

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.4778/Del/2013
Asstt. Year: 2006-07

ITO (Exemptions) Ward-7(4), New Delhi.	Vs.	M/s. Synergy Finlease Pvt. Ltd. 3198/15, 4 th Floor, Gali No 1, Sangatrashan, Pahar Ganj New Delhi PAN AABCS7160D
(Appellant)		(Respondent)

Department by:	Shri N.K. Bansal, Sr. DR Shri S.S. Rana, CIT(DR)
Assessee by :	Shri S.K. Gupta, CA
Date of Hearing	22/01/2019
Date of pronouncement	08/03/2019

ORDER

PER O.P. KANT, A.M

This appeal by the Revenue is directed against order dated 03/06/2013 passed by the Ld. Commissioner of Income-tax (Appeals)-X, New Delhi [in short the Ld. CIT(A)] for assessment year 2006-07 raising following grounds:

1. *“On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs. 4,85,58,000/- made by the AO u/s 68 of the IT Act, 1961*
2. *The appellant craves to amend, modify alter, add or for go any ground(s) of Appeal at any time before or during the hearing this Appeal.”*

2.1 Briefly stated facts of the case are that the assessee filed return of income on 12/11/2006 declaring Nil income. The case was selected for scrutiny and notice u/s 143(2) of the Income Tax Act, 1961 (in short the Act) was issued and served including through affixture of notice. None attended in response to the various notices issued subsequently and thus the assessment was completed 29/12/2008 on the basis of the material available on record. In the assessment completed, the Assessing Officer observed increase in share capital including share premium during the year under consideration of amount of Rs. 4,85,58,000/-but in view of no evidences with regard to creditworthiness or genuineness of the transaction required to be established by the assessee in terms of section 68 of the Act, he made addition of the said amount of Rs. 4,85,58,000/-. Aggrieved, the assessee filed appeal before the Ld. CIT(A) and filed certain documents as additional evidences. The Ld. CIT(A) forwarded those evidences to the Assessing Officer. In report submitted by the Assessing Officer on 29/10/2010 (first remand report) it was submitted that 10 share applicant companies to whom the notices issued, neither appeared on the stipulated date nor a request for adjournment was filed by those companies. The Assessing Officer also recorded the statement of one Sh Surinder Kumar Arora at

the address of M/s Karisma Industry Limited, who stated that said company didn't exist. Accordingly, the Ld. Assessing Officer objected to admission of the additional evidences under rule 46 A of Income Tax Rules, 1962.

2.2. The Ld. CIT(A) confronted the said remand report to the assessee who objected that Sh Surinder Kumar was not authorised to make a statement on behalf of the M/s Karishma Industries Ltd.

2.3. The Ld. CIT(A) himself issued summon to Sh Surinder Kumar Arora and Sh. Naresh Gupta on 28/03/2012. In response to the summons, one Sh Sudhish Verma attended before the Ld. CIT(A) and claimed that he was the current Director of the said company and he provided financial statements and assessment order passed u/s 143(3) of the Act in the case of M/s Karishma Industries Limited. The Ld. CIT(A) also recorded statement of Sh. Surinder Kumar Arora , who stated that he was doing job work of screen printing with M/s Prakash Brothers in Chawri Bazar , New Delhi and he had nothing to do at personal level with M/s Karishma Industries. The Authorised Representative of the assessee requested before the Ld. CIT(A) to produce all the Directors/ CEO of the shareholding companies.

2.4. In view of the submission of the Ld. Authorised Representative of the assessee, the Ld. CIT(A) again directed the Assessing Officer on 2/11/2012 to examine the identity, creditworthiness and genuineness of the transaction in view of the books of accounts, income tax returns and other documents produced before him by the assessee. In the second round of

remand proceedings, the Assessing Officer reported that notice u/s 133(6) of the Act issued to all the 10 parties were complied and a statement of the directors as on date, were also recorded and they confirmed the fact of shares applied as well as share premium amounts paid. The Ld. AO recorded two objections in respect of the documentary evidence is produced by the assessee:

- (i) from the shareholder's bank account it was observed that amount had been received by the parties immediately before the amounts had been advanced to the assessee
- (ii) the director of the shareholding companies produced before the Assessing Officer were directors as on the date and not the directors in the year in which share capital was collected i.e. assessment year 2006-07

2.5. The Ld. CIT(A) in the impugned order has reproduced relevant part of the statements of the directors of those shareholding companies. The Ld. Assessing Officer also forwarded, confirmation letters along with the statement of accounts, balance sheets, income tax acknowledgement and assessment order in case of the 10 shareholder companies. The Ld. CIT(A) forwarded copy of the second remand report to the assessee for his comments. The Ld. CIT(A) after taking into consideration the rejoinder of the assessee, deleted the addition observing as under:'

“(f) During the course of appellate proceedings and also before the assessing officer the A.R. of the appellant has

provided the following documents to establish the identity, genuineness and creditworthiness of the parties:

- i. Income tax returns alongwith orders passed u/s 143(3) in most cases*
- ii. Copies of CIT(A) orders in some case*
- iii. It has been contended that shares had been allotted and recorded in the books of accounts of all the parties.*
- iv. Copies of audited accounts of all the parties were produced for establishing the identity and genuineness of the transaction.*
- v. The directors of the companies have been produced before the A.O. and no specific discrepancies had been pointed out by the assessing officer to dispute the statements and confirmations given by the directors.*

(g) The A.R. of the appellant has emphatically argued that even though these were transactions pertaining to earlier years, since they have been fully accounted for in the books of accounts of the different parties and the present directors have also confirmed these transactions, there is no adverse material to reject the contention of the appellant regarding the genuineness and creditworthiness of the parties.

(h) It has also been stated by the A.R. of the appellant that under similar circumstances in the case of M/s SBS

Properties and Finvest P. Ltd., CIT(A)-X, New Delhi has deleted the similar additions in his order dt.23-11-2007. This concern was a sister concern of the appellant company.

(i) The present set of facts clearly indicate that various documents to establish the identity, creditworthiness and genuineness of the shareholders had been provided by the appellant during the remand proceedings. These included the various documents referred to in earlier paragraphs. At the same time, the A.R. of the appellant insisted that he was willing to produce the directors of the various companies from whom the share application amount and the share premium amount had been taken. The directors of the various companies were also produced before the assessing officer and statements were recorded by him confirming these transactions. The assessing officer has not brought on record any adverse material to controvert the arguments of the A.R. of the appellant that it has fully discharged its onus with regard to this amount of Rs. 4,85,58,000/- which has been received by the company as share .190/08-09 Page 29 of 31 Synergy Finlease P. Ltd. application money and share premium amount. On going through the statements of the directors of different companies it has also been confirmed that shares had been allotted to these companies against the amounts paid.

Though it is observed that the directors of these companies were not always the same as the ones who were existing in the relevant assessment year, since the assessing officer had

all the opportunity to examine the various documents pertaining to the relevant assessment year and also confront the directors if any discrepancy was to be found, the assessing officer has not pointed out any discrepancies or raised any such queries from the various parties whose statements had been taken. This only leads to the conclusion that on the basis of the material available on record, there is no evidence to come to the conclusion that the share application amounts received from the various parties were not genuine.

(j) The A.R. of the appellant has relied upon various judicial pronouncements including CIT v Divine Leasing (supra), CIT v. Lovely Exports (supra), CIT v. Value Capital Services (supra), CIT v. Dwarkadheesh (supra) as well as the latest decision in the case of CIT v. Nipuan Auto Pvt Ltd. in ITA No.225/2013 dt. 30-04-2013 of the jurisdictional High Court. This latest decision has also differentiated the case of Nipun Builders & Developers P. Ltd. of the Delhi High Court dt. 07-01-2013, where it had been held that principal officers of the subscribing companies should have been produced before the assessing officer for establishing the identity, genuineness and creditworthiness of the transactions.

In the factual matrix of this cases, the appellant has also produced the directors of the various companies alongwith the various documents and financial statements of these companies including scrutiny assessment orders and orders of the CIT(A) in some cases. The facts of

this case regarding the various parties is, therefore, on very strong footing as the income tax department itself has recognized and examined in detail the financial transactions of various parties in their own capacities as corporate entities. This aspect clearly establishes that since the directors of these companies have also been produced before the assessing officer apart from the various other documents, there is no material with the assessing officer to come to the conclusion that this share application money and the premium amount can be added u/s 68 of the IT Act.

Therefore, considering the principal observations in the case of CIT v. Lovely Exports (supra), if at all any addition is to be considered it should be considered in the hands of the shareholders and not in the hands of the company which has received the amount, once the initial onus had been discharged by the appellant and also keeping in view the various subsequent decisions regarding the requirements for discharging the initial onus including the cases of Nipuan Auto P Ltd (supra), Nipun Developers & Builders (supra), CIT v. Dwarkadheesh (supra), CIT v. Value Capital Services (supra) and others, the facts in the present case clearly indicate that despite all the documents and personal appearance of the directors from whom the share capital had been received, the assessing officer has not pointed out any discrepancy for coming to the conclusion that this amount should be added u/s 68 of the IT Act.

After careful consideration of the facts of the present case as well as the various judicial pronouncements on the issue, I am inclined to agree with the arguments of the A.R. of the appellant that there is no justification for the assessing officer to uphold the addition after the details of the remand report alongwith statements of the directors and examination of various documents. Accordingly, this addition of Rs.4,85,000/- is deleted and this ground of the appellant is treated as allowed.”

3. Aggrieved with the above finding of the Ld. CIT(A), the Revenue is in appeal before the Tribunal raising the grounds as reproduced above.

4. Before us, the Ld. DR submitted that the Ld. CIT(A) has not taken into consideration the objection of the Assessing Officer brought on record in second remand proceedings. He submitted that the documents related to the alleged shareholders do not explain the creditworthiness and genuineness of the transaction. He submitted that the shareholder companies have shown very small amount of income either from the consultancy or from the interest income as against the huge investment made by them. He also submitted that in bank statements of all the companies, there is similar pattern of deposit of the money in the bank account immediately before issue of cheque to other entities including the assessee. According to him, these companies are merely conduit for providing accommodation entries and no real business has been carried out in these companies. He submitted that the Ld. CIT(A) only satisfied him on the basis of the list of

documents filed by the assessee and did not examine the nature and source of the credit in terms of section 68 of the Act.

5. The Ld. DR relied on the decision of the Hon'ble Supreme Court in the case of Navodaya Castle Private Limited vs CIT (2015-TIOL-314-SC-IT) to support the proposition that if there are deposits of cash in bank accounts prior to issue the cheque or pay order same would raise suspicion and addition can be made on such account . The Ld. DR also relied on list of other decisions as under:

1. *Navodaya Castle Pvt. Ltd. vs. CIT (2015 TIOL-314-SC-IT)*
2. *CIT vs. Navodaya Castle Pvt Ltd (2014) 367 ITR 306 (Del)*
3. *CIT vs. MAF Academy (P.) Ltd. (361 ITR 258)*
4. *CIT vs. Nipun Builders & Developers(P.) Ltd. (30 taxmann.com 292, 214 Taxman 429, 350 ITR 407, 256 CTR 34)*
5. *CIT vs Nova Promoters & Finlease (P) Ltd. (18 taxmann. Com 217, 206 Taxman 207, 342 ITR 169, 252 CTR 187)*
6. *CIT vs. Ultra Modern Exports (P.) Ltd. (40 taxmann.com 458, 220 Taxman 165)*
7. *CIT vs. N.R. Portfolio Pvt. Ltd. (2013) 29 taxmann.com 291 (Delhi)/ {2013} 214 Taxman 408 (Delhi)/(2013) 263 CTR 456 (Delhi)*
8. *CIT vs. Empire Builtech (P.) Ltd. 366 ITR 110)*

9. *CIT vs. Focus Exprots (P.) Ltd. (51 taxmann.com 46 (Delhi) (2015) 228 Taxman 88)*

6. The Ld. DR further relied on the decision of Hon'ble Supreme Court in the case of Konark Structural Engineering (P) Ltd. Vs DCIT (2018) 96 taxmann.com 255 (SC)), decision of Hon'ble Delhi High Court in the case of NDR Promoters Private Limited in ITA 49/2018, decision of the Hon'ble Supreme Court in the case of Prem Castings Private Limited vs CIT in Special Leave Petition No. 16933/2018.

7. According to the Ld. DR, the assessee failed to discharge his onus of creditworthiness of the subscriber parties and genuineness of the transaction and therefore the Ld. CIT(A) was not justified in deleting the addition

8. On the contrary, the Ld. Counsel of the assessee filed paper book containing pages 1 to 219. The paper who contains the documents filed before the Ld. CIT(A) in support of claim of discharging onus u/s 68 of the Act. The Ld. Counsel submitted that the assessee has filed all the documentary evidence to satisfy the nature and source of credit and the Assessing Officer has examined the directors of the shareholder companies , who have verified the fact of making investment in the assessee company and thus the assessee has discharged his onus under section 68 of the Act and addition any, if required could be considered in the hands of those shareholding companies and not in the hands of the assessee company. The Ld. Counsel relied on the various submissions made before the Ld. CIT(A) and submitted that Ld. CIT(A) has passed a reasoned and justified

order on the issue in dispute and thus accordingly, same might be accepted. The Ld. AR relied on the decision of the Tribunal in the case of RPG Credite and Capital Limited in ITA No. 4688-4690/Del/2012 to support the contention that the department cannot raise any grievance, when the Assessing Officer in the remand proceedings fails to point out any justification for sustaining addition and under those circumstances appeal filed by the Revenue was held to be carelessly and frivolously filed.

9. We have heard the rival submissions and perused the relevant material on record. The brief facts in respect of the addition dispute have already been reproduced above. The assessee introduced share capital of Rs. 4,85,58,000/- alongwith share premium from following 10 companies [table extracted from para 2.8 of the Ld. CIT(A)]

S.N	NAME OF SHAREHOLDER COMPANY	ADDRESS OF SHARE HOLDER COMPANY	PAN OF SHAREHOLD ER COMPANY	NAME OF DIRECTOR (PRESENT BEFORE AO)	AMOUNT INVESTED BY SHARE HOLDE R	Q.NO. OF STATE MENT BY AO IN WHICH AS KIN G FOR AMT. INVEST ED	NO OF SHAR E A PP./ ALLO TT.	BANK NAME & ACCOU NT NO. OF SHARE HOLDE R CO. FROM PAYME NT MADE
1	Vogue Leasing & Finance Pvt. Ltd.	304, Balaji Chamber, D-246, Gali No-10, Laxmi Nqr, Delhi-92	AAACV0074 G	Sarvesh Pal Singh	56,40,000.00	Q.NO. 4	9400 0	KOTAK BANK 017220 000111 11

2	S R Cables Pvt. Ltd.	A-33, Yojna Vihar, Delhi-110092	AAACS0802 M	Pramod Kumar Maheshwari	54,06,000.00	Q.No. 4	90100	KOTAK BANK 017220 000110 99
3	Hillridge Investment Ltd.	M-II, Basement, South Ext-II, New Delhi-110049	AAACH0604 A	Vivek Singhal	20,04,000.00	Q.No. 4	33400	KOTAK BANK 017220 000035 53
4	Karishma Industries Ltd	3198/15, 4th Floor, Gali No-1, Sangatrasha n, Paharganj, N. Delhi	AACCK3760 C	Sudhish Verma	54,12,000.00	Q.No. 4	90200	KOTAK BANK 017220 000019 16
5	Worldlink Telecom Ltd	3198/15, 4th Floor, Gali No-1, Sangatrasha n, Paharganj, N. Delhi	AAACW3782 A	Deepak Tyagi	30,00,000.00	Q.No. 4	50000	KOTAK BANK 017220 000099 33
6	Brite Industrial Resources Pvt. Ltd.	C-7/230, III Floor, Sector-7, Rohini, Delhi-110085	AAACB4877 H	Virender Jain	54,24,000.00	Q.No. 4	90400	KOTAK BANK 017220 000100 50
7	Pitambnra Securities P. Ltd.	304, Baiaji Chamber, D-246, Gali No-10, Laxmi Nqr, Delhi-92	AACCP6214A	Sarvesh Pal Singh	52,20,000.00	Q.No. 4	87000	KOTAK BANK 017220 000117 54
8	Parishudh Finance Co. Ltd.	304, Baiaji Chamber, D-246, Gali No-10, Laxmi Nqr, Delhi-92	AADCP1963F	Sarvesh Pal Singh	57,12,000.00	Q.No. 4	95200	AXIS BANK 223010 200004 770
9	Shalini Holdings Limited	209, II Floor, 6/41, Sunder Kiran Bldg, WEA, Karol Bagh, N Delhi	AAACS0913 M	Virender Jain	57,00,000.00	Q.No. 4	95000	AXIS BANK 223010 200004 442
10	Windsor Pet Plas India Pvt. Ltd.	26, Friends Colony West, New Delhi-110065	AAACW5406 D	Lalit Kumar Mittal	50,40,000.00	Q.No. 4	84000	KOTAK BANK 017220 000018 81

10. In assessment proceedings, before the Assessing Officer no documents explaining nature and source of the credit of the share capital were submitted. In first appellate proceeding before the Ld. CIT(A), the assessee filed list of documents including confirmation of account, audited balance sheet, bank statement for the relevant period, assessment orders , list of signatory details downloaded from the Ministry of Corporate Affairs (MCA) Portal etc. The assessee also produced current directors of these shareholder companies before the Assessing Officer in remand proceedings. The assessee has submitted paper book before us in which a copy of all the documents filed before the Ld. CIT(A) have been enclosed. The assessee has filed almost identical documents in case of all the alleged share applicants . The list documents in the case of one share applicant namely M/s Vogue Leasing and Financing Private Limited are reproduced as under:

1. Copies of documents submitted before the AO in support of share application of Rs. 56,40,000/- from M/s. Vogue Leasing and Finance P Ltd. :

- 1. Form No. 1 of FBT for AY 2006-07*
- 2. Confirmation of Account*
- 3. Audited Balance Sheet*
- 4. Bank Statement for the period 01.02.2006 to 21.03.2006*
- 5. List of Directors*
- 6. Assessment order for AY 1989-1990, AY 2005-06 and AY 2007-08*
- 7. E-filed ITR-V for AY 2012-13*

8. *Bank Statement for the period 01.04.2009 to 31.03.2010*

9. *List of Signatory details downloaded from MCA Portal* We have gone through all the documents and found that creditworthiness and genuineness of the transaction is not getting established from these documents.

11. The documents in relation to share application money of Rs. 56,40,000/- from **M/s Vouge Leasing and Finance Private Limited** have been filed at pages 46 to 64 of the paper book. The documents include audited balance sheet and bank statement for the period from 01/02/2006 to 23/03/2006 and for the period from 01/04/2009 to 31/03/2010. On perusal of the profit and loss account available on page 50 of the paper book, we find that the alleged share applicant has shown Nil income from consultancy, interest income of Rs. 39,014/- and profit on sale of investment at Rs. 2,51,020/-. Against said receipt, expenses on audit fees, bank charges, filing fee etc including salary of Rs. 1,09,300/- have been claimed. Thus from the receipt and expenditure during the year, it can be inferred that no worthwhile activity has been carried out by the alleged share applicant. On perusal of the balance sheet as on 31/03/2006 available on page 49 of the paper book, we find that issued share capital of Rs. 1,78,19,000/- and share premium of Rs. 15,85,71,000 and also sundry creditors of Rs. 1,73,70,875/- are shown. Against this liability, investment in equity shares of Rs. 17,79,01,000/-, share application money of Rs. 23,00,000/- and loans and advances more than Rs. 90 lakhs have been shown. These figures of the balance sheet along with the no worthwhile activity in the profit

and loss account, shows that alleged share applicant is not having creditworthiness to make investment in share application to the tune of Rs. 56,40,000/-. We also notice from page 51 of the paper book that the investment in shares has been mainly made in private limited companies (approximately 70 companies). On perusal of the bank statement we also find that there are deposits immediately before one or two-day of the withdrawal of the money from the bank account (i.e for making investment in shares of private limited company) which shows only movement of money from one bank account to other and do not generate confidence of normal business transactions. The similar trend has been observed in the bank accounts submitted for the period from 01/04/2009 to 31/03/2009 though the period is not relevant to the year under consideration , but it reflects the kind of transactions in which the alleged share applicant is involved. The confirmation of the share applicant filed on page 47 of the paper book is not dated. The letter head of the alleged share applicant, on which confirmation has been submitted is even not carrying phone number of the registered office of the alleged share applicant. In the list of directors, the assessee has submitted two names i.e. Sh Shish Ram Bharra and Sh Anil Kumar Bansal , both having same address i.e 209, Bhanot Plaza-II, 3 DB Gupta Road, Paharaganj, New Delhi-110055. The other documents filed are only in the nature of the paper trail documents and do not in any manner establish the nature and the source of the credit in the books of accounts of the assessee.

12. The documents in respect of **M/s SR Cables P Ltd** have been filed from page 65 to 82 of the paper book. The documents

include balance sheet and bank statement for the period from 01/12/2005 to 05.01.2010 alongwith list of signatories etc. downloaded from the Ministry of Company Affairs Portal. On perusal of the profit and loss account on page 69 of the paper book, it is seen that there are rows for the income from consultancy fee, interest on loan and profit on sale of investment, which are identical to the stream of Revenue shown in the case of M/s Vogue Leasing and Finance Private Limited. During the year under consideration no income has been shown from consultancy fee or interest on loans and the only income of Rs. 1, 48,828/- has been shown from the profit on sale of investments. On the expenditure side nominal expenditures on different heads like audit fee (Rs 2,500/-); printing in a stationary (Rs. 3,990/-) , bank charges, general expenses, postage and Telegraph etc have been debited resulting into loss of Rs. 7,322/- during the year under consideration. On perusal of the balance sheet on page 68 of the paper book, we find that liability and assets have been shown more or less similar to M/s Vogue Leasing and Finance Private Limited. The alleged share applicant has shown on liability side paid-up equity shares of Rs. 1,44,84,500/-, reserve and surplus including share premium account of Rs. 12,94,57,800/- and sundry creditors of Rs. 1,75 20,000/-. Similarly on the asset side trade investment of Rs.15,31,41,000/- and loans and advances of approximately Rs. 49 lakh have been shown. The investment has been shown mostly in the shares of private limited companies , a list of which is available on page 70 -71 of the paper book. The financial statement do not show the creditworthiness of the alleged shareholder for making

investment of Rs. 54,06,000/-. The bank statement for the relevant period available on page 72 to 74 of the paper book , shows deposit of money just before the date of withdrawals. It is seen that entire deposit money is issued by way of cheque leaving nominal amount of Rs. 1000/- to Rs. 5000/- in the bank account. The confirmation of the party available on page 66 of the paper book is undated and bears no telephone number of the office of the alleged share applicant. In the list of directors provided, which is available on page 75 of the paper book, name of two directors Sh Prem Kumar Mahato and Sh Pradeep Kumar Sharma has been shown , both having address at 3198/15, Gali No. 1, 4th Floor , Sangatrashan, Paharganj New Delhi-110055. Other documents consisting of return of income, signatory details downloaded from the MCA portals etc are only documents in the form of paper trail of the alleged shareholders, which do not establish in any manner the creditworthiness or genuineness of the transaction.

13. In the case of **M/s. Hillridge Investment Limited**, from whom share application money of Rs.20,04,000/- has been shown, documents have been filed from page 83 to 108 of the paper book. The documents include balance sheet and bank statement for the period from 01/02/2006 to 31/03/2006 and for the period from 01/04/2010 to 31/03/2011. On perusal of profit and loss account available on page 87 of the paper book, we find that the alleged share applicant has shown income only from interest on loans of Rs. 6,60,414/- and share profit from partnership firm amounting to Rs. 18,866/-against which operating expenses of Rs. 6,45,574/-, interest and finance

charges of Rs. 60,110/-and loss on sale of investment of Rs. 4,62,760/- has been shown, and thus overall loss has been shown. In the balance sheet as on 31/03/2006 on liability side , paid-up share capital of Rs. 8,52, 00,000/-share premium of Rs. 16,18,00,000/-under reserve and surplus has been shown . On the asset side, investment in equity shares of companies has been shown as Rs. 35,66,54,000/- loan advances, share application money paid of Rs. 49,00,000/- loans of Rs. 10,60,72,542/-have been shown. The investment in equity shares is mostly in private limited companies. The copy of bank accounts available on page 92 to 96 is not found to be legible but in this also money has been withdrawn immediately after deposit in the bank account. The confirmation filed by the alleged share applicant is undated and without any address of the alleged share applicants. In the list of the directors, two names have been provided namely Sh. Rajesh Kumar Mishra and Sh. Pradeep Kumar Sharma, both having same address at 3198/15,Gali No. 1, 4th Floor , Sangatrashan, Paharganj, New Delhi - 110055 i.e. address of directors provided in the case of another alleged share applicant M/s SR Cables Private Limited. Other documents filed are merely document in the form of paper trail and do not assist in establishing the creditworthiness or genuineness of the transaction of alleged share application money.

