) even allowed the claim of assessee on merits vide Para 3.5 and 3.6 as under: -

"3.5. As regards merit of the case related to addition u/s 68, it is pertinent to mention that in response to the notice u/s.133(6), as mentioned



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earlier, investor companies have furnished all the necessary evidences hence, nothing was left for the Appellant to explain with further evidence to the Assessing Officer. It is also to be noted that after receipt of various evidences from the investors, Ld. Assessing Officer has not brought on record any contrary evidences, hence, addition could not be made on suspicion or presumption disrespecting the evidences on record. It is to be reiterated that the learned Assessing Officer, has during the course of the assessment proceeding, issued notices u/s.133(6) of the Act to the parties and they have confirmed the transactions made with the Appellant. No incriminating materials from any of the parties having dealing with the appellant company were either brought on record or were available to substantiate the allegation of providing accommodation entries Only because one Shri Pravin Kumar Jain in his statement has accepted of providing accommodation entries cannot ipso facto make the parties, who has invested in the appellant company, and have confirmed the investment also to be engaged in the same kind of business. The Hon'ble Courts in plethora of judgements have held that assessment based on pure guess is bad vide: Dhakeswari Cotton Mills Ltd. v. CIT. (1954) 26 ITR 775, 782 (SC); Raj Mohan Saha v. CIT. (1964) 52 1W 231 (Assam). Also see, CIT v.



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Gokaldas Hukurnchand, (1943) 11 ITR 462,469 (Born); Ram Datta Sita Ram of Basti, In re, (1947) 15 ITR 61.85 (All); Narayan Chandra Baidya v. CIT. (1951) 20 1W 287,292 (Cal); Gopi Nath Agarwala v. CIT. (1955) 28 ITR 753, 762 (All); United Patel Construction Co v. CIT, (1966) 59 ITR 424, 426 (MP); CIT v. R. Y. DUFwbhji. (1995) 2111TR 178, 189 (Raj)). In other words, the assessment of any particular year must be based not on mere suspicion or bare guess, but on legitimate material from which a reasonable interference of income having been earned during the accounting year could be drawn and that the initial burden of finding such material, however slight, is on the income-tax authorities and not on the assessee vide: Banshidhar Onkarmall v CIT (1953) 23 ITR 353. 361 (Orissa) It is certainly not a 'leap in the dark' The Assessing Officer is not entitled to make a guess without evidence vide: CIT v Kameshwar Singh, (1933) 1W 94, 106 (PC) Seth Nathuram Munnalal v. CIT, (1954) 25 ITR 216, 220 (Nag.).

3.6. Further, it is worthwhile to note that after receipt of share money appellant has allotted shares to these companies on 2903.2008. The copies of the allotment letters have been filed along with paper book. The Ld. Assessing Officer has not rebutted the veracity of such evidences. Further, it is noted that appellant is not a Shell



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company or Hawala entry operator because the Ld. Assessing Officer has accepted the genuineness of Company-Appellant. It has made investment in Flat and has given loans and advances to other parties Inter corporate deposit is there. The Appellant has shown interest income in Profit and Loss account. The Ld. Assessing Officer has accepted such accounts. It can be seen that merely on the basis of doubt she has made addition. There is no reference of specific statement that Mr. Pravin Jain that he has admitted that these companies are benami companies, nor is there any specific clarification about bogus share money of them Therefore, only on the basis of general statement, no such addition could be made. The Hon'ble ITAT in the case of Shaft Broadcast Pvt. Ltd. vs. ACIT, ITA No. 1819/Mum/2012, order dated 17/04/2013 has held that merely on the basis of general statement of such person, no addition could be made in the case of such assessee."

Aggrieved, now Revenue is in second appeal before Tribunal.

7. Before us, the learned Sr. Departmental Representative relied on the assessment order and for re-opening of assessment he relied on the reasons recorded by AO as noted above. On the other hand, the learned Counsel for the assessee relied on the order of CIT(A) on both i.e. quashing of re-opening as well as on merits.



