

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G": NEW DELHI  
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)

ITA No. 8339/Del/2019  
(Assessment Year: 201-17)

Usekiwi Infolabs Private Limited, Block-B1/D4, Mohan Co- Operative Estate, Mathura Road, New Delhi PAN: AABCU884G (Appellant)	Vs.	ITO, Ward-27(2), New Delhi (Respondent)
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Assessee by :	Shri Hiren Mehta, CA
Revenue by:	Ms. Aman Preet, Sr. DR
Date of Hearing	02/11/2020
Date of pronouncement	07/12/2020

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the assessee USEKIWI INFOLABS PVT LTD [ The Assessee/ Appellant] against the order of the Commissioner of Income Tax (Appeals) – 9, , New Delhi [Id CIT(A)] dated 30.09.2019 for the AY 2016-17 wherein the appeal of the assessee filed against the order passed u/s 143 (3) of The Income Tax Act (The Act) on 31/5/2019 by the income tax officer Ward – 27 (2) New Delhi (The Learned AO) is dismissed. The only issue in this appeal is the addition u/s 68 of The Income Tax Act of Rs. 1,67,50,000/- received by the assessee as share capital and share premium from Messer’s KStart LLC, Mauritius.
2. The assessee has raised the following grounds of appeal:-
  - “1. *That on the facts and circumstances of the case and in law, the order passed by CIT (A)-9, New Delhi (hereinafter referred to as CIT (A)), is contrary to the facts and bad in law.*
  2. *That on the facts and circumstances of the case and in law the CIT (A) was not justified in sustaining the addition made by the A.O. of Rs 1,67,50,000/- received from Kstart LLC of Mauritius on account of issue*

*of shares by appellant company by holding that the same is unexplained credit u/s 68 of the I T Act on the basis of surmises and conjectures.*

*2.1 The CIT-A has erred in not considering the submission of appellant which proves the identity, creditworthiness of the investor and genuineness of the transaction. Documents include audited financial statements of Kstart LLC, Certificate of Incorporation of Kstart LLC granted by ROC Mauritius, Bank Statement of Kstart LLC, Income Tax return filed with Mauritius Authority, List of directors for the financial year 2015-16.*

*3. That on the facts and circumstances of the case and in law the Id. CIT (A) was not justified in not adjudicating on the ground taken by the appellant that the order passed by the Id. AO is not in accordance with the direction given by the Id. Addl. CIT u/s 144A of the Act directing the Id. AO to take a fair and judicious view.”*

3. The fact shows that assessee is a company, it filed its return of income on 17/10/2016 declaring loss of ₹ 886,908/-. The case of the assessee was selected for scrutiny Under computer assisted scrutiny selection as limited scrutiny on the point of examination of the large share premium received during the year to verify applicability of Section 56 (2) (viib) of the income tax act and whether the funds received in the form of share premium are from disclosed sources and have been correctly offered for tax. Therefore notice u/s 143 (2) was issued on 16/9/2017.

4. The learned assessing officer noted that Assessee Company was incorporated on 28/12/2015 and this is the first year of the assessee company. As per the balance sheet filed by the assessee it was noted that the funds raised in the form of share capital and share premium has been shown at Rs 1, 68,50,000 comprising of ₹ 1 lakh for issue of 10,000 equity shares of ₹ 10 each, ₹ 2 lakhs for issue of 20,000 compulsorily convertible cumulative preference shares of ₹ 10 each and a security premium of Rs 1 65,50,000/-. As per the information given in the balance-sheet share capital and share premium of Rs. 167,50,000 has been shown received from K

Start LLC. The assessee was asked to furnish the necessary detail and also to explain the applicability of provisions of Section 56 (2) (viib) of the act.

5. The assessee explained that it has received above sum on issue of 20,000 compulsorily convertible cumulative preference shares at the face value of Rs 10 each and a premium of Rs 827.50 from K start LLC of Mauritius. It was further stated that K start LLC is a seed fund created by Kallari capital, a leading Indian venture capital firm, unique seed program for the next generation of Indian and entities with disruptive ideas. K start LLC aims to provide to empower start-ups and accelerate disruptive ideas to become market leading companies. It was further stated that Kallari capital has \$ 650 million in its assets under the management. Assessee also submitted the copy of the bank account of the investor. It also submitted the copy of form FC GPR furnished. It also furnished the tax residency certificate of K start LLC issued by Mauritius authorities. It was further stated that the provisions of Section 56 (2) (viib) applies only in the case where the money is received from a resident. In the present case it was stated that the money has been received from a non-resident therefore, those provisions do not apply. The assessee submitted the relevant copy of the bank statement of K start LLC to show that the transaction has been entered into through banking channel. With respect to the quantum of the premium it was shown that it was decided by the company internally on the basis of the valuation report. Assessee also filed the details of RBI approval and foreign Inward remittance certificates (FIRC). However, assessee stated that it will not be possible to share the balance-sheet et cetera of the investor as it will show the holding portfolio of the investor. It was stated that this is a case of an investment by a fund in a start-up in the normal business course.
6. The learned assessing officer noted that assessee has not submitted the complete copy of the bank statement of Kstart LLC of Mauritius but enclosed only copy of extract of DBO transaction summary of account number 02MCR502499 maintained by K start LLC with Deutsche Bank showing only for transactions on 3/2/2016. He further noted that assessee has not submitted any income tax return or copies of correspondence that took place between the Assessee Company and K start LLC.

7. The learned assessing officer noted that as the alleged transaction of receipt of share capital and share premium of Rs 1 67,50,000 from Messer's K start LLC of Mauritius is suspicious, he referred the matter to the FT & TR, Ministry of Finance (foreign tax and tax research division), exchange of information Cell , India New Delhi by letter dated 19/8/2018 seeking information Under Exchange Of Information from the Mauritius tax authorities in case of the assessee company for assessment year 2016 – 17. The necessary information was received from Mauritius authorities stating the list of directors of the company, copy of company have audited financial statement from 30 November 2015 to 31<sup>st</sup> of December 2016 and the copy of the bank statement of the company stating the investment made in the Indian entity during the period 30<sup>th</sup> member 2015 to March 31, 2016. It was further informed by the Mauritius revenue authorities that the only beneficial shareholder of the company for the period 30 November 2015 that is the date of incorporation to 31 March 2016 was Kallari capital Partners III LLC having its registered office at IFS court, bank street, 28 cyber city, Ebene 72201, Mauritius. Based on this information , learned assessing officer further wrote a letter to the assessee on 9/05/2019 u/s 142 (1) stating that that the matter was referred to FTD Section of the CBDT in connection with the receipt of money from Mauritius. The copy of the bank account of Mauritius party as also the balance-sheet as also the copy of the return has been received. Based on this information the learned assessing officer noted that the balance sheet of K start LLC total is only \$ 1007. The only source of income of that company is gain on disposal/revaluation of fixed assets including securities amounting to \$ 294,461/-. Thus that company does not have any reasonable income to purchase shares of assessee. On the bank statement he noted that it has received a cheque and thereafter issued the cheque to the assessee and there are no other transactions in this account. He noted that this is sufficient evidence to prove that this account is not a regular account order there are no transactions during the year. Therefore he noted that the receipt of proceeds of share is not genuine. Therefore assessee was asked to show cause why the above sum shall not be added u/s 68 of the income tax act.

8. In response to the above letter the assessee once again explained the detailed fact about the receipt of the money stating that it is an investment by the K start LLC into a start-up which is on behalf of Kallari capital. It was stated that it has received investment firm of that private equity venture for Indian start-ups. It was also explained that K start LLC would only earn income from sale of investment and therefore that is the only source of income. With respect to the bank statement it was stated that the money is transferred from Kallari capita to K start LLC as and when the investment is approved by Kallari Capital in India in start-ups. Assessee also mentioned that it is an innovative financial service platform that combines healthcare and FinTech to provide health saving solution to its clients. It is that kind of a company that K start LLC through Kallari capital proposes to build their investment portfolio. It was further stated that from the perusal of K start LLC's financial statements it can be seen that they have invested in various companies in India. Assessee submitted the list of the companies in which K start LLC has invested. It was also stated that this is the investment in all these companies in the initial/1<sup>st</sup> year of their operation, assessee also submitted that that Kallari capital is investing in India and it has also invested in companies like Myntra, Snapdeal, PopXo, ScoopWhoop, Rbbic, Haptik, Bluestone et cetera which are the well-known names. The assessee also submitted the permanent account number of K start LLC and Kalari capital partners. Assessee further stated that now before the assessing officer confirmation, the balance-sheet, certificate of incorporation, details of money transfer through banking channel, tax residency certificate issued by Mauritius authorities, FIRC with respect to inward remittance of foreign currency, FC GPR report submitted to the reserve bank of India. In view of this, it was stated that assessee has discharged its onus of the identity, creditworthiness and the genuineness of the transaction. It was also noted that the learned assessing officer has also got due enquiry done through the government of India under the Exchange of Information provisions. It was stated that there is no adverse inference or information available with the assessing officer. Therefore the addition u/s 68 of the income tax act cannot be made.

9. As it seems the AO was not satisfied with the above explanation of the assessee, the assessee company filed an application u/s 144A of the act on 16/05/2019 to The Additional Commissioner of Income Tax, Range – 27, New Delhi. He passed a direction on 29/05/2019 stating that on the facts and circumstances of the case does not warrant to issue any direction u/s 144 of the act as it is not necessary or expedient so to do on respect of the amount of ₹ 1.67 crores received by the assessee company in the form of share capital and share premium for which the assessee company is prayed for not making an addition to the income of the assessee. However he directed the learned assessing officer to take a fair and judicial view in accordance with the provisions of the income tax act.
10. The learned assessing officer noted following reasons and made the addition u/s 68 of the income tax act:-
- i. the assessee company was incorporated on 28/12/2015 and this is the first year of the assessee company
  - ii. the investor M/s K start LLC was incorporated on 1/12/2015 and this is the first year of the investor company
  - iii. the assessee company has issued 10,000 equity shares to 2 different individuals at par and the rate of ₹ 10 per share
  - iv. he considered the resolution passed at the meeting of the assessee company, explanatory statement pursuant to Section 102 of The Companies Act 2013 on issue of preferential shares, details of the shareholders resolution passed and the resolutions of the board meeting of the appellant company and thereafter noted that two shareholders have renounced their right in the issue of 20,000 compulsorily convertible cumulative preference shares and thereafter renouncement made by them resulted into investment from K start LLC. Based on this sum of ₹ 1.67 crores was received in the bank account of the assessee maintained with the Yes bank on 3/2/2016 towards allotment of 20,000 compulsorily convertible cumulative preference shares of Rs 10 each at a premium of Rs. 827.50 on 05/2/2016.

- v. The assessee has not furnished copies of all correspondence that took place between the assessee and K start LLC of Mauritius regarding the said application money and premium determination
  - vi. The balance-sheet received of the investor company merely shows a current asset of \$ 1007 and the net assets of \$ 12,580. There is no fixed assets available with the investor company
  - vii. the bank statement with Deustch bank Mauritius of the investor there is an opening balance of ₹ 0 and there is one credit entry of US dollar 2,60,000 on 3/2/2016 and on the same that there is a debit entry of US dollar 2,45,962.54
11. Therefore the learned assessing officer held that in view of the facts and figures, creditworthiness and genuineness of the transaction cannot be said to have been proved and therefore he made an addition of ₹ 1,67,50,000 introduced by the assessee in the guise of share capital and share premium from Kstart LLC of Mauritius as unexplained credit in the books of account of the assessee company u/s 68 of The Income Tax Act. Accordingly the assessment order was passed u/s 143 (3) of the act on 31/05/2019 determining the total taxable income of the assessee at Rs. 1 58,63,092 against the returned loss of ₹ 886,908.
12. The assessee aggrieved with the order of the learned assessing officer preferred an appeal before the learned CIT – A. The learned CIT – A further noted that the pattern of unavailability in the transfer thereof, absence of any substantial base of own fund with K start LLC, does not prove the genuineness and creditworthiness of the above transaction. He relied upon the decision of the coordinate bench in ITA number 1716/AHD/2012 dated 18/8/2016 in case of Nakoda fashions Ltd, the decision of the honourable Delhi High Court in case of CIT versus Novadaya castles private limited, and N R portfolio private limited, CIT versus Nipun builders and developers private limited (350 ITR 407) and confirmed the addition holding that assessee has failed to discharge of onus with respect to creditworthiness and genuineness of the transactions.

13. Assessee aggrieved with the order of the learned CIT has preferred this appeal before us. The learned authorised representative submitted before us that assessee has submitted following information before the learned assessing officer to show the identity, creditworthiness and the genuineness of the transaction:-

- i. certificate of incorporation of K start LLC granted by the registrar of Companies Mauritius which is the proof of the identity
- ii. permanent account number allotted by the income tax Department
- iii. financial statement of K start LLC for the year ended on 31<sup>st</sup> of December 2016
- iv. Bank statement of K start LLC reflecting transfer of funds aggregating to US dollars 2,45,962.54 to the appellant's account
- v. foreign inward remittance certificate dated 5/2/2016 certifying receipt of funds aggregating to Rs 1,67,50,000 through normal banking channels
- vi. KYC form dated 4/2/2016 issued by the bank confirming the information about the non-resident investor
- vii. form number FC GPR dated 8/3/2016 filed with the reserve bank of India intimate in receipt of equity shares/preference shares Under automatic route or FIPB approval within 30 days
- viii. letter dated 13/file/2016 received from RBI acknowledging filing of form number FC GPR
- ix. form number PAS 3 filed with the registrar of Companies regarding allotment of shares by the appellant to K start LLC
- x. brief write-up about K start LLC and Kallari capital
- xi. tax residency certificate of K start LLC issued by Mauritius tax authorities
- xii. valuations report dated 1 February 2016 valuing the shares of appellant at ₹ 7 90/- per share

14. On the basis of above submission of information the assessee submitted that it has discharged the initial onus cast upon the assessee to prove the

identity, creditworthiness and genuineness of the transaction. With respect to the financial statement of K start LLC he submitted that it has invested into multiple start-up company is located in India as well as abroad. He further stated that K start LLC catalysts include the name of Mr Ratan Tata, Mr Rajan Ananth, MS Zia Modi and Manu Jain among others. He submitted that these are the well-known names of the Indian corporate world that are behind the above investment. He submitted that absence of any revenue in case start LLC it would not hampered the genuineness of the transaction as the above entity was created by Kallari capital for investment only. Therefore the revenue that would generate in the above form would only be capital gain on sale of all time best of investment made. He further submitted that as soon as the decision for investment is taken by caloric capital, the money would be transferred from that entity to the case start LLC as it is merely a of vehicle (SPV) for investment. He further submitted that whatever information assessee could not have furnished has already been obtained by the learned assessing officer under the exchange of information provisions from Mauritius tax authorities. None of the information received is against the assessee or the investor. Therefore there is no reason to doubt the creditworthiness and genuineness of the investor.

15. On the legal arguments, he referred to the decision of coordinate bench in 37 taxmann.com 400 (2013) of Russian technology Centre private limited versus Deputy Commissioner Of Income Tax wherein it has been held that where the money is remitted by a non-resident, whose identity is not in question, through their bank accounts outside India held to be a capital receipt not eligible to tax and cannot be treated as deemed income u/s 68 or 69 of the income tax act. He referred extensively paragraph number 11.7 of that decision. He further relied upon the decision of the coordinate bench in 19 taxmann.com 268 in Bye cell telecommunications India private limited versus principal Commissioner of income tax New Delhi wherein it has been held that the assessing officer has made detailed enquiry by seeking information from Switzerland tax authorities through proper channel Under the exchange of information provision the addition could not have been made u/s 68 of the income tax act. He further relied upon the decision of Saurashtra Ferrous private limited versus Deputy Commissioner Of Income

Tax 55 taxmann.com 344 wherein it has been held that assessee was required to discharge initial burden of proof placed upon it u/s 68 in respect of loan received in form of debentures even if it was received from a foreign company. He submitted that assessee has already discharged its onus. He further relied upon the decision of the honourable Bombay High Court in Principle Commissioner Of Income Tax versus Aditya Birla telecom Ltd 105 taxmann.com 206 wherein it was held that when there was no suspicious movement of funds and all necessary permissions and clearance were granted by the government of India and other government authorities for such investment merely because investor was investing a huge amount on Multi corporate bodies were involved in entire process of collecting funds same cannot be made subject to income tax u/s 68 of the income tax act. He further referred to the decision of the honourable Bombay High Court in Nupower renewable private limited versus Asst Commissioner of income tax 104 taxmann.com 307 and Income Tax Officers versus Chiripal private limited 104 taxmann.com 172 of the coordinate bench. Therefore he submitted that the addition made by the learned assessing officer and confirmed by the learned CIT – A deserves to be deleted.

16. The learned departmental representative payment please supported the order of the learned AO and CIT – A and stated that assessee has failed to prove the genuineness and creditworthiness of the whole transaction and therefore the addition deserves to be confirmed. He further relied upon the decision of the honourable Supreme Court of India in Principle Commissioner Of Income Tax (central) – 1 versus NRA Iron and steel private limited 412 ITR 161 (SC) stating that this was the decision relied upon by the learned CIT – A which has been confirmed by honourable Supreme Court. In view of this it was submitted that appeal of the assessee does not have any merit.
17. During the course of the hearing bench asked the learned authorised representative to prove the rationale of the investment made in the assessee company by the investor in the form of financial due diligence report, legal due diligence report, investment committee meeting of the investor or its holding company and the details of other investment made by investor in other companies. In response to this learned today are submitted the brief

snapshot of the assessee in the form of business model of the assessee as a digital payment platform for affordable healthcare. He also stated that the assessee has the right solution for a country like India where 96% population is not insured. Therefore the investment in the assessee company is an attractive opportunity. He also submitted a copy of proposal given by the assessee to the investor showing in the executive summary that assessee is an alternative finance platform that honourable is healthcare affordability through personalized prepayment plans. It is also positioned at intersection of financial technology and healthcare. Further the assessee has signed up three institutions such as a chain of four oncology centers, oncology diagnostic labs and a multi-specialty hospital. The presentation also shows that assessee is ready to be launched commercially in February 2016. He also submitted an investment memorandum of the assessee company. Before us assessee also submitted a project plan in the form of financial due diligence conducted by PricewaterhouseCoopers and are legal due diligence by a law firm Shardul Amarchand Mangaldas. He submitted that above information clearly shows that all the requisite parameters for investment are in place.

18. We have carefully considered the rival contentions and perused the orders of the lower authorities. We have also considered the various information furnished by the assessee before the learned AO as well as information received by the learned assessing officer under exchange of information provisions. The facts clearly shows that assessee has got an investment from Kstart LLC, Mauritius as a contribution towards issue of 20,000 compulsorily convertible preference shares having face value of ₹ 10 each at a premium of ₹ 827.50 per share. For this proposition the bank account of K start LLC with Deustch bank account number 02 MCR502499 shows that a sum of US dollar 2,45,962.54 were transferred on 3 February 2016 in the bank account of the assessee company. On the same date of there was a capital contribution of US\$ 260,000 in the same bank account from the holding company Kaalari Capital Partners III LLC Mauritius. For the above investment it is apparent that KYC form submitted by Duestch Bank AG shows that Kstart LLC is having a global commercial license i.e. 1/GBL having its registered office at IFS, IFS court, Bank Street, 28, cyber city,

EBENE72201, Mauritius and the bank account of the remitter is 502499. The above sum was received in the Yes bank account of the assessee. The banker of the assessee, Yes Bank limited was provided the above declaration in the FIRC dated 3 February 2016 by the banker of the investor. The investment was under the automatic route for issue of 20,000 compulsorily convertible cumulative preference shares of Rs 10 each at a premium of Rs 827.50 per share under the right issue. The above investment was also documented in the meeting of the board of directors of the assessee company on 23<sup>rd</sup> of January 2016 wherein the above investment was authorised. After such authorization the investment has been made. No doubt the existing shareholders of the assessee company renounced the rights available to them for application towards these instruments in favour of the investor. However that does not make the investment by the investor or in the assessee company as non genuine. The assessee also submitted a brief write-up before the assessing officer about the introduction of K start LLC, Which is found to be seed fund created by kaallari capital, a leading Indian venture capital firm which has the asset base of US\$ 650 million. Assessee also supported the investment with extract of livemint which shows that K start LLC is a start-up accelerator run by venture capital firm Kaalari capital and has invested \$ 5 lakh each in three start-ups in healthcare, financial services and online video content management. It also shows that Kalari capital has taken Unicorns such as Flipkart Ltd, a snapdeal and also launched K start putting aside US\$ 20 million for the program over the next two years. K start will invest US\$ 1 lakh-US\$ 5 lakh in 6-9 other start-ups this year. For its start-ups, K start has gathered a set of notable advisors such as former Tata group chairman Ratan Tata, Ms Zia Modi managing partner at law firm AZB partners , senior Ranjan Anandan, managing director of south-east Asia and India Google incorporation and Varsha Rao head of global operation at home rental start-up Airbnb. Further as per information received by foreign tax and tax research division of government of India under the exchange of information under article 26 of the Double Taxation Avoidance Convention between India and Mauritius, Kstart LLC was having three different directors. As per the directors report of K start LLC, it is to operate as an investment holding

company. It has investment as its fair market value having the cost of US dollar 33,51,414 and equity of class A shareholders of US dollar 35,31,823. A note to financial statements of the report clearly shows that Kstart LLC is a limited liability company and subsidiary of kalalri capital III, LLC of Mauritius private limited life Co Ltd by shares. With respect to the income stream of K start LLC, it is also stated that company is organized for the purpose of realizing returns through long-term capital appreciation of investments made by the company, primarily in technology and service companies located in with significant business activity in having Nexus to the Indian subcontinent. Therefore the only stream of income of that company is profit or loss generated on sale of the investments. As on 31<sup>st</sup> of March 2016 it has invested in unlisted privately held equity and preferred securities of US\$ 3,630,954. On looking at the investment and associated risk wherein the summary of investment is shown, it has invested in four different entities in India, one entity in Singapore and three different entities in United States of America. It also shows that shareholders have made capital commitment to the company amounting to US\$ 11.2 million as on December 31, 2016. The class B shares are issued to only one entity i.e. Kalaari capital Partners III LLC. Investor has also paid US\$ 146,302 as management fee to Kaalari capital advisors private limited. In view of the above facts it is apparent that creditworthiness and genuineness of the above investment cannot have any doubt. The learned assessing officer also could not point out for what reasons he is having any doubt about the creditworthiness and genuineness of the above investment when such an extensive details are made available by the assessee and he himself obtained information under Exchange of Information provisions of DTAA.

19. However, we would also like to deal with the argument of the learned authorised representative that in case of a non-resident investor the assessee is not required to prove anything other than the identity of the shareholders. We have carefully perused the provisions of Section 68 of the income tax act which speaks about taxing any sum credited in the books of account of the assessee for which assessee could not satisfy the learned assessing officer about the nature and source of such credit. It does not make any distinction whether the sum is found credited from a resident

shareholder or a non-resident shareholder. Further the compliance with the reserve bank of India guidelines as applicable under The Foreign Exchange Management Act neither proves nor disproves the nature and source of credit from a non-resident as per Income Tax Act, those evidences may have persuasive value. On careful perusal of para number 11.7 of the decision of the coordinate bench in case of Russian technology centers private limited (supra) it does not say that in case of a non-resident shareholder only the identity is to be proved. In that particular case also the coordinate bench has held that the primary onus is to be weighed on the scale of evidence available on the record and the discharge of burden by the assessee on the basis of the documents on facts and circumstances of the each case.

20. Further looking at the provisions u/s 56 (2) (viib), it clearly applies to the resident and not to a sum received from a non-resident. Therefore, this section does not apply to the impugned transaction.
21. Therefore, looking at the various evidences produced by the assessee, evidences obtained by the learned assessing officer in terms of article 26 of the Double Taxation Avoidance Convention between India and Mauritius, the annual financial statement of the investor, the background of the investor as mentioned in the financial statements, the amount of investments made by the investor in other companies across the globe, the amount of share capital introduced by the holding company of the investor, the financial operations of the investor deciphered from the financial statements of the investor, Financial and Legal Due diligence by investors, we do not find that there is an iota of doubt about the creditworthiness and genuineness of the about transaction of allotment of 20,000 compulsorily convertible redeemable shares resulting into allotment of shares worth Rs 1, 67,50,000 from K start LLC of Mauritius.
22. We have also carefully perused the various judicial precedents relied upon by the learned CIT – A and the learned assessing officer supporting the above addition made by the learned assessing officer. We find that those are not applicable to the facts of this case as in this case assessee has proved identity, creditworthiness of the investor as well as the genuineness of the whole transaction. Further various decisions cited by the learned authorised

representative are also not required to be dealt with as those were rendered under different context.

23. In view of these facts, we allow ground number two of the appeal of the assessee and direct the learned assessing officer to delete the addition of Rs 167,50,000 made u/s 68 of the income tax act with respect to the about transaction.
24. In view of our above fund finding in ground number 2, ground number 3 is not required to be adjudicated upon.
25. Ground number 1 and 4 are general in nature and therefore those grounds are dismissed.
26. In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 07/12/2020.

-Sd/-

(H.S.SIDHU)  
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated:07/12/2020  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi