

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, “बी” चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DIVISION BENCH, ‘B’ CHANDIGARH**

**श्री संजय गर्ग, न्यायिकसदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य**  
**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND**  
**Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No. 1118/CHD/2017**

निर्धारणवर्ष / Assessment Year : 2013-14

|                                                                |      |                                                                                                    |
|----------------------------------------------------------------|------|----------------------------------------------------------------------------------------------------|
| The DCIT,<br>Central Circle-III,<br>Ludhiana                   | बनाम | Shri. Vasu Kalia Prop.,<br>M/s Vasu Trading Company,<br>SCO-1, City Tower, Model Town,<br>Ludhiana |
| स्थायीलेखासं./PAN NO: ALZPK4783E                               |      |                                                                                                    |
| अपीलार्थी/Appellant                                            |      | प्रत्यर्थी/Respondent                                                                              |
| <i>Appeal against CIT(A)-5, Ludhiana order dated 20.4.2017</i> |      |                                                                                                    |

**आयकरअपीलसं./ITA No. 245/CHD/2018**

निर्धारणवर्ष / Assessment Year : 2013-14

|                                                                 |      |                                                                 |
|-----------------------------------------------------------------|------|-----------------------------------------------------------------|
| The DCIT,<br>Central Circle-III,<br>Ludhiana                    | बनाम | M/s Balmukhi Textiles (P) Ltd.,<br>8-L, Model Town,<br>Ludhiana |
| स्थायीलेखासं./PAN NO: AACCB7477K                                |      |                                                                 |
| अपीलार्थी/Appellant                                             |      | प्रत्यर्थी/Respondent                                           |
| <i>Appeal against CIT(A)-5, Ludhiana order dated 28.12.2017</i> |      |                                                                 |

**आयकरअपीलसं./ITA No. 387/CHD/2018**

निर्धारणवर्ष / Assessment Year : 2013-14

|                                                               |      |                                                              |
|---------------------------------------------------------------|------|--------------------------------------------------------------|
| The DCIT,<br>Central Circle-III,<br>Ludhiana                  | बनाम | M/s Shiva Spinfab Pvt. Ltd.,<br>8-E, Model Town,<br>Ludhiana |
| स्थायीलेखासं./PAN NO: AAKCS6521K                              |      |                                                              |
| अपीलार्थी/Appellant                                           |      | प्रत्यर्थी/Respondent                                        |
| <i>Appeal against CIT(A)-5, Ludhiana order dated 2.1.2018</i> |      |                                                              |

**आयकरअपीलसं./ITA No. 1200/CHD/2017**

निर्धारणवर्ष / Assessment Year : 2013-14

|                                                                |      |                                                                                                   |
|----------------------------------------------------------------|------|---------------------------------------------------------------------------------------------------|
| The DCIT,<br>Central Circle-III,<br>Ludhiana                   | बनाम | Shri Rajinder Kumar,<br>Prop M/s Metro Synthetics,<br>D-323, Phase VIII, Focal Point,<br>Ludhiana |
| स्थायीलेखासं./PAN NO: AOUPK7466E                               |      |                                                                                                   |
| अपीलार्थी/Appellant                                            |      | प्रत्यर्थी/Respondent                                                                             |
| <i>Appeal against CIT(A)-5, Ludhiana order dated 10.5.2017</i> |      |                                                                                                   |

&

**आयकरअपीलसं./ITA No. 1506/CHD/2018**

निर्धारणवर्ष / Assessment Year : 2014-15

|                                                               |      |                                                                                                   |
|---------------------------------------------------------------|------|---------------------------------------------------------------------------------------------------|
| The ACIT,<br>Central Circle-III,<br>Ludhiana                  | बनाम | Shri Rajinder Kumar,<br>Prop M/s Metro Synthetics,<br>D-323, Phase VIII, Focal Point,<br>Ludhiana |
| स्थायीलेखासं./PAN NO: AOUPK7466E                              |      |                                                                                                   |
| अपीलार्थी/Appellant                                           |      | प्रत्यर्थी/Respondent                                                                             |
| <i>Appeal against CIT(A)-5, Ludhiana order dated 5.9.2018</i> |      |                                                                                                   |

निर्धारितकीओरसे/Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्वकीओरसे/ Revenue by : Dr. G.S. Phani Kishore, CIT DR

सुनवाईकीतारीख/Date of Hearing : 05.02.2020  
उद्घोषणाकीतारीख/Date of Pronouncement : 10.06.2020

**आदेश/Order**

**Per Sanjay Garg, Judicial Member:**

The captioned are the appeals preferred by the Revenue for assessment years 2013-14 & 2014-15 against the respective orders of Commissioner of Income Tax (Appeals), Ludhiana [hereinafter referred

to as 'CIT (A)']. Since the facts and issue involved in all these appeals are interconnected, hence, these appeals were heard together and are being disposed off with this common order.

**ITA No. 1118/CHD/2017 (A.Y. 2013-14) :-**

2. First, we take up **ITA No. 1118/Chd/2017**, wherein, following grounds have been raised by the Revenue:-

- 1. The Ld. CIT (A), Ludhiana has erred in law to delete the addition of Rs. 1,09,35,518/- on account of Commission Income despite considering the fact" that AO has proved that assessee is merely an entry provider and assessee's books are not reliable, hence AO has rejected assessee's books of account.*
- 2. The Ld. CIT(A) has erred in law to rely on the order of CIT(A) for A.Y. 2012-13 in the case of assessee ignoring the fact that in A.Y. 2013-14, the books of accounts were rejected for detailed reasons given in the assessment order and only income assessed in the case of the assessee in A.Y. 2013-14 was commission income for providing entries, vis-a-vis the A.Y. 2012-13 when AO added commission income over and above the returned income. Without prejudice the department is in appeal in AY 2012-13 before the Hon'ble ITAT.*
- 3. The Ld. CIT(A), Ludhiana has erred in law to delete the addition of Rs.38,06,50,000/- on account of differences of balances in the parties accounts despite the fact that the assessee had failed to file any details before the Assessing officer inspite of repeated opportunities. The accounts of the assessee wherein differences were noticed were duly audited and signed by the auditors. The CIT(A) has accepted the reconciliation without confronting the same to*

*the AO in violation of Rule 46A. Without prejudice no independent enquiry was made through Banks to reconcile the accounts of the parties.*

*4. The Appellant craves leave to add or amend the grounds of appeal on or before is heard and disposed off.*

**3. Grounds No. 1 & 2:**

The Revenue through Ground No.1 of the appeal has agitated the action of the CIT(A) in deleting the addition of Rs. 1,09,35,518/- made by the AO as commission income.

The assessee, an individual, has been engaged in the business of trading of knitted cloth and fabric in the name of M/s Vasu Trading Co. The AO noted that the assessee had shown low net profit as compared to large gross receipts. The AO doubted the transactions of sale and purchases made by the assessee. The AO observed that the assessee was not engaged in the actual sale and purchase of goods and that it was merely an entry provider. That the books of accounts of the assessee were not reliable. He therefore, rejected the books of accounts of the assessee and estimated the commission income of the assessee from business of entry providing @0.50% of the gross receipts of Rs. 2,18,71,03,674/- calculated at Rs. 1,09,35,518/-.

4. The Ld. CIT(A), however, deleted the addition so made by the AO, observing as under: -

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that full details were provided in response to the letter issued by the AO. The AR further argued that the same issue arose during the assessment of the preceding assessment year 2012-13 and the addition made has been deleted by CIT(A)-3, Ludhiana in appeal No. 1007/IT/CIT(A)-3/LDH/2014-15 vide order dated 27.09.2016. a copy of the order passed by CIT(A) for assessment year 2012-13 has been filed where the addition made on the issue of commission has been deleted by holding as under :-*

*“3.5 I have carefully considered rival submission. After carefully considering all the facts and detailed submission of the appellant alongwith the case laws relied upon by the appellant, I am inclined to agree with the contention of the appellant. It is observed that as per the claim of the appellant the assessing officer has failed to bring any evidence to corroborate its theory of bogus sale to certain parties. It is also important fact that a survey had been carried out at the premises of the appellant and during survey, no adverse material/evidence has been found by the assessing officer to support his contentions. It is also observed that the books of accounts of appellant has not been rejected by the assessing officer, whereas on the other hand, assessing officer is claiming addition of commission income of the assessee on the basis of the same sales and purchase transaction. The assessing officer has made addition after applying the rate of commission at the rate of 0.50% after accepting book results of the appellant. After this is well supported by the fact that while making the assessment order, addition of commission income has been made o the returned income declared by the assessee. On one hand, the Assessing Officer is accepting purchase & sales as bogus and on other hand, he is applying*

*rate of commission @ 0.50% on the bogus sales. I have found considerable force in the claim of the appellant that all the creditors & debtors are verifiable and the assessing officer has got it verified from all such parties and no defects found or pointed out to the assessee. Therefore, going by the facts of the case there is considerable force in the claim of the appellant that the transactions done by the appellant are on principal basis and not on principal to agent basis. All the transactions for sale and purchase have been done through banking channels. All the vendors with whom assessee has done sales/purchase transaction are regular income tax assessee and have already paid the tax on their income after duly accounting for the income earned from the assessee. The addition made by the assessing officer has been made solely relying on the assessee statement of small margin ignoring the factual evidence placed on records and without proper application of his mind.*

*3.6 In view of all the facts it is apparent beyond any doubt that the appellant has produced sufficient material justifying its claim and as it has repelled the contentions advanced by the Assessing Officer with cogent material and evidence, I am of the considered view that on the facts and in the circumstances of the case, the Assessing Officer was not justified in making the addition of Rs. 1,09,63,992/- on account of Commission income. The addition to the extent of Rs. 1,09,63,992/- is, therefore, directed to be deleted.*

*4. In the result appeal of the appellant is **allowed**."*

*4. The facts of the case under consideration are similar to the facts of the immediately preceding year, decided by Ld. CIT(A)-3, Ludhiana, therefore, respectfully following the order mentioned above, and for the reasons mentioned*

*therein, the addition made by the Assessing Officer for the assessment year 2013-14 is also deleted.”*

5. We have heard the rival contentions of the Ld. Representatives of the parties. The Ld counsel for the assessee has submitted that the assessee has been engaged in the business of trading of knitted cloth and fabric since long. The assessee has been filing its return of income regularly as per the audited books of account. The books of account have been duly supported by bills / vouchers and other relevant details like sale book, purchase book, cash book, bank accounts and journal books etc. The entire transactions of sale and purchase have been done through banking channel. The book results of the assessee have been accepted by the Department in the past years even in scrutiny assessment proceedings carried out u/s 143(3) of the Act. That the assessing officer has made the impugned addition merely on the basis of assumptions and presumptions observing that the net profit shown by the assessee were very low. That the assessee had duly explained during the assessment proceedings that the assessee was working on a very low margin. All the requisite details and explanations were furnished before the Assessing Officer. That the AO without pointing any discrepancy in the books of accounts, rejected the books of account merely on assumption and presumption basis. No specific mistake was pointed out warranting rejection of books of account. That even during the survey proceedings, nothing adverse was found which could prove that

the assessee had been working on commission basis only. That the Assessing Officer during the assessment proceedings for Assessment year 2012-13 not only recorded the statement of the assessee but also recorded the statement of many parties with whom purchase and sale transactions have been made by the assessee. The said parties duly confirmed that they were carrying the trading transactions with the assessee. The Ld. counsel in this respect has relied upon the copy of the statement of Shri Akhil Malhotra, Director of M/s Shiva Tax Fab Ltd and copy of statement of Shri Ajay Gupta, Director M/s Supreme Taxmart Ltd. The Ld. counsel has further while relying upon the assessment order passed in the case of other parties had submitted that even no adverse inference has been taken in any of the companies with whom the assessee had made sale and purchase transactions. He, in this respect has relied upon the assessment orders / appellate orders in the case of M/s Shiv Specialty Yarns Ltd, M/s Metro Synthetics, M/s Shiva Spin & Knit Ltd and M/s Yogindra Worsted Ltd. It was duly explained to the Assessing Officer that the assessee was working on a very less margin which was added in the sale bill. The assessee duly explained the modus operandi of its business. That it was duly explained that the reason for non-availability of the stock in the premises of the assessee at the time of survey proceedings was because that the stock was directly sent from the premises of the supplier and the same was not kept in the premises of the assessee. The Ld. counsel for the assessee has further



submitted that the Assessing Officer has not brought any adverse material either in the form of statement of any party or in the shape of any documentary evidence to show that the assessee was not doing actual business or that it was a mere entry provider. That all the case has been built by the Assessing Officer merely on the basis of assumptions.