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8. We have heard rival contentions and gone through the facts and circumstances of the case. We have noticed from the assessment order that the AO has issued notice under section 133(6) of the Act to the above mentioned share applicants to verify the transactions. In response to the said notice, of the share applicant filed the details called for and the relevant details are as under: -

“i) details of investment made by them by way of share application in the appellant company inter alia, cheque No. date of cheque, and the bank on which the said cheques have been drawn.

ii) Basis on which the shares are applied at premium.

iii) Copies of the bank statement of share applicants from which the account payee cheques issued to the appellant and were debited

iv) Copies of the income tax return acknowledgements of share applicants for assessment year 2007-08 establishing the fact that the share applicants are regular assesseees' and that year on year, they file income tax returns.

v) Copies of Audited Balance sheet and Profit & Loss Account of the share applicants to prove their creditworthiness.



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vi) Copies of Share Allotment Letters issued by the Appellant to the share applicants along with copies of the share certificate issued by the Appellant on allotment of shares against the share application money to prove that the shares have been allotted and issued.”

9. These details submitted by the share applicants are also mentioned in the assessment order. We will find from the notice that the details submitted before the AO are sufficient enough to establish the identity of the share applicants and the genuineness of the transaction and creditworthiness of the parties. We are of the view that the assessee has duly discharged the primary onus casted upon it under the law to prove the identity of the share applicants and genuineness of the transactions. All the share applicants are registered with ROC (Registrar of companies) and they are assessed to income tax as the case of the assessee, which is main investment company of the Group. The only premise of the AO for making addition was that the share application money is not genuine and bogus for the reason that Shri Praveen Kumar Jain has made a statement before the Investigation Wing that he is being issued bogus share capital to various parties. We find that the AO has invalidated the balance sheet of share applicants on her own presumption without making any reference to documentary evidences produce by assessee. We find that the name of Shri Praveen Kumar Jain or his group as mentioned in respect of four parties out of five parties except the Alka Diamond Industries Ltd. Thus, it is evident that despite the fact that share applicant have responded to the notice issue under section 133(6) of the Act and details filed along with relevant documents for establishing identity of the parties and genuineness of transaction. We also noted that the AO was excessively influenced by the information received from DDIT, Investigation Wing,



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Mumbai regarding search action conducted in the case of one Shri Praveen Kumar Jain and his group and the statement recorded of Shri Praveen Kumar Jain. The AO has not independently proved that the share application money is bogus and not travelled through bank account. It is a fact that these companies are duly registered under the Companies Act, 1956 and still active except one company i.e. Navlakha Agrex Pvt. Ltd., which is Amalgamated. The assessee as before us also filed the following details: -

- (i) *The details of share applicants inter alia the name and addresses of the share applicants;*
- (ii) *PAN of share applicants;*
- (iii) *The copy of bank statement of the appellant of the banking account in which the account payee cheques received from share applicants were deposited and credited to its account;*
- (iv) *The details of investment made by share applicants inter alia, cheque No. and date of cheque, and the bank on which the said cheques were drawn;*
- (v) *Basis on which shares are applied at premium;*
- (vi) *The copies of the bank statement of share applicants from which the account payee*



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cheques issued to the appellant and were debited;

- (vii) The copies of income tax return acknowledgements of share applicants for assessment year 2007-08 establishing the fact that share applicant files income tax returns regularly;*
- (viii) The copies of audited balance sheet and profit and loss account of the share applicants to prove their creditworthiness; and*
- (ix) The copies of share allotment and share certificate issued by the appellant on allotment of shares against the share applicant money to prove that the shares have been allotted and issued.”*

These details proved that the share applicant money received is genuine and explained in the absence of any contrary material brought in by Revenue. Hence, we are of the view that the CIT(A) has rightly quashed the reassessment and also deleted the addition on merits. We confirm the order of CIT(A). This appeal of Revenue is dismissed on both the issues.

10. The only issue in this appeal of assessee in ITA No 2091/Mum/2018 for AY 2008-09 is against the order of CIT(A) confirming the action of the AO in making addition of share application money of ₹ 35 lacs and consequently addition of adhoc expenditure on account of commission paid to obtain these bogus capital at the rate of 5% i.e. ₹ 1.75 lacs. For this assessee has raised the following two grounds: -



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“1. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in confirming the action of Ld. AO in making addition of Rs. 35,00,000/- on account of Shares Application Money received during the year by treating it as alleged unexplained cash credit u/s 68 of the Income Tax Act that too by recording incorrect fact and findings and without observing the principle of natural justice.

The learned CIT(A) has also failed to appreciate the fact that the appellant has discharged the onus cast upon it to establish the identity and creditworthiness of the share applicants and genuineness of the transactions.

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in confirming the action of Ld. A. O. in making an ad-hoc addition of Rs. 1,75,000/- on account of alleged estimated unexplained expenditure u/s 69C of the Income Tax Act at the rate of 5% of the amount of addition made as alleged unexplained cash credit u/s 68 of the Act.”

11. The brief facts relating to the issue are already enumerated in ITA No. 3986/Mum/2017 for AY 2007-08 above. For this year, the assessee received a sum of ₹ 35 lacs as share application money from Alka Diamond Industries Limited and the AO reopened the assessment on the basis of information received from DGIT (Investigation), Mumbai, in consequent to search conducted in the case of Praveen kumar Jain Group



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of Cases, wherein it is revealed that the assessee company is one of the beneficiaries who has availed accommodation entry from Alka Diamond Industries Limited. The AO added the entire 35 lacs and also estimated the commission / brokerage paid to these entry providers at the rate of 5% and there be also made addition of ₹ 1.75 lacs apart from unexplained cash credit of share application money at ₹ 35 lacs. Aggrieved, assessee preferred the appeal before CIT(A). The CIT(A) confirmed the addition. Aggrieved, now Assessee is in appeal before Tribunal.

12. We have heard rival contentions and gone through the facts and circumstances of the case. We find from the facts of the case that during the assessment proceedings, the assessee has submitted the following details: -

During assessment proceedings the assessee had submitted copy of income tax return along with audit report of share applicants i.e. investing companies.

Copy of form no.2 of Diwali Capital & Finance Pvt Ltd.

Copies of bank accounts of the assessee which inter alia depicts the credit entries by way of transfer of the amounts given to the assessee company by cheque.

Confirmation of the investing company has also been filed.

13. Further during the course of assessment proceeding the assessee also informed that the share application form received from the investor



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companies and some of the other documents i.e. copy of the resolution passed by the Board of Directors of assessee company for investment in shares of these companies Covering letter forwarding there with the required documents/ papers for investment in shares of the assessee company were seized in search action u/s 132 of the Act, in the office premises in November 2014. These papers have been seized and it is still lying with the assessing officer. Copies of the same have not been given to the assessee as yet. We find from the facts of the case that the assessee has filed the relevant pages of inventory listing the documents during the course of search u/s 132 for establishing the fact that the documents mentioned above have been seized and are in the possession of the assessing officer. The above documents are enough to establish the credibility and the genuineness of the transactions. So far as present status of the investing companies is concerned, the assessee has filed data of Company Master Data from the website of Ministry of Corporate Affairs (MCA). Such data are in respect of investing company Alka Diamond Industries Ltd. The state of the investing company as on 25.10.2017 is active. Therefore, the company is still in existence and active. The master data also discloses that Balance sheet up to 31.03.2016 has been filed in respect of each of the companies mentioned above. Therefore, there cannot be any doubt about the identity of the company. The amounts have been received from investing company have Come through banking channel which are duly reflected in the Balance sheet of the assessee company. Therefore, there cannot be any doubt about the genuineness of the transaction. So far as credit worthiness is concerned the investing company is regularly assessed to income tax and they are disclosing substantial income. Even these transactions are disclosed in the audited accounts filed along with the return of income.



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14. As the facts are identical to AY 2007-08 and the reason recorded by CIT(A) while deleting the addition in AY 2007-08 are also exactly identical. In such circumstances, we have already confirmed the order of CIT(A) deleting the addition and hence, following the earlier years order as decided above, we delete the addition. The appeal of assessee is allowed.

15. In the result, the appeal of assessee is allowed and the appeal of Revenue is dismissed.

Order pronounced in the open court on 10-01-2019.

Sd/-

(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)
(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)
(न्यायिक सदस्य/ JUDICIAL MEMBER)

Mumbai, Dated: 10-01-2019.
Sudip Sarkar /Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file
//True Copy//

BY ORDER,

Assistant Registrar
ITAT, MUMBAI