14. In the case of **M/s Karishma Industries Limited**, the documents have been filed at 109 to 124 of the paper book. The confirmation filed by the alleged share applicant on letterhead is undated and without having any telephone number etc. of the company on the letterhead. The profit and loss account available

on page 87 of the paper book, shows income from interest on loans of Rs.1,62,160/- only against expenditure of Rs. 6,79,652/- which included mainly of loss on sale of investments and other nominal expenses on audit fee, bank charges, post and Telegraph, printing and stationery etc. Salary expenses are only Rs. 1,18,000/- had been shown. On perusal of the balance sheet available on page 112 alongwith its schedule, we find that on liability side paid-up capital of Rs. 99,91,200/- share premium account under reserve and surplus of Rs. 8,54,14,500/-has been shown. On asset side investment in equity shares of companies has been shown at Rs. 6,96,82,930/-, loans and advances of Rs.1,11,80,435/-and sundry debtors of Rs 5,27,73,446/-have been reported. The bank statement for the period filed shows deposit of certain amount and subsequent withdrawal of the same leaving balance of nominal amount in the account . The list of director contains two names , Sh Om Prakash Bansal having address at 209, Bhano Plaza-II,3, DB Gupta Road, Paharganj, New Delhi-110055 and Sh. Naresh Kumar Gupta having address at 3198/15, Gali No. 1,4th Floor, Sangatrashan, Paharganj, New Delhi-110055. The other documents are merely paper trails not supporting creditworthiness of genuineness of the transaction in any manner.

15. The documents in the case of **M/s World Link Telecom Ltd.** have been filed from page 125 to page 142 of the paper book. A copy of the confirmation filed by the party is available on page 126 of the paper book. The confirmation is on the letterhead of the party, however no telephone number are mentioned on the letterhead. The confirmation filed is also undated. On perusal of

the profit and loss account available on page 129 of the paper book, we find income from interest on loans of Rs. 28,274/-and profit on sale of investment amounting to Rs. 2,15,278/-. Against the said income, nominal expenses under different heads including audit fees, bank charges, post and telegraph, printing and stationery etc amounting to Rs. 2,23,950/-has been shown. The expenses also include salary of Rs. 98,950/-. A nominal profit of Rs. 19,601/- has been shown in the profit and loss account. On perusal of the balance sheet as on 31/03/2006, available on page 128, we find that on liability side the paid-up share capital of Rs.1,19,58,400/- share premium of Rs. 10,22,19,300/-under reserve and surplus has been shown. On the asset side investment in shares of the companies has been shown at Rs.7,03,69,511/-loans and advances of Rs. 59,22,490/-have been shown and debtors of Rs. 7,56,73,007/- are shown. We find that the debtor appearing are M/s Hillfridge Investment Limited (Rs 7,49,12,000/-) and M/s Vogoue Leasing and Finance at Ltd. (Rs.7,61,000/-) , which are other two alleged share applicants in the present case before us. The bank statement available on page 132 of the paper book again shows the same trend of deposit of particular amount and withdrawal of the same amount immediately within one or two days leaving balance of Rs. 2,744/-in the bank account. In the list of the directors, two names have been provided namely Sh Krishan Kumar and Sh. Lakhan lal , both having address at 3198/15, Gali No. 1,4th Floor , Sangatrashan , Paharganj, New Delhi-110055. Other documents are copy of paper trails and does not establish creditworthiness for genuineness of the transaction.

16. In the case of **M/s Brite Industrial Resources Private Limited (now known as Desire Hightech Solutions Ltd.)**, which has claimed to have invested Rs. 54,24,000/- for share application, documents have been filed from pages 143 to 157 of the paper book. A copy of confirmation filed on page 147 of the paper book on the letterhead of the party. We find that said confirmation is undated and no telephone number of the party are mentioned on the letterhead. On perusal of the profit and loss account on page 150 for the paper book, we find that income has been shown from profit on sale of investment of Rs. 1,69,360/- and against which expenditure of Rs. 2,01,647/- which includes mainly on auditors fee for bank charges post and Telegraph, printing and stationery etc. and salary of Rs. 45,386/-. Nominal loss of Rs. 32,287/- has been shown for the year under consideration. On perusal of the balance sheet on page 149 of the paper book, we find that on liability side paid-up share capital of Rs. 4,99,80,000/- and share premium of Rs. 4,75,00,000/- and sundry creditors of Rs. 5,47,07,140/- have been shown. On the asset side investment in shares of mainly private limited companies of Rs. 15,12,89,000/- has been shown. The bank statement for the period again shows deposit and withdrawal of the equal amount in short interval leaving very small amount of balance in the account. The list of the directors includes namely Sh Rajendra Kumar and Sh. Krishan Kumar having address at 3198/15, Gali No. 1, 4th Floor, Sangatrashan , Paharganj, New Delhi. Other documents are merely paper trails not establishing any creditworthiness or genuineness of the transaction.

17. The documents in the case of **M/s Pitambra Securities Private Limited** showing investment of Rs. 52,20,000/- in share application money have been filed from page 158 to 175 of the paper book. A copy of confirmation filed on page 159 is undated. On perusal of profit and loss account available on page 162 of the paper book, we find that income from consultancy fees has been shown at nil, profit on sale of investment has been shown at Rs. 1,76,752/- and interest on loan has been shown at Rs. 2,325/-. Against which expenses of Rs. 1,73,759/- which includes expenses on bank charges, auditors remuneration, office rent (Rs. 4500/-), salary of Rs. 63,685/-. A nominal profit of Rs. 5318/- has been shown for the year under consideration. On perusal of the balance sheet available on page 161 alongwith schedule on page 164, we find that on liability side paid-up share capital of Rs. 1,57,93,200/- and share premium of Rs. 14,12,38,800/-has been shown. On asset side, investment in shares of mainly private limited company has been shown Rs. 815,30,93,477/- and share application money of Rs. 4,00,000/- has been shown. On perusal of the bank statement for the period filed similar trend of deposit and withdrawal of the equal amount within short interval has been shown leaving a nominal balance of Rs. 4,919/-. The list of the directors contain two names :-

Sh Ajay Garg having address at 209, Bhanot Plaza-II, 3, DB Gupta Road , Paharganj, New Delhi -110055

and Sh Ramchander having address at 3198/15, Gali No. 1, 4th Floor, Sangatrashan , Paharganj, New Delhi -110055.

18. Other documents are only paper trails like copy of return of income, signatory details downloaded from the site of the MCA etc.

19. The documents in respect of **M/s Parishudh Finance Company Pvt. Ltd**, which has shown investment of Rs. 57,12,000/- in the share application money, have been filed from page 176 to 191 of the paper book. The confirmation filed by the said party is undated. On perusal of the profit and loss account available on page 180 of the paper book, we find that in the immediately preceding year income from consultancy Rs. 55,000/- is shown whereas in the year under consideration income from interest on loan of Rs. 39,014/- has been shown and against which expenditure of Rs. 3,13,737/- on audit fee, bank charges, printing in a stationary, salary (Rs. 86,100/-) leaving a net loss of Rs. 2,74,723/- has been shown. On perusal of the balance sheet available on page 179 alongwith schedule on 181, we find that on liability side paid-up share capital of Rs. 1,76,04,400/-, share premium of Rs. 15,75,39,600/- has been shown. On asset side investment in shares of mainly private limited companies has been shown at Rs. 8,45,82,000/- sundry debtors of Rs. 8,54,78,741/- have been shown. The sundry debtors include Vogue Leasing and Finance Private Limited (Rs. 1,32,12,875/-) and Brite Industrial Resources Pvt. Ltd (Rs. 4,45,54,140/-) which are alleged share applicant in the present appeal. On perusal of the bank's statement available on page 182 of the paper book trend of deposit of the money and withdrawal of the same within short interval leaving a small amount in the

account has been seen. The list of directors comprise two names as under :

Sh Ramesh Kumar Murolia having address at 209, Bhanot Plaza-II, 3 DB Gupta Road , Paharganj, New Delhi -110055 and Sh. Deepak Verma having address at 3198/15, Gali No. 1, 4th Floor. Sangtrashan, Paharganj, New Delhi-110055

20. In respect of **M/s. Shalini Holdings Ltd**, who has claimed to have invested amount of Rs. 57,00,000/- , the assessee has filed documents from page 192 – 206 of the paper book. Copy of the confirmation filed on page 193 is undated. On perusal of the profit and loss account available on page 196, we find income from sale of shares of Rs. 68, 452/- interest of Rs. 7,123/-and profit on sale of investment of Rs. 1,12,450/-. On expense side, administrative expenses of Rs. 2,44,873/- have been shown against advertisement expenses, auditor, bank charges, printing & stationary , salary (Rs. 39,900/-). During the year loss of Rs. 1,23,832/- has been shown. On perusal of the balance sheet as on 31/03/2006, available on page 195 alongwith schedule on page 197 of the paper book, we find that on liability side paid-up share capital of Rs. 9,99,80,000/-and share premium of Rs. 4, 87,50,000/-has been shown. On asset side investment in an unquoted equity shares of Rs. 14,01,37,500/-has been shown along with loan of Rs. 25,05,525/-. On perusal of the bank statement available on page 199, we find that deposit of Rs. 25, 02,000/- is appearing on the bank account on 18 March, 2006 and corresponding amount of Rs. 25,00,000/- has been withdrawn by way of clearing on 20/03/2006. Similarly amount

of Rs. 22,50,000/-has been deposited and withdrawn within short interval of two days. Similarly on 23/03/2006 payment of Rs. 1,25,50,000/-was received from UGS Finance and on same date payment of Rs. 1,25,00,000/- has been shown. Similar pattern is observed in another bank account available on page 200 of the paper book. The list of director comprise two names Sh Vishal Agnihotri and Sh.Nirmal Prakash, both having same address at 209, Bhanot Plaza-II, 3 DB Gupta Road, Paharganj, New Delhi-110055.

21. In respect of alleged share applicant **M/s Windsor Pet Plas India P. Ltd** , who has shown investment of sale application money of Rs. 50,40,000/- the assessee has filed documents from page 207 to 219 of the paper book. The confirmation filed on the letterhead of the alleged share applicant company is undated and there is no reference of any telephone number on the letterhead. On perusal of the profit and loss account, we find job work income of Rs. 1,25,450/-and profit on sale of investment of Rs. 79,545/-. Against these income the share applicant has shown expenses of Rs. 1,96,938/-towards audit fees, bank charges, post and Telegraph, printing & stationary, salary (Rs.1,43,527/-) etc. and a nominal profit of Rs. 8,057/- has been shown during the year under consideration. On perusal of the balance sheet ending on 31/03/2006, we find that on liability side there is paid-up share capital of Rs. 29,31,500/-,share premium received of Rs. 2,54,83,500/-current liability of Rs. 4,65,00,000/- from Surya Vinayak India Ltd. On the asset side, there is investment primarily in private limited companies of Rs. 6,37,35,000/- and loans and advances and sundry debtors. The bank statement

available on page 217 of the paper book also shows the same trend of receipt of money and immediate withdrawal leaving nominal amount in balance. The list of directors consist of two names as under:

Sh Lalit Kumar Mittal having address at 3198/15, Gali No. 1,4th Floor, Sagatrashan , Paharganj, New Delhi-110055

Sh Ajit Kumar Mittal having address at 209, Bhanot Plaza-II,3 DB Gupta Road, Paharganj, New Delhi-110055.

22. We have analysed the documents filed by the assesee in respect of the share applicants. Perusal of above documents in respect of the alleged share applicants, it is clearly seen that

- (i) These alleged share applicants are having very meagre or nominal income in their hands .
- (ii) In profit and loss account, very nominal amount of income has been shown from either of the three sources of income i.e. income from consultancy, interest on loan and profit on sale of investment, in case of all the alleged share applicants. No dividend income from investment in private limited companies has been shown.
- (iii) Salary expenses of these companies are around Rs. 1 lakh per annum, which shows that not more than one or two employees must have been employed by these companies that too for clerical services.
- (iv) The income and potential of the these alleged share

applicant do not justify, the high amount of share premium appearing in their reserve and surplus account.

- (v) All the alleged share applicants have made investment in shares mostly of the private limited companies , most of which are common.
- (vi) The pattern of receipt of money and immediate withdrawal of almost equal amount is identical in all the alleged share applicants.
- (vii) One common person is director in two or three alleged share applicant companies
- (viii) One of the most glaring observation is that there are only two common address of the director's in case of all alleged shareholders. The two common addresses are located in Paharganj , New Delhi as under:
 - (a) 209, Bhanot Plaza-II, 3 DB Gupta Road , Paharganj, New Delhi-110055.
 - (b) 3198/15, Gali No. 1,4th Floor, Sagatrashan , Paharganj, New Delhi-110055
- (ix) common defects have been found in the confirmation letters filed in respect of the alleged share applicant.
- (x) Investment by one alleged share applicant into other share applicant, which is camofledged by way of accounting entries, sometime as debtors or sometime as under current liability etc.
- (xi) there is a web of transactions among the alleged shareholders to hide the actual transactions and the activity carried out by them.

(xii) In first round of remand proceeding, notices u/s 133(6) of the Act issued were not complied and even the person available at the address of one of the share applicant, denied existence of the Company. But, surprisingly, after confronting the result of first round of remand report to the assessee, in second round all the notices were complied, and current directors were also produced.

23. All the above factual information in respect of the alleged share applicants companies goes to establish that the companies are not having creditworthiness for making such huge investment and genuineness of the transaction is also not getting established from the documentary evidences in respect of these companies. Merely presenting of documents of incorporation of the company and making payment for application of the shares through bank in itself or appearance by current director before the Assessing Officer and admitting the fact of share application made, is in itself not sufficient to justify the genuineness of the transaction. Assessee company for the year under consideration has shown losses of Rs. 9,903/- and in the immediately preceding year there was a small profit of Rs. 985/-. It is against the human probability that anyone will invest and pay share premium of Rs. 50/- per share without having any net worth of the company or any future prospectus of earning by the company. The current directors have not been able to justify, why the shares were purchased at high premium, without corresponding valuation of the company, which was having meagre income. It is impossible that directors of these nine companies are having either of the two addresses of the Paharganj area of New Delhi. In normal

circumstances it is not possible until unless all these companies are being controlled remotely by one person. All the circumstances manifests that these are all paper companies not having sufficient worth and created for providing entries of share application money or share capital or loans by way of accommodation entries.

24. The Ld. Counsel of the assessee has submitted that all the share applicants have been examined by the Assessing Officer in remand proceedings and no adverse comments have been made and thus he should be precluded from agitating the issue before the Tribunal. In support of the contention the Ld. Counsel has relied on the decision of the coordinate bench in the case of ACIT vs. RPG Credit and Capital Limited in ITA No. 4688, 4690/Del/2012. The Tribunal in the said case held that the department cannot raise any grievance when the Assessing Officer even in the remand proceedings fails to point out any justification for sustaining addition and under those circumstances appeals filed with the Revenue were held to be carelessly and frivolously filed.

25. But in the instant case, the Ld. Assessing Officer during the remand proceedings clearly pointed out that the person appeared before him were the current directors of these alleged the share applicant companies and the persons who invested were not produced before him. Thus it cannot be inferred that the Ld. Assessing Officer found the source and nature of the cash credit as explained. The Assessing Officer only recorded statement of the current directors on the instruction of the Ld. CIT(A). The

current directors only confirmed the fact of investment of share application money which is anyway appearing in the financial statement of the assessee. Thus the ratio of the decision of the coordinate bench of the Tribunal in the case of RPG Credit and Capital Limited (supra) cannot be applied out the facts of the instant case.

26. The Ld. DR on the other hand relied on number of cases to support his contentions . In the case of Navodya Castle Pvt Ltd. Vs CIT (2015-TIOL-314-SC-IT), it is held that merely showing shareholder companies are duly incorporated and their identity stands established but the deposits in cash in bank accounts prior to issue of cheque or pay order would raise suspicion and addition can be made on such account. In the instant case also a uniform pattern of deposits in the bank account and immediate issue of cheque has been observed in the case of all the share applicants, which makes the genuineness of the transaction vulnerable.

27. In the case of Principal Commissioner of Income Tax-6, New Delhi Vs. NDR promoter's private limited in ITA 49/2018 ,the Hon'ble High Court of the Delhi has held the transaction of share application in similar circumstances as shame and make-believe only. In the above case the addition made u/s 68 of the Act for alleged share application money by the Assessing Officer, was deleted by that Tribunal, however the Hon'ble High Court reversed the decision of the Tribunal and sustained the addition. The Hon'ble High Court has relied on the decision of the CIT Vs Navodaya Castles P Lid (2014) 367 ITR 306 (Delhi). The relevant

discussion and finding of the Hon'ble Court in the above case is reproduced as under:

“11. Issue of bogus share capital in the form of accommodation entries has been subject matter of several decisions of this Court and we would like to refer to decision in Commissioner of Income Tax Vs. Navodaya Castles Pvt. Ltd. [2014] 367 ITR 306, wherein the earlier judgments were classified into two separate categories observing as under:-

"11. We have heard the Senior Standing counsel for the Revenue, who has relied upon decisions of the Delhi High Court in Commissioner of Income Tax Vs. Nova Promoters and Finlease (P) Ltd. [2012] 342 ITR 169 (Delhi), Commissioner of Income Tax vs.. N.R. Portfolio Pvt. Ltd., 206 (2014) DLT 97 (DB) (Del) and Commissioner of Income Tax-II vs. MAF Academy P. Ltd. 206 (2014) DLT 277 (DB) (Del). The aforesaid decisions mentioned above refer to the earlier decisions of Delhi High Court in Commissioner of Income Tax vs. Sophia Finance Ltd. [1994] 205 IIR 98 (FB)(Delhi), CIT vs. Divine Leasing and Finance Limited [2008] 299 IIR 268 (Delhi) and observations of the Supreme Court in CIT vs. Lovely Exports P. Ltd. [2008] 319 ITR (St.) 5 (SC),

12. The main submission of the learned counsel for the assessee is that once the assessee had been able to show that the shareholder companies were duly incorporated by the Registrar of Companies, their identity stood established, genuineness of the transactions stood established as

payments were made through accounts payee cheques/bank account; and mere deposit of cash in the bank accounts prior to issue of cheque/pay orders etc. would only raise suspicion and, it was for the Assessing Officer to conduct further investigation, but it did not follow that the money belonged to the assessee and was their unaccounted money, which had been channelized,

13. As we perceive, there are two sets of judgments and cases, but these judgments and cases proceed on their own facts. In one set of cases, the assessee produced necessary documents/evidence to show and establish identity of the shareholders, bank account from which payment was made, the fact that payments were received thorough banking channels, filed necessary affidavits of the shareholders or confirmations of the directors of the shareholder companies, but thereafter no further inquiries were conducted, The second set of cases are those where there was evidence and material to show that the shareholder company was only a paper company having no source of income, but had made substantial and huge investments in the form of share application money. The assessing officer has referred to the bank statement, financial position of the recipient and beneficiary assessee and surrounding circumstances, The primary requirements, which should be satisfied in such cases is, identification of the creditors / shareholder, creditworthiness of creditors / shareholder and genuineness of the transactions. These three requirements have to be

tested not superficially but in depth having regard to the human probabilities and normal course of human conduct.”

28. In a recent judgment dated 5.3.2019 in the case of Principal CIT(Central)-I vs. NRA Iron & Steel P. Ltd. arising out of SLP (civil) No. 29855 of 2018, the Hon'ble Supreme Court considered the decision of various courts on the issue in dispute and enumerated the principles emerged from various decision as under :-

“11. The principles which emerge where sums of money are credited as Share Capital/Premium are:

i. The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and credit-worthiness of the investors who should have the financial capacity to make the investment in question, to the satisfaction of the AO, so as to discharge the primary onus.

ii. The Assessing Officer is duty bound to investigate the credit-worthiness of the creditor/subscriber, verify the identity of the subscribers, and ascertain whether the transaction is genuine, or these are bogus entries of name-lenders.

iii. If the enquiries and investigations reveal that the identity of the creditors to be dubious or doubtful, or lack credit-worthiness, then the genuineness of the, transaction would not be established.

In such a case, the assessee would not have discharged the primary onus contemplated by Section 68 of the Act.”

29. After examining the facts of above referred case, in view of the principles on the issue of applicability of section 68 in the cases of credit of share capital/premium, the Hon’ble Supreme Court reversed the orders of Hon’ble High Court, ITAT and 1st appellate authority and restored the order of the Assessing Officer observing as under :-

“12. In the present case, the A.O. had conducted detailed enquiry which revealed that:

i. There was no material on record to prove, or even remotely suggest, that the share application money was received from independent legal entities. The survey revealed that some of the investor companies were non-existent, and had no office at the address mentioned by the assessee.

For example:

a. The companies Hema Trading Co. Pvt. Ltd. and Eternity Multi Trade Pvt. Ltd. at Mumbai, were found to be non-existent at the address given, and the premises was owned by some other person.

b. The companies at Kolkatta did not appear before the A.O., nor did they produce their bank statements to substantiate the source of the funds from which the alleged investments were made.

c. The two companies at Guwahati viz. Ispat Sheet Ltd. and Novelty Traders Ltd., were found to be nonexistent at the address provided.

The genuineness of the transaction was found to be completely doubtful.

ii. The enquiries revealed that the investor companies had filed returns for a negligible taxable income, which would show that the investors did not have the financial capacity to invest funds ranging between Rs. 90,00,000 to Rs. 95,00,000 in the Assessment Year 2009-10, for purchase of shares at such a high premium.

For example:

Neha Cassetes Pvt Ltd. - Kolkatta had disclosed a taxable income of Rs. 9,744/- for A.Y. 2009-10, but had purchased Shares worth Rs, 90,00,000 in the Assessee Company

Similarly Warner Multimedia Ltd. - Kolkatta filed a NIL return, but had purchased Shares worth Rs.95,00,000 in the Assessee Company - Respondent.

Another example is of Ganga Builders Ltd. - Kolkatta which had filed a return for Rs. 5,850 but invested in shares to the tune of Rs. 90,00,000 in the Assessee Company - Respondent, etc.

iii. There was no explanation whatsoever offered as to why the investor companies had applied for shares of

the Assessee Company at a high premium of Rs. 190 per share, even though the face value of the share was Rs. 10/- per share.

iv. Furthermore, none of the so-called investor companies established the source of funds from which the high share premium was invested.

v. The mere mention of the income tax file number of an investor was not sufficient to discharge the onus under Section 68 of the Act.

13. The lower appellate authorities appear to have ignored the detailed findings of the AO from the field enquiry and investigations carried out by his office. 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. The entire transaction seemed bogus, and lacked credibility.

The Court/Authorities below did not even advert to the field enquiry conducted by the AO which revealed that in several cases the investor companies were found to be non-existent,

and the onus to establish the identity of the investor companies, was not discharged by the assessee.

14. 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, failure of which, would justify addition of the said amount to the income of the Assessee.

15. On the facts of the present case, clearly the Assessee Company

- Respondent failed to discharge the onus required under Section 68 of the Act, the Assessing Officer was justified in adding back the amounts to the Assessee's income.

16. The Appeal filed by the Appellant - Revenue is allowed. In the aforesaid facts and circumstances, and the law laid down above, the judgment of the High Court, the ITAT, and the CIT are hereby set-aside. The Order passed by the AO is restored.

Pending applications, if any are disposed of.”

30. In view of the aforesaid discussion of facts of the case and respectfully following the decision of the Hon'ble Supreme Court in the case of NRA Iron & Steel P. Ltd. (supra) and decision of

Hon'ble Delhi High Court in the case of NDR Promoters Pvt. Ltd. (supra) , we are of the opinion that share applicant entities are paper entities created by some individuals for providing entries to the persons including the assessee, not having tax paid capital for promoting their ventures. As the entries of credit are appearing in the books of the assessee, it was the onus of the assessee to explain satisfactorily the nature and source of those credits. As the assessee failed to discharge its onus of explaining source and nature of the credit received and failed to establish creditworthiness and genuineness of the transaction as required u/s 68 of the Act, the assessee is liable for addition under section 68 of the Act. Accordingly, we reverse the finding of the Ld. CIT(A) on the issue in dispute and confirm the addition of Rs. 4, 85, 58,000/-in the hands of the assessee in terms of section 68 of the Act. The ground of the appeal of the Revenue is accordingly allowed.

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

This decision was pronounced in the Open Court on 8th March, 2019.

Sd/-

sd/-

(BHAVNESH SAINI)
JUDICIAL MEMBER

(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 08 /03/2019

Veena

Copy forwarded to

1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

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