IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E' DELHI
BEFORE SHRI I.P. BANSAL AND SHRI K.G. BANSAL

ITA No. 231(Del)/2011
Assessment year: 2002-03

Income-tax Officer, Ward 5(4), New Delhi.	Vs.	Mukut Finvest & Properties Pvt. Ltd., 1574/30, Naiwala, Karol Bagh, New Delhi-110005. PAN: AAACM5516G

C.O. No. 154(Del)/2011
(Arising out of ITA No. 231(Del)/2011)
Assessment year: 2002-03

Mukut Finvest & Properties Pvt. Ltd., 1574/30, Naiwala, Karol Bagh, New Delhi.	Vs.	Income-tax Officer, Ward 5(4), New Delhi.
(Appellant)		(Respondent)

Appellant by : Shri R.S. Negi, Senior D.R.
Respondent by : Shri U.S. Kochar, Advocate

Date of Hearing : 26.03.2012
Date of Pronouncement: 27.04.2012.

ORDER

PER K.G. BANSAL : AM

The only substantive ground taken by the revenue in this appeal is that the ld. CIT(Appeals) erred in deleting the addition of Rs. 14.45

lakh made by the AO u/s 68 in respect of unexplained credits. It is also mentioned that the assessee did not discharge the burden of proving existence and creditworthiness of creditors and genuineness of the transaction because as a matter of fact he is involved in receiving accommodation entries.

1.1 In the cross objection, the assessee has taken up four grounds. Ground nos. 2 to 4 are in respect of validity of notice issued by the AO u/s 147 of the Act. It is mentioned that the AO did not apply his mind to the information received from the investigation wing. It is further mentioned that the AO had no reason to believe that any income chargeable to tax had escaped assessment. It is also mentioned that there is no nexus or live link between the information and the factum of escapement of income. Ground no. 1 is that no notice u/s 143(2) has been issued and that notice dated 30.11.2009 is not in the nature of a notice u/s 143(2). As the cross objection involves preliminary issues, we decide the same at the outset.

2. We start with ground nos. 2, 3 and 4, which challenge the issuance of notice u/s 148. The facts mentioned in the assessment order are that

the return declaring loss of Rs. 12,442/- was filed on 29.10.2002. The same was processed u/s 143(1). Subsequently, a report was received from Investigation Directorate in respect of enquiries conducted into some bank accounts which were used for issuing cheques to the beneficiaries against cash paid by them to the entry operators, i.e., the persons who operated these accounts. In this connection, a survey was conducted in the case of M/s Gurcharan Jewellers, Proprietor Shri Ashok Kumar Chauhan, who admitted to have taken cheques under the garb of gifts after paying cash. Further enquiries were conducted and a number of bank accounts were located which were used for giving accommodation entries. These accounts were operated by persons of no means and who were masons, plumbers, electricians, peons, drivers etc. The real persons behind these accounts, the entry operators, paid them monthly sums of Rs. 1,000/- to Rs. 2,000/-. In order to effectuate accommodation entry, blank and signed gift deeds, cheque books, share application forms etc. were obtained from them. They were also made directors in the companies, partners in the firms and proprietors of a number of proprietary concerns. The whole situation was managed by Shri Mukesh Gupta along with his confidant, Shri Ranjan Jassal and Shri Surinder Pal Singh. A mention of 14 bank accounts so operated has

been made on page no. 2 of the assessment order. A large number of beneficiaries of these accounts have also been mentioned on page nos. 3 and 4 of the assessment order. The addresses used by these persons have also been mentioned on page nos. 5 and 6 of the assessment order. Coming to the specifics of this case, the information was that the assessee has taken 18 entries aggregating to Rs. 14.45 lakh from such persons. Acting on this information, reasons were recorded for reopening assessment and a notice u/s 148 was issued.

2.1 The findings of the ld. CIT(Appeals) in the matter are that the AO had before him specific and precise information in respect of entry providers, dates of entry, amounts received from each individual, cheque or draft nos. and name and address of the branch. He made a limited verification to ensure that the information was related to the assessee. On this basis, he formed a prima facie opinion that the case required further investigation. It is further mentioned that no scrutiny assessment had been made in this case on the basis of original return. After considering various decisions, it has been held that the AO was justified in reopening the assessment.

2.2 Before us, the ld. counsel for the assessee referred to the reasons running into 12 pages. These reasons have been placed in the paper book between page nos. 4 and 16. Up to page no. 13, information received in respect of enquiries conducted by the investigation wing has been narrated. On page no. 14 the details of various entries received by the assessee in terms of the name of the entry provider, date, account number of the entry provider, cheque number, name and address of the bank of the entry providers and the bank account of the assessee in which the amounts were deposited have been narrated. These entries aggregate to Rs. 14.45 lakh. In paragraph no. 6, it is mentioned that the enquiries reveal that Shri Ishwar Sharma, Smt. Babita, Shri rohit Rana, Shri Sachin Gupta, Shri Pramod Kumar, Shri Sanjay Sharma, Ms. Preeti Arora, Shri Sudhir Sachdeva, Ms. Geeta Rajouria, Shri Surinder Pal Singh, Shri Mukesh Gupta, Ms. Pallavi Negi, Shri Rajesh Kumar Gupta, Ms. Rani Sharma and Ms. Sarita Gupta have given entries to the assessee. The return of income of the assessee for this year was perused, which showed that the capital increased from Rs. 1.80 lakh to Rs. 16.20 lakh. In paragraph no. 8, it is mentioned that these entries cannot be verified from the return of income. The information is that these entries are in the nature of accommodation entries. Therefore, it has been recorded that

there is reason to believe that income of Rs. 14.45 lakh has escaped assessment.

2.3 The case of the ld. counsel is that the AO was in the knowledge of the identity of the persons. However, he relied on the report of Investigation Directorate. Thus, there was no application of mind.

2.4 In reply, the ld. senior DR submitted that the AO received information from the investigation wing that the assessee received accommodation entries in respect of capital amounting to Rs. 14.45 lakh. Thus, the assessee provided its own money to the entry operators in cash and obtained cheques of equivalent amount from accounts of various persons who were used for providing these entries. The officers in the directorate are "authorities" under the Act and, therefore, they are respectable sources of information. The information was quite detailed in terms of entry provider, bank account, cheque number, date and the account in which these cheques were deposited by the assessee. The information was prima facie believable. The AO compared the information with the original return of income filed by the assessee and came to the conclusion that although capital has increased from Rs. 1.80

lakh to Rs. 16.20 lakh, the information cannot be tallied with the information in the return as the details did not exist in the return. This is a case where no assessment had earlier been made and the return had only been processed. Thereafter, it has been recorded by the AO that income of Rs. 14.45 lakh has escaped assessment. Thus, it is case in which not only reliable information was received but also in which the AO applied his mind to the information after verifying the same with the details furnished in the return and recorded the reasons that income escaped assessment. In such a case, there was no necessity for him to make direct enquiry with the entry provider or the assessee because the AO is not required to prove his case to the hilt at this stage. What is required is that prima facie there was reason to believe that the income escaped assessment. The information had a direct nexus with the issue of escapement of income. Therefore, it is argued that the assessment was validly reopened.

2.5 We have considered the facts of the case and submissions made before us. The facts are that the AO received information about receipt of accommodation entries by the assessee aggregating to Rs. 14.45 lakh from entry providers. The details of the entries are available in paragraph

no. 5 in the recorded reasons. The information has been verified by the AO with the return of income of the assessee available with him for this year. The return shows that the paid up capital has increased from Rs. 1.80 lakh to Rs. 16.20 lakh. However, details of the subscribers are not available. Therefore, it was recorded that in the light of enquiries conducted by investigation wing, he has reason to believe that income of Rs. 14.45 lakh has escaped assessment for this year. Thereafter, approval has also been taken from the Additional Commissioner of Income-tax. The question is whether notice issued in pursuance to these reasons is valid or not?

2.6 In the case of Narnudia Financial Services Pvt. Ltd. in ITA No. 4094(Del)/2009 for assessment year 2001-02 dated 20.04.2011, relied upon by the ld. counsel, the cross objection of the assessee was allowed. The facts of this case are that original assessment had been framed u/s 143(3). Subsequently, information was received from the investigation wing that the assessee is a beneficiary of accommodation entry. The Tribunal found that the assessee had disclosed all particulars regarding share money at the time of original assessment. The AO had also obtained confirmation from the investors. The reopening was done

merely on the basis of information received from investigation wing. It was held that the case is covered by the decision of jurisdictional High Court in the case of Sarthak Securities Company (P) Ltd. Vs. ITO (2010) 329 ITR 110 (Del). The facts of this case are distinguishable for the reason that the AO had verified the details of capital contribution in the course of original assessment made u/s 143(3) by obtaining confirmation letter. In the instant case, the name and address of the contributors were not available in the return and no assessment had been earlier made u/s 143(3).

2.7 In the case of Sarthak Securities Company (P) Ltd. (supra), the facts are that the return was filed declaring total income of Rs. 15,360/-. The return was processed u/s 143(1). In this year four private limited companies had invested in the shares of the assessee company. After observing all legal formalities, shares were allotted to these companies. Thereafter, a notice u/s 148 was issued on 25.03.2010. It was informed that the earlier return may be taken as return u/s 148. The assessee requested that the reasons recorded for issuing notice u/s 148 may be supplied to it. This was done. The assessee raised objection to the initiation of proceedings. These objections were rejected. The case of the

ld. counsel before the Hon'ble Court was that the order of the AO does not reflect any independent application of mind to the information so received and that he had not taken into account the decision in the case of CIT Vs. Lovely Exports (P) Ltd. (2009) 216 CTR 195 (S.C.). The Hon'ble Court came to the conclusion that although the AO was made aware of the situation by the investigation wing, there is no mention by him that these companies are fictitious. It is true that at this stage it is not necessary to establish the escapement of income but what is necessary is that there is relevant material on which a reasonable person would have formed requisite belief. The decision in the case of Lovely Exports (P) Ltd. (supra) is applicable and in absence of finding about fictitious nature of companies, conclusion of escapement of income could not have been drawn. The facts of this case are also distinguishable. In this case, four limited companies were the contributors, whose identity was not doubted. The information was that they were merely conduits. As against this, in the instant case, contributors are individuals working at the command of the main entry operator. The AO had applied mind to the information by comparing it with the information available in the return of income. Extensive enquiries by the investigation wing led them to certain conclusion which if perused

by a person of ordinary prudence would lead to a conclusion that certainly there was something amiss. The information had a direct bearing on assessment of the income. Therefore, it cannot be said on the basis of this decision that the AO did not apply his mind to the information or that he was obliged to make any independent enquiry.

2.8 In the case of Chhugamal Rajpal Vs. S.P. Chaliha & Others (1971) 79 ITR 603 (SC), the facts are that on the basis of information received from the Commissioner that loan transactions required investigation, reasons were recorded and the assessment was reopened. The Hon'ble Court found that the affidavit filed by the ITO was vague and indefinite, therefore, the records were directed to be produced. However, only a report submitted by the ITO to the Commissioner was produced. The reasons recorded u/s 148(2) were not produced. The facts of this case are also distinguishable because detailed reasons recorded by the AO are there on record, to which we have already referred to. In the case of ITO Vs. Lakhmani Mewaldas (1976) 103 ITR 437 (SC), the decision was rendered u/s 23(3) of the old Act corresponding to section 147(a) of the Act. Thus, the question whether all material facts had been disclosed or not had to be decided. In the instant case, there is no requirement as the

assessment u/s 143(3) had not been made earlier. Nonetheless, it may be mentioned that the information was not vague, indefinite, distant, remote or far fetched. It was a definite information which had a direct bearing on escapement of income. In the case of ITO Vs. Dwarka Dass & Brothers also (1981) 131 ITR 571 (Del), the question was regarding failure to disclose fully and truly all material facts in the course of original assessment. Thus, the ratio of these decisions is not applicable.

2.9 On the other hand, the decision of the jurisdictional High Court in the case of CIT Vs. Nova Promoters & Finlease (P) Ltd. in ITA No. 342 of 2011 dated 15.02.2012, relied upon by the ld. Sr. D.R., supports the case of the revenue. In this case, the return for assessment year 2000-01 was only processed and no assessment was made. Thereafter, proceedings u/s 147 were initiated on the basis of information received from Directorate of Investigation to the effect that the assessee was one of the beneficiaries of accommodation entries given by 16 entry operators through which it received share application monies of Rs. 1,18,50,000/-. The Hon'ble Court upheld the action of issuance of notice u/s 148. The entry operators in that and this cases are the same persons.

2.10 Coming to the decision in the case of the assessee, it is clear that a precise and definite information was received by the AO regarding receipt of accommodation entries in respect of capital from various persons aggregating to Rs. 14.45 lakh. He compared the information with the information available in the return of the assessee. As the information could not be matched, he recorded definite reasons in clear terms that income escaped assessment. The case of the ld. counsel is that the decision in the case of Nova Promoters and Finlease (P) Ltd. (supra) is per curium because the decision in the case of Sarthak Securities Co. (P) Ltd.(supra) has not been considered. We do not want to venture into this controversy. It is also not necessary for us to do so at present because we have given a clear finding that a definite and reliable information was received to which the AO applied his mind and he came to the conclusion that income had escaped assessment. Therefore, we are in agreement with the ld. senior DR that the AO rightly reopened the assessment by adhering to the relevant provision and following the right procedure provided under the rule.

2.11 Thus, ground nos. 2, 3 and 4 of the cross objection are dismissed.

3. Now we take up ground no. 1 that no notice had been issued to the assessee u/s 143(2). In this connection, the ld. counsel for the assessee drew our attention to the notice u/s 143(2) issued by the AO, the operative portion of which reads as under:-

" Sub:- Notice u/s 143(2) for Asstt. Year 2002-03-reg-

Please refer to your letter dated 30.11.2009 in respect of the above subject.

You are hereby intimated that a notice u/s 148 was issued by this office on 27.03.2009 for the assessment year 2002-03 and in response to the same vide your letter dated 30.11.2009, you have submitted that the return filed by you on 20.10.2002 may be treated as return filed in response to the notice u/s 148.

This notice u/s 143(2) dated 30.11.2009 is in continuation to the assessment proceedings initiated u/s 148 for the said year under reference. Since this notice has been issued in pursuance to the notice u/s 148 dated 27.3.2009 and with reference to your letter dated 30.11.2009, hence the notice u/s 143(2) issued to you is within the stipulated time limit for assessment proceedings of your case for the A.Y. 2002-03 and hence is valid.

A notice u/s 142(1) along with a questionnaire on which you are required to file details is also enclosed herewith. In this regard you are hereby requested to attend the proceedings before me either directly or through authorized representatively duly authorized in writing on 09.12.2009."

3.1 It is submitted that a notice u/s 143(2) has to conform to the statutory language which means that the assessee has to be called upon to produce or caused to be produced any evidence on which the assessee may rely in support of the return, on the date specified therein. The objection of the ld. counsel is that he has not been given an opportunity to produce or caused to be produced evidence in support of the return.

3.2 In reply, the ld. senior DR submitted that such a ground had not been taken up by the assessee before the ld. CIT(Appeals). The assessee has also not objected to the notice in the course of assessment proceedings. The instant notice is issued u/s 143(2) as seen from the subject mentioned therein. The reading of the notice shows that two notices were issued on 30.11.2009, one u/s 143(2) and the other u/s 142(1). The assessee has complied with these notices. No prejudice has been caused to it. Any defect in the notice is cured u/s 292B or 292BB of the Act. Therefore, a valid notice has been served on the assessee.

3.3 In the rejoinder reply, the ld. counsel submitted that provision contained in section 292B deals with curing defects but it cannot get over the jurisdictional issue as assessment u/s 143(3) or 144 cannot be

made without issuing a valid notice. Section 292BB pre-supposes that a notice has been served, which means that a valid notice has been served and in such a situation if the assessee has participated in the proceedings, then objection to service, time within which notice was issued, or manner of service cannot be challenged by him.

3.4 We have considered the facts of the case and submissions made before us. In the case of ITO Vs. Smt. Sukhini P. Modi (2008) 112 ITD 1, relied upon by the ld. counsel, it has been held that once a notice u/s 148 has been issued and a return has been filed in response thereto, the AO has to issue notice u/s 143(2) giving him an opportunity to produce or caused to be produced the evidence and material to support the income shown in the return. Such a notice cannot be waived and an acquiescence by participating in the proceedings cannot be accepted as such participation was to comply with requirement of section 142(1). Further, reliance has been placed on the decision in the case of National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 383 (S.C.), in which it is mentioned that the view that Tribunal is confined only to issues arising out of the appeal before the CIT(Appeals) takes too narrow a view of the powers of the Appellate Tribunal. Undoubtedly, the Tribunal will have

discretion to allow or not to allow a new ground to be raised. But where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings, the court fails to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of the assessee. On the basis of this decision, it is argued that the question whether a notice is a notice u/s 143(2) is a question of law and it should be entertained. We agree with the ld. counsel in this matter. Further, the decision of Allahabad High Court reported at 5 ITR 631, the ingredients of a notice u/s 143(2) have been mentioned, which also find a place in the statutory language. For the sake of ready reference, the statutory provision is reproduced below:-

> "notwithstanding anything contained in clause (i), if he considers it necessary or expedient to ensure that the assessee has not under-stated the income or has not computed excessive loss or has not under-paid the tax in any manner, serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return:"

3.5 We may now examine the notice in the light of the statutory provisions in the light of aforesaid decisions. It is obvious that the main

heading of the notice is "Notice u/s 143(2) for assessment year 2002-03". Therefore, the intent and purpose is to issue a notice u/s 143(2). A notice u/s 142(1) has been appended to this notice calling for certain details as per enclosed questionnaire. Thereafter, it is mentioned that the assessee is requested to attend the proceedings before him either directly or through authorized representative duly authorized in writing on 09.12.2009. From this, it is clear that the assessee could either attend personally or through authorized representative. Therefore, the condition of producing evidence or causing the evidence to be produced is also satisfied. The only missing words are "any evidence on which the assessee may rely in support of the return". Absence of these words may lead to prima facie view that the notice does not conform to the statutory language. However, section 292B provides that no notice etc. issued or purported to have been issued in pursuance of any of the provisions of the Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in the notice provided that such notice is in substance and effect in conformity with or according to the intent and purpose of this Act. There can be no doubt that the notice has been issued for the purpose of the Act and its intention is to give an opportunity to the assessee to substantiate his return by

producing evidence as required u/s 143(2). The subject matter of the notice is section 143(2). The assessee has complied with this notice. Mere compliance to the notice may not validate a notice which is totally illegal. But where there is only an irregularity in the notice which is otherwise in substance in conformity with the intent and purpose of the Act, the notice cannot be deemed to be invalid in the first place. Otherwise also, the assessee is regularly assessed to tax. It is aware of various notices issued under the Act. The section under which notice is issued is mentioned both in the subject matter and in the content of the letter. Therefore, minor omission of some words, as mentioned above, does not invalidate the notice because of section 292B, which has not been taken into account in cases relied upon by the ld. counsel for the assessee. Accordingly, it is held that the notice is a valid notice. Thus, ground no. 1 is dismissed.

4. Now we proceed with the appeal of the revenue. As mentioned earlier, its grievance is only in respect of deleting the addition of Rs. 14.45 lakh made by the AO u/s 68.

4.1 It is mentioned that the bank accounts of all the investors were obtained in the course of assessment proceedings. These accounts show that there are contra entry of amount received and given either on the

same day or on the subsequent day. All the accounts had minimum credit balance in thousands at the beginning and at the end of the year. This disproves the theory that all these investors were carrying on independent businesses. The assessee filed copies of confirmation from the investors, share application form and PAN. It is further mentioned that the face value of the share was Rs. 10/- but it has been issued at a premium of Rs.90/- per share. The profit and loss account shows profit of Rs. 2.52 lakh on account of sale of shares and profit of Rs. 2.21 lakh on account of interest. This state of affairs does not justify the premium of Rs. 90/-. It is also mentioned that the returns of the shareholders show income between Rs. 1.00 lakh and Rs. 3.00 lakh. Thereafter, he has referred to statements of Mukesh Gupta, Rajan Jassal, Manju Gupta and Surender Pal Singh recorded by the officers of Investigation Wing on 11.04.2005, 04.02.2004, 15.04.2004 and 24.12.2003 respectively. Shri Mukesh Gupta has also filed a sworn affidavit dated 12.04.2005. All these depositions show that all these accounts have been used for providing only accommodation entries by depositing cash obtained from the beneficiary, rotating in different accounts and thereafter issuing cheque or draft of equivalent amount for consideration of some commission. In the light of these depositions, it has been held that the evidence filed by

the assessee does not satisfactorily explain the credits as required u/s 68. Therefore, a sum of Rs. 14.45 lakh has been added to the income returned by the assessee.

4.2 Before the ld. CIT(Appeals), the assessee filed additional evidence by way of affidavits of the share applicants. This was objected to by the AO. The ld. CIT(Appeals) admitted the additional evidence by mentioning that the evidence merely supplements the stand of the assessee and it does not state anything further than what had been stated before the AO. Coming to the merits, it has been mentioned that the assessee has provided copies of confirmation letter, share application form, income-tax return, PAN and bank account. As against the aforesaid, the AO has relied upon certain statements recorded by the officers of the investigation wing. After relying on certain case law, it has been held that the AO has not really made out a case of taxing the share application money received through banking channels from the persons regularly assessed to tax. Thus, the addition has been deleted.

4.3 Before us, the ld. senior DR drew our attention towards the finding in the assessment order in paragraph nos. 2 to 5. These deal with the

information received, certain persons using a large number of bank accounts for furnishing accommodation entries through bank accounts held by persons of no means, the details in respect of which have been narrated at length. Thereafter, he referred to the amounts allegedly received by the assessee from a number of persons through cheque or draft drawn on the same bank, i.e., Karur Vysya Bank, Delhi, and deposited by the assessee in his bank account with Federal Bank, Karol Bagh, Delhi. Finally, he referred to the conclusions drawn by the AO, which have already been summarized by us. It is his case that the entries have been received from persons of petty means who have been used by entry operators. The state of affairs shown in the accounts of the assessee also do not justify premium of Rs. 90/- per share. Thereafter, he referred to the finding of the ld. CIT(Appeals) that various evidences have been filed by the assessee before the AO and that the assessee is merely required to establish the identity of the contributors. It has also been mentioned by him that the incriminating material gathered by the AO has not been brought to the notice of the assessee and it has not been allowed to cross-examine the deponents. The case of the ld. senior DR is that the assessee never asked for cross-examination of these persons. The

acceptance of the case of the assessee would amount to accepting a large number of coincidences bordering on impossibility.

4.4 In reply, it is submitted that the evidence filed by the assessee before the AO has not been impeached. Thus, it is a case where documentary evidences filed by the contributors have to be weighed against the oral evidence of entry operators. In such a situation, the documentary evidence has to be given more credence than the oral evidence of third parties. The assessee has discharged its initial onus by producing relevant evidence and, therefore, the ld. CIT(Appeals) was right in deleting the addition as no further adverse evidence was brought on record.

4.5 In the rejoinder reply, the ld. senior DR referred to the decision in the case of Nova Promoters & Finlease (P) Ltd. (supra), which also deals with a case in which entry providers were Mukesh Gupta and Ranjan Jassal. It is his case that all the decisions cited by the ld. counsel stand covered by this decision, in which it has been held that the Tribunal was not right in deleting the addition of Rs. 1,18,50,000/- made by the AO u/s 68.

4.6 We have considered the facts of the case and submissions made before us. We find that the decision in the case of Nova Promoters & Finlease (P) Ltd. is later in time to the decisions relied upon by the ld. counsel for the assessee. The Hon'ble Court has taken into account the conduct of Mukesh Gupta and Ranjan Jassal and directors of 12 companies and mentioned in paragraph no. 30 that they were not ready and willing to appear before the AO. The decision in the case of Lovely Exports (P) Ltd., Divine Leasing & Finance Ltd. and General Exports and Credits Ltd. have been distinguished. The Hon'ble Court has also considered the decision in the case of Orissa Corporation, Dolphin Canpack, Makhni & Tyagi (P) Ltd., Antartica Investment (P) Ltd. and Achal Investment Ltd. in paragraph no. 39 and onwards. The decision in the case of Omega (P) Ltd. and Hi Tech Agro (P) Ltd. are similar to the cases considered by the Hon'ble Court in content. Therefore, this latest decision covers plethora of cases on the subject. It does appear to us that this case makes a distinction between credits simplicitor and credits received through hawala operators, the bank accounts of which are spurious in the sense that most of the entries are in respect of debits and credits of the same amount with very little balance staying in the account at any other point of time. We are unable to accept the

submission that the decision is per-curium. Relying on this decision, it is held that the ld. CIT(Appeals) erred in deleting the addition.

5. In the result, the appeal of the revenue is allowed and the cross objection of the assessee is dismissed.

Sd/- sd/-

(I.P.Bansal) (K.G.Bansal)
Judicial Member Accountant Member
SPSatia
Copy of the order forwarded to:-

The assessee-M/s mukut Finvest & Properties Pvt. Ltd., New Delhi.
Income-tax Officer, Ward 5(4), New Delhi.
CIT(Appeals)
CIT
The DR, ITAT, New Delhi. Assistant Registrar.