6. The Ld. DR, on the other hand, has relied upon the assessment order.

7. We find that the contentions made by the assessee have been duly examined and verified by the CIT(A) during the appellate proceedings. No adverse material has been found against the assessee to hold that the assessee was not in the actual business. The Ld. CIT(A) has observed that the commission income has been assessed at a higher rate merely on the basis of presumption because the assessee had shown a very small margin, otherwise, there was no convincing evidence before the AO to hold so. The Ld. CIT(A), in our view, has duly applied his mind to the facts and evidence presented before him and has passed a well-reasoned order on this issue. We do not find any infirmity in the order of the CIT(A) in this respect. Ground Nos. 1 & 2 of the appeal of the Revenue are, therefore, dismissed.

8. **Ground No.3** The Revenue through Ground No.3 has contested the action of the CIT(A) in deleting the addition of Rs. 38,06,50,000/- made by the Assessing Officer on account of difference in balances. The Assessing Officer observed that assessee had paid huge amounts to various parties under the head Loans and Advances, however, there were discrepancies in the amounts when compared with the balance sheet of the other parties. The Assessing Officer observed that the balance of loans and advances in the assessee books of account did not match with the balance shown as payable to the assessee by the parties/concerns in their balance sheet. The differences have been calculated and tabulated by the AO which are summarized as under:

| <b>Party Name</b>             | <b>Amount of Loans &amp; Advances shown in the assessee books of account</b> | <b>Amount shown in the books of accounts of the parties</b> | <b>Difference</b>    |
|-------------------------------|------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------|
| Balmukhi Textiles Pvt. Ltd    | Rs. 182491000                                                                | Rs. 79171500                                                | Rs. 103319500        |
| Brijeshwari Textiles Pvt. Ltd | Rs. 359074200                                                                | Rs. 95754700                                                | Rs. 263319500        |
| Shiva Spin Fab Pvt. Ltd       | Rs. 311305000                                                                | Rs. 297294000                                               | Rs. 14011000         |
| <b>Total</b>                  |                                                                              |                                                             | <b>Rs. 380650000</b> |

The Assessing Officer mentioned that since there were differences in the amounts shown in the balance sheet of the respective parties in the name of the assessee and the amounts shown by the assessee in his

Balance Sheet in the name of the these parties, hence, the difference was taken as undisclosed income of the assessee. The Assessing Officer accordingly made addition of Rs. 38,06,50,000/- (Rs. 10,33,19,500 + Rs. 26,33,19,500 + Rs. 1,40,11,000) to the returned income of the assessee.

9. Being aggrieved by the above action of the Assessing Officer, the assessee preferred appeal before the CIT(A) and pleaded that there were no differences or mismatch of figures as alleged by the AO. The assessee reconciled the accounts/figures before the CIT(A). The Ld. CIT(A) after going through the accounts of the assessee and that of the other parties got satisfied that there was no mismatch. Further, the assessee also filed evidences proving the source of the funds. The assessee also explained that some of the balances appearing in the balance Sheet were of earlier years and that all the transaction carried during the relevant assessment year were done through banking channel. The concerned parties were assessed to income tax. Assessment in their case carried u/s 143(3) of the Act and their capacity to make the advances/investment not doubted in their case. The Ld. CIT(A) considering the above submissions and after verifying the evidences furnished by the assessee deleted the additions so made by the AO observing as under:

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR*

*has argued that there is no difference in the balances and the factual position is that in the books of the assessee the whole amount has been shown under the head 'Loans and Advances' instead of showing the amount as 'Shares held in the companies' and 'Share application money' as investment etc, and the consolidated amount has been mistakenly shown under the head loans and advances. As per AR it is not the case where the amounts of debit balance and credit balance are different, rather it is a case where the amount of investment held in the companies have been portrayed under some other heads. The AR argued that there has been change in only sub head of the balance sheet and not the main head of the balance sheet i.e. the amount of investments held and the amount of loans and advances given by the assessee, both are assets for the assessee. The AR further contended that this does not have any effect on the computation of income. The copy of account of the assessee in the books of said concerns/parties along with the confirmation from the said parties that the assessee hold balances in their concerns as per the reconciled statement have been enclosed. The AR argued that complete books of accounts were produced before the AO and audited Balance Sheet with enclosure were also placed on the assessment record during the assessment proceedings, however, the AO ignored the evidence placed on record. As per AR the AO neither gave reasonable opportunity asking for such difference nor made any enquiry from the parties about the balances appearing in their books in the name of Sh. Vasu Kalia the assessee. Thus as per AR the principal of natural justice have been violated. On merits the AR submitted that the amounts were duly reflected in the balance sheet of the assessee and some of them are old balances appearing in the balance sheets of the preceding years. , Regarding the current year investment it was submitted that these were made out of the bank account of the assessee. The submission filed by the*

*AR was sent to the AO for comments and the AO has given his report without specifically pointing out any discrepancy in the submission. Thereafter to verify the source of the payments during the current year as well as during the preceding years, the AR was requested to file the bank account statement from which the payments were made as well as the balance sheet of the preceding year of the assessee to verify the balances appearing in the preceding years. The Balance Sheets of the three concerns/parties have also been called for to verify the balances appearing the balance sheet in the preceding year. The party wise position discussed below:*

*(a) Balances with M/s. Balmukhi Textiles Pvt. Ltd.*

*The AR submitted that in the books of accounts of the assessee Sh. Kalia an amount of Rs. 18,24,91,000 /- has been shown as Loan & Advances to M/s. Balmukhi Textiles Pvt. Ltd. which in the books of M/s. Balmukhi Textiles Pvt. Ltd. is shown under three different heads as 22500 Share allotted, Share Application Money received and Sundry Payable amounting to Rs. 4,50,00,000/-, Rs. 5,83,00,000/- and Rs. 7,91,71,500/- respectively. As per AR the AO has considered only Rs. 7,91,71,500/- shown as Sundry payable and ignored the Share Application Money Rs. 5,83,19,500/- given to M/s. Balmukhi Textiles Pvt. Ltd. and the 22500 Shares allotted valuing Rs. 4,50,00,000/-. The AR has argued that the shares numbering 22500 were allotted to the assessee in the year 2010-11 and were appearing in the balance sheet of the assessee as on 31.03.2011 and 31.03.2012. The payment was made out of the Allahabad Bank of the assessee. The AR has further mentioned that these Shares are also appearing in the Balance Sheet of M/s. Balmukhi Textiles Pvt. Ltd. also as on 31.03.2011 and 31.03.2012 in the name of Sh. Vasu Kalia. As per AR since the amounts are outstanding balances and nothing was paid during the year, therefore no addition can be made by the AO during*

*the assessment for assessment year 2013-14. Regarding the Share application money of Rs. 5,83,19,500/- the AR submitted that this amount was given during the financial year under consideration out of the bank account of the assessee with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of M/s. Balmukhi Textiles Pvt. Ltd. for the year ending 31.03.2013.*

*To verify the above contention raised by the assessee, the balance sheet and bank accounts statement of the assessee have been called and placed on file. A perusal of the same shows that 22500 shares were allotted by M/s. Balmukhi Textiles Pvt. Ltd. to Sh. Vasu Kalia during the financial year 2010-11 and were appearing in the Balance sheet of both the assessee and M/s. Balmukhi Textiles Pvt. Ltd. as on 31.03.2011 & 31.03.2012. The Bank Account Statement of the assessee has also been examined showing payment of this amount. As no amount was paid during the year and these are old balances, hence no addition can be made during the year. As regard Share Application Money of Rs. 5,83,19,500/-, the amount has been given during the year out of the bank account of the assessee with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee. The amount is duly appearing in the Balance Sheet of M/s. Balmukhi Textiles Pvt. Ltd. also under the head Share Application Money received during the year. A perusal of the documents filed shows that no addition of this amount is called for.*

*(b) Balances with M/s Brijeshwari Textiles Pvt. Ltd. The AR submitted that in the books of account of the assessee Shri Vasu Kalia an amount of Rs. 35,90,74,200/- has been shown as Loan & Advances to M/s. Brijeshwari Textiles Pvt. Ltd. which in the books of M/s. Brijweshwari Textiles Pvt. Ltd. is shown under*

*three heads as 107500 Share allotted, Share Application Money received and Sundry Payable amounting to Rs. 21,50,00,000/-, Rs. 4,83,19,500/- and Rs. 9,57,54,700/- respectively. As per AR, the AO has considered only Rs. 9,57,54,700/- shown as Sundry payable and ignored the Share Application Money Rs. 4,83,19,500/- given to M/s. Brijeshwari Textiles Pvt. Ltd. and the 107500 Shares allotted valuing Rs. 21,50,00,000/-. The AR has argued that the shares numbering 107500 were allotted to the assessee in the year 2010-11 and were appearing in the balance sheets of the assessee as on 31.03.2011 and 31.03.2012. The payment was made out of the Allahabad Bank of the assessee. The AR has further mentioned that these Shares are also appearing in the Balance Sheets of M/s. Brijeshwari Textiles Pvt. Ltd. also as on 31.03.2011 and 31.03.2012 in the name of Sh. Vasu Kalia. As per AR since the amounts are outstanding balances and nothing was paid during the year, therefore no addition can be made by the AO during the assessment far assessment year 2013-14. Regarding the Share application money of Rs. 4,83,19,500/- the AR submitted that this amount was given during the financial year under consideration out of the bank account of the assessee with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of M/s. Brijeshwari Textiles Pvt. Ltd. for the year ending 31.03.2013.*

*To verify the above contention raised by the assessee, the balance sheets and bank account statement of the assessee have been called and placed on file. A perusal of the same shows that 107500 shares were allotted by M/s. Brijeshwari Textiles Pvt. Ltd. to Sh. Vasu Kalia during the financial year 2010-11 and were appearing in the Balance sheets of both the assessee and M/s. Brijeshwari Textiles Pvt. Ltd. on 31.03.2011 & 31.03.2012. The Bank Account*

*Statement of the assessee has also been examined showing payment of this amount. As no amount was paid during the year and these are old balances, hence no addition can be made during the year under consideration. As regard Share Application Money of Rs. 4,83,19,500/- the amount has been given during the year out of the bank account of the assessee with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee. The amount is duly appearing in the Balance Sheet of M/s. Brijeshwari Textiles Pvt. Ltd. also under the head Share Application Money received during the year. A perusal of the documents filed shows that no addition of this account is called for.*

*(c) Balances with M/s. Shiva Spinfab Pvt. Ltd.*

*The AR submitted that in the books of accounts of the assessee Sh. Vasu Kalia an amount of Rs. 31,13,05,000/- has been shown as Loan & Advances to M/s. Shiva Spinfab Pvt. Ltd. which in the books of M/s. Shiva Spinfab Pvt. Ltd. is shown under two heads as Share Application Money received and Sundry Payable amounting to Rs. 1,40,11,000/- and Rs. 29,72,94,000/- respectively. (The AR submitted that in the written submission the figures have been crossed and the Share Application Money is mentioned as Rs. 29,72,94,000/- and Current Liability mentioned as Rs. 1,40,11,000 and the correct figures are that as mentioned in the assessment order that the sundry payable is Rs. 29,72,94,000/- and the balance Rs. 1,40,11,000/- is Share Application Money) As per AR, the AO has considered only Rs. 29,72,94,000/- shown as Sundry payable and ignored the Share Application Money Rs. 1,40,11,000/- given to M/s. Shiva Spinfab Pvt. Ltd. The AR has argued that the Share application money of Rs. 1,40,11,000/- given during the financial year under consideration was out of the bank account of the assessee with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that*



*the Share Application Money is appearing in the Balance Sheet of M/s. Shiva Spinfab Pvt. Ltd. also for the year ending 31.03.2013.*

*To verify the above contention raised by the assessee, the balance sheet and bank account statement of the assessee have been called and placed on file. The Share Application Money of Rs. 1,40,11,000/- has been given during the year out of the bank account of the assessee with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee. The amount is duly appearing in the Balance Sheet of M/s. Shiva Spinfab Pvt. Ltd. under the head Share Application Money received during the year. A perusal of the documents filed shows that no addition of this account is called for.*

*Under the facts and the circumstances of the case, no addition on account of differences of Balances is called for as all the amounts are duly reflected in the Balance sheet of the assessee as well as the concerned parties / companies. The arguments of the AR are found acceptable and the addition made by the AO is **deleted**".*

10. The assessee has duly explained and reconciled the alleged mismatch of figures before the CIT(A) and even a remand report was also called upon by the CIT(A) from the Assessing Officer but the Assessing Officer could not point out any specific discrepancy in the submission / explanation given by the assessee. Even, we could not understand how the mismatch, if any, in figures in the balance sheet when compared with the balance sheet of other parties, can automatically be assumed as unexplained income of the assessee. The Assessing Officer has neither doubted nor made any inquiries regarding

the source of funds of the payments received by the assessee nor of other parties from whom the assessee received payments. After considering the rival submissions and going through the detailed order of the CIT(A) on this issue, we do not find any reason to interfere with the findings of the CIT(A) on this issue. This ground of the appeal is accordingly dismissed.

11. **Ground No. 4** : This ground is general in nature and does not require any specific adjudication.

In the result, this appeal of the Revenue is hereby dismissed.

**ITA No. 245/Chd/2018 (A.Y. 2013-14):-**

12. Now, we take up **ITA No. 245/Chd/2018**, wherein, following grounds have been raised by the Revenue :-

1. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.37,52,94,000/- on account of 'differences in balance' under the head of Sundry Payables and Loan & Advances received from M/s Brijeshwari Textiles Pvt. Ltd., M/s Metro Synthetics, M/s Balmukhi Textiles Pvt. Ltd. And M/s Vasu Trading Company not appearing in their Audited Balance Sheets.*

2. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) s correct in deleting the addition of Rs. 12,99,48,100/- on account of Sundry Payables to M/s Metro Synthetics.*

3. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs. 5,83,00,000/- on*

*account of Share Applications Money received by the assessee company from M/s Vasu Trading Company.*

- 4. Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.20,592/- on account of Commission Income despite the fact that assessee is an entry provider and assessee's books are not reliable resulting in rejection of its books of accounts.*
- 5. The Appellant craves lead to add or amend the grounds of appeal on or before is heard and disposed off.*

13. **Ground No.1:** The Revenue through Ground No.1 of the appeal has contested the action of the CIT(A) in deleting the addition made by the Assessing Officer (AO) of Rs. 37,52,94,000/- (Rs. 103319500 + Rs. 271974500) and Rs. 2,12,00,000/- on account of 'difference in balances'. The AO, during the assessment proceedings, observed that assessee received huge amounts from the various parties shown under the head Sundry Payables and paid huge amounts to various parties shown under the head Loans & Advances. when these figures appearing in the balance Sheet of the assessee were compared with the balance sheets of those parties, there were discrepancies noticed in the amounts. As per AO, the balances in the assessee's books of account did not match with the balance shown as payable/receivable to the assessee by those parties/concerns in their balance sheets. The differences have been calculated and tabulated by the AO which are summarized as under:

| <b>Party Name</b>                   | <b>Amount shown<br/>in the books of<br/>the assessee</b> | <b>Amount shown<br/>in the books of<br/>the party</b> | <b>Difference</b> |
|-------------------------------------|----------------------------------------------------------|-------------------------------------------------------|-------------------|
| <b>Under Sundry Payables</b>        |                                                          |                                                       |                   |
| M/s. Vasu Trading Co.               | Rs. 7,91,71,500                                          | Rs. 18,24,91,000                                      | Rs. 10,33,19,500  |
| M/s. Metro Synthetics               | Rs. 12,99,48,100                                         | Rs. 40,19,22,600                                      | Rs. 27,19,74,500  |
| <b>Under Loan &amp; Advances</b>    |                                                          |                                                       |                   |
| M/s. Brijeshwari Textiles Pvt. Ltd. | Rs. 2,12,00,000/-                                        | NIL                                                   | Rs. 2,12,00,000   |

The AO mentioned that since there were differences in the amounts shown in the balance sheet of the respective parties in the name of the assessee and the amounts shown by the assessee in its Balance Sheet in the name of the these parties, hence the difference was taken as undisclosed income of the assessee. The AO accordingly made addition of Rs. 10,33,19,500 + Rs. 27,19,74,500 & Rs. 2,12,00,000 to the returned income of the assessee as undisclosed income u/s 68 being part of overall addition of Rs. 58,47,42,100/-.

14. Being aggrieved by the above action of the AO, the assessee preferred appeal before the CIT(A) and pleaded that there were no differences or mismatch in the figures as alleged by the AO. The assessee reconciled the accounts/figures before the CIT(A). The CIT(A) after going through the accounts of the assessee and that of the other parties got satisfied that there was no mismatch. Further, the assessee

also filed evidences proving the source of the funds. The assessee also explained that some of the balances appearing in the balance Sheet were of earlier years and that all the transaction carried during the relevant assessment year were done through banking channel. The concerned parties were assessed to income tax. Assessment in their case carried u/s 143(3) of the Act and their capacity to make the advances/investment not doubted in their case. The Ld. CIT(A) considering the above submissions and after verifying the evidences furnished by the assessee deleted the additions so made by the AO observing as under:-

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that there is no difference in the balances and the factual position is that in the books of the assessee, the whole amount has been shown under different heads whereas the amount has been shown in the books of the other concerns under one head. As per AR, it is not the case where the amounts of debit balance and credit balance are different, rather it is a case where the amount of investment held in the company have been portrayed under some other heads. The AR argued that there has been change in only sub-head of the balance sheet and not the debit or credit side of the balance sheet i.e. the amount of payables, share application money or share capital are liabilities for the ' assessee. The AR further contended that this does not have any effect on the computation of income. The copy of account of the assessee in the books of said concerns/parties along with the confirmation from the said parties that the assessee hold balances in their concerns as per the reconciled statement have been enclosed. The AR further argued that complete books of accounts were produced before the AO and audited Balance Sheet with enclosures were also placed on the assessment record during the assessment proceedings; however, the AO*

*ignored the evidences placed on record. As per AR, the AO neither gave reasonable opportunity asking for reconciliation of such difference nor made any enquiry from the parties about the balances appearing in their books in the name of the assessee. Thus, as per AR the principle of natural justice has been violated. On merits, the AR submitted that the amounts were duly reflected in the balance sheet of the assessee and some of these are old balances appearing in the balance sheets of the preceding years. Regarding the current year investment (as share application money), it was submitted that these were received in the regular bank account of the assessee and made out of the regular bank accounts of the parties. The submission filed by the AR was sent to the AO for comments and the AO has given his report without specifically pointing out any discrepancy in the submission. Thereafter to verify the source of the payments during the current year as well as during the preceding years, the AR was requested to file the Bank Account statement from which the payments were made as well as the balance sheet of the preceding year of the assessee to verify the balances appearing in the preceding years. The Balance Sheets of the concerns/parties have also been called for to verify the balances appearing in their balance sheet in the preceding year in the name of the assessee. The party wise position is discussed below:*

*(a) Balances with M/s. Vasu Trading Co. :-*

*The AR submitted that in the books of accounts of the assessee, an amount of Rs. 7,91,71,500/- has been shown as Payables to M/s. Vasu Trading Co. whereas in the books of M/s. Vasu Trading Co. an amount of Rs. 18,24,91,000/- is shown under the head Loan & Advances. It is submitted that in the books of the assessee the amount received from M/s. Vasu Trading Co. is reflected under three different heads as Share allotted (22500), Share Application Money received and Sundry Payable amounting to Rs. 4,50,00,000/-, Rs. 5,83, 19,500/- and Rs. 7,91,71,500/- respectively. As per AR, the AO has considered only Rs. 7,91,71,500/- shown as Sundry payable and ignored the Share Application Money of Rs. 5,83,19,500/- given to the assessee and the*

22500 Shares already allotted valuing Rs. 4,50,00,000/-. The AR has argued that the shares numbering 22500 were allotted by the assessee in the year 2010-11 to M/s. Vasu Trading Co. and were appearing in the balance sheet of the assessee as ' on 31.03.2011 and 31.03.2012. The payment was made out of the Allahabad Bank of M/s. Vasu Trading Co. As per AR, since the amounts are outstanding balances and nothing was paid during the year, therefore no addition can be made by the AO during the assessment for assessment year 2013-14 for this amount. Regarding the Share application money of Rs. 5,83,19,500/-, the AR submitted that this amount was received during the financial year under consideration in the bank account of the assessee with Allahabad Bank and given out of the bank account of M/s. Vasu Trading Co., also with Allahabad Bank.. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of the assessee M/s. Balmukhi Textiles Pvt. Ltd. for the year ending 31.03.2013.

To verify the above contention raised by the assessee, the balance sheet and bank accounts statement of M/s. Vasu Trading Co. and the assessee have been called and placed on file. A perusal of the same shows that 22500 shares were allotted by M/s. Balmukhi Textiles Pvt. Ltd. to Sh. Vasu Kalia during the financial year 2010-11 and the amount was appearing in the Balance sheet of both the assessee M/s. Balmukhi Textiles Pvt. Ltd. and the party M/s. Vasu Trading Co. as on 31.03.2011 & 31.03.2012. The Bank Account Statement of the assessee has also been examined showing receipts of this amount. As no amount was paid during the year and these are old balances, hence no addition can be made during the year. As regard Share Application Money of Rs. 5,83,19,500/-, the amount has been given during the year out of the bank account of M/s. Vasu Trading Co. with Allahabad Bank which is regularly appearing in the Balance Sheet of that concern. The amount is duly appearing in the Balance Sheet of the assessee also under the head Share Application Money received during the year and also in the

*balance sheet of the party M/s. Vasu Trading Co. under the head Loan & advances. A perusal of the documents filed shows that no addition on this account is called for.*

*(b) Balances with M/s. Metro Synthetics:-*

*The AR submitted that in the books of accounts of the assessee an amount of Rs. 12,99,48,100/- has been shown as Sundry Payables in the name of M/s. Metro Synthetics. In the books of the account of M/s. Metro Synthetics the amount appearing is Rs. 40,19,22,600/-. This amount of Rs. 40,19,22,600/- is shown in the books of the assessee M/s. Balmukhi Textiles Pvt. Ltd. under three different heads as Share Allotted (125477), Share Application Money received and Sundry payables amounting to Rs. 25,09,54,000/-, Rs. 2,10,20,500/- and Rs. 12,99,48,100/- respectively. As per AR, the AO has considered only Rs. 12,99,48,100/- shown as Sundry payables but ignored the Share Application Money of Rs. 2,10,20,500/- received by the assessee from M/s. Metro Synthetics and the 125477 Shares already allotted, valuing Rs. 25,09,54,000/-. The AR has argued that the shares numbering 125477 were allotted by the assessee to M/s. Metro Synthetics Prop. Rajinder Kumar in the year 2010-11 and the amount was appearing in the balance sheet of that party as on 31.03.2011 and 31.03.2012 also. The payment was made by M/s. Metro Synthetics out of its regular account with Allahabad Bank. The AR has further mentioned that these shares are appearing in the Balance Sheet of the assessee as on 31.03.2011 and 31.03.2012 also in the name of Sh. Rajinder Kumar Prop. M/s. Metro Synthetics. As per AR, since the amounts are outstanding balances and nothing was paid during the year, therefore no addition can be made by the AO during the assessment for assessment year 2013-14. Regarding the Share application money of Rs. 2,10,20,500/-, the AR submitted that this amount was received during the financial year 2011-12 out of the bank account of M/s. Metro Synthetics with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of the assessee for*



*the year ending 31.03.2012 and since the amounts are outstanding balances and nothing was paid during the year, therefore no addition can be made by the AO during the assessment for assessment year 2013-14.*

*To verify the above contention raised by the AR, the balance sheet and bank accounts statement of the assessee have been called and placed on file. A perusal of the same shows that 125477 shares were allotted by the assessee company M/s. Balmukhi Textiles Pvt. Ltd. to Sh. Rajinder Kumar during the financial year 2010-11 and were appearing in the Balance sheet of both the assessee and M/s. Metro Synthetics as on 31.03.2011 & 31.03.2012. The Bank Account Statement of the assessee has also been examined showing receipts of this amount. As no amount was paid during the year and these are old balances, hence no addition can be made during the year. As regard Share Application Money of Rs. 2,10,20,500/-, the amount was received during the financial year 2011-12 out of the bank account of M/s. Metro Synthetics with Allahabad Bank which is regularly appearing in its Balance Sheet. The amount is duly appearing in the Balance Sheet of the assessee M/s. Balmukhi Textiles Pvt. Ltd. also under the head Share Application Money. A perusal of the documents filed shows that no addition of this account is called for as this amount is also an old balance given out of the regular sources and appearing in the balance sheet of the preceding year.*

(c) Balances with M/s. Brijeshwari Textiles Pvt. Ltd.:-

*The AR submitted that in the books of accounts of the assessee company, an amount of Rs. 2,12,00,000/- has been shown under the head Loan & advances given to M/s. Brijeshwari Textiles Pvt. Ltd. whereas in the books of M/s. Brijeshwari Textiles Pvt. Ltd., this amount of Rs. 2,12,00,000/- is shown under the head Share Application Money. As per AR, the AO has considered the amount of Rs. 2,12,00,000/- shown as Loans & Advances appearing in the books of the assessee outstanding in the name of M/s. Brijeshwari Textiles Pvt. Ltd. but did not*

*considered the share application money of Rs. 10,01,77,000/- appearing in the books of M/s. Brijeshwar Textiles Pvt. Ltd. which includes Rs. 2,12,00,000/- received from the assessee M/s. Balmukhi Textiles Pvt. Ltd. The AR has argued that the Share application money of Rs. 2,12,00,000/- was given during the financial year 2011-12 by the assessee out of its the bank account with Allahabad Bank and credited in the bank account of M/s. Brijeshwari Textiles Pvt. Ltd. also with the Allahabad Bank. The AR has filed the copy of the Bank Statements to substantiate the same. It has been argued that the Share Application Money was appearing in the Balance Sheet of M/s. Brijeshwari Textiles Pvt. Ltd. for the year ending 31.03.2012 also. It was also argued that since the transactions relate to Financial Year 2011-12, no adverse inference can be drawn during the assessment year 2013-14.*

*To verify the above contention raised by the AR, the Balance sheet and Bank account statement of the assessee as well as of M/s. Brijeshwari Textiles Pvt. Ltd. have been called and placed on file. The Share Application Money of Rs. 2,12,00,000/- has been given during the Financial Year 2011-12 out of the Bank account of the assessee and credited in the Bank account of M/s. Brijeshwari Textiles Pvt. Ltd. with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee. The amount is duly appearing in the Balance Sheet of the assessee under the head Loans & Advances for the year ending 31.03.2012 also. A perusal of the documents filed shows that no addition of this account is called for, as this amount is also an old balance given out of the regular sources and appearing in the balance sheet of the preceding year.*

*Under the facts and the circumstances of the case, no addition on account of differences of Balances is called for, as all the amounts are duly reflected in the Balance sheet of the assessee as well as the Balance sheets of the concerned party. The amounts were paid out of the bank accounts of the parties regularly reflected in their balance sheet.*

*The arguments of the AR are thus found acceptable  
and the addition made by the AO is deleted.  
Accordingly, these grounds of appeal are allowed.”*

15. We have heard the rival contentions of the parties. No basis has been given by the AO as to how the difference, if any, appearing in the balance sheets of the respective parties can be treated as unaccounted income of the assessee. Moreover, the assessee has duly reconciled the figures and explained that in the books of the assessee, the amounts relating to share application money and loan and advances received were booked under one head “payables” and similarly the amounts given as loan and advances and share application money was accounted under the head “loan and advances” whereas, the other parties have entered the transactions under the separate heads. The Ld. CIT(A) has duly examined and reconciled the accounts. The source of the payments being from bank accounts of the respective parties has been duly proved. The Id. CIT(A) has duly and elaborately discussed the details of the entries as noted above and has also found that in the case of first two parties, there were old balances outstanding and that the addition to that extent can not be made in the assessment carried in the subsequent year and further that the share application money received during the year was transferred from the bank accounts of the respective parties. In the case of the third party, no amount was advanced during the year and that the same was an old balance given out of the regular sources and appearing

in the balance sheet of the preceding years. The Ld. DR could not point out any distinguishing fact justifying our interference in the above well-reasoned order of the CIT(A). We, therefore, do not find any infirmity in the order of the CIT(A) on this issue. This ground of appeal is, therefore, dismissed.

16. **Ground No. 2 :** Vide Ground No. 2 of the Appeal, the revenue has agitated the action of the CIT(A) in deleting the addition made by the AO of Rs. 12,99,48,100/- on account of this sum shown as payable in the name of M/s. Metro Synthetics. The AO during the assessment proceedings observed that under the head Sundry Payable, the assessee has shown an amount of Rs. 12,99,48,100/- in the name of M/s. Metro Synthetics. The AO further observed that the concern M/s. Metro Synthetics was merely an entry provider and had no worth of its own and hence this amount was added to the income of the assessee as undisclosed income u/s 68 of the Income Tax act.

The Ld. CIT(A), however, deleted the addition made by the AO, observing as under:

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that the concern M/s. Metro Synthetics Prop. Sh. Rajinder Kumar is a regular Income Tax assessee from last many years and has filed the copies of Income Tax Returns for assessment year 2010-11 onwards. The AR further*

*submitted that it is carrying the same business since so many years and the returned income has been accepted by the department in all these previous years. The AR argued that assessment of M/s. Metro Synthetics Prop. Sh. Rajinder Kumar for assessment L3 was completed u/s 143(3) by DCIT, CC-III, Ludhiana vide order dated 30.1.2015, where the income of the concern M/s. Metro Synthetics has been assessed at Rs. 10,37,675/- after making an agreed addition of Rs. 4,00,000/- to the net profit Rs. 6,37,665/- declared on Gross receipts of Rs. 4,79,19,36,840/-. Based upon the documents filed by the AR and looking to the past history of the concern where assessments were made under Section 143(3) by the same AO, (viz the DCIT, CC-III, Ludhiana), it cannot be said that it is merely an Entry provider. There is further merit in the argument of the AR that no adverse inference was drawn by the same AO while completing the assessment in the case of Sh. Rajinder Kumar Prop. M/s. Metro Synthetics for assessment year 2013-14 in respect of the outstanding balances in the name of M/s. Balmukhi Textiles Pvt. Ltd. and hence no addition in respect of outstanding amount in the name of M/s. Metro Synthetics should be made while completing the assessment of the assessee (M/s. Balmukhi Textiles Pvt. Ltd). It is further argued that the outstanding balances are continuing from the assessment year 2010-11 onwards and reflected in the relevant balance sheets. Under the facts and the circumstances of the case, the arguments of the AR appear acceptable and the addition of Rs. 12,99,48,100/-, as sundry payable to M/s. Metro Synthetics, is not found sustainable and hence deleted.”*

17. We have heard the rival contentions of both the representatives of the parties. As discussed by the Ld. CIT(A), the impugned additions had

been made by the AO on mere suspicion without bringing on file as how the continuous and regular balances outstanding since assessment year 2010-11 onwards and reflected in the relevant balance sheets can be treated as unaccounted income of the assessee for the year under consideration. Even in the assessment carried out in the case of the creditor, no doubt as to the source of the amount has been made by the AO. Without bringing any adverse evidence on the file or pointing any discrepancy in the explanations submitted by the assessee, the AO was not justified in making the impugned additions. We therefore do not find any infirmity in the order of the AO on this issue also. This ground of the appeal is accordingly dismissed.

18. **Ground No. 3:** Vide Ground No.3 of the appeal, the Revenue has assailed the action of the CIT(A) in deleting the addition of Rs. 5,83,00,000/- made by the AO into the income of the assessee u/s 68 of the Income Tax Act, 1961 on account of Share Application Money received from M/s. Vasu Trading Co. The AO, during the assessment proceedings, observed that that under the head 'share application money', the assessee had shown receipt of Rs. 5,83,00,000/- from M/s. Vasu Trading Co. through cheques from Allahabad Bank. The AO observed that M/s. Vasu Trading Co. was merely an entry provider and had no worth of its own and its creditworthiness stood disproved. The

amount of Rs. 5,83,00,000/- was added to the income of the assessee as undisclosed income u/s 68 of the Income Tax Act, 1961.

19. The Ld. CIT(A), however, deleted the addition so made by the AO, observing as under:

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that the concern M/s. Vasu Trading Co. Prop. Sh. Vasu Kalia is a regular Income Tax assessee from last many years and has filed the copies of Income Tax Returns for assessment year 2010-11 onwards. The AR further submitted that it is carrying the same business since so many years and the returned income has been accepted by the department in all these previous years. The AR has argued that assessment of Sh. Vasu Kalia for assessment year 2012-13 was completed u/s 143(3) by ITO Ward-6(3), Ludhiana at an income of Rs. 1,14,90,962/- against the returned income of Rs. 5,27,670/- by making an ~ addition of Rs. 1,09,63,292/- in the proprietary concern M/s. Vasu Trading Co., however, in appeal, the CIT(A)-3, Ludhiana vide order dated 27.09.2016 deleted the addition of Rs. 1,09,63,292/- by holding that transaction were done by the appellant (M/s. Vasu Trading Co.) on principal to principal basis, all transactions for sale and purchases have been done through banking channel and all the vendors with whom assessee (M/s. Vasu Trading Co.) has done sale/purchases are regular Income Tax assessee's and already paid tax on their income after duly accounting for the income earned from the assessee (M/s. Vasu Trading Co.). Based upon the documents filed by the AR and looking to the*

*past history of the concern where assessment was made under Section 143(3) in the case of Sh. Vasu Kalia Prop. M/s. Vasu Trading Co. by ITO Ward-6(3), Ludhiana, it cannot be said that it is merely Entry provider because in the case of Sh. Vasu Kalia Prop. M/s. Vasu Trading Co., the CIT(A)-3, Ludhiana decided the appeal in favour of the appellant (M/s. Vasu Trading Co.) and the addition made by the AO was deleted.*

*It was also submitted by the AR that the addition has been made without any conclusive evidence with the AO. As per AR, the accommodation entry provider is the person who provides money to the tax payer through cheque against receipt of cash but there is no such instance in this case. It is also submitted that the share applicant is regularly Income Tax assessee and assessed to tax with the same Assessing Officer. Moreover, M/s. Vasu Trading Co. is an old share holder of the assessing company and during the year applied for more shares in the assessee company by providing 'share application money'. Regarding the fresh share application money of Rs. 5,83,00,000/- from M/s. Vasu Trading Co., it was submitted by the AR that the amounts have been received through cheques only and addition on account of these amounts have again been made by the AO under the head 'difference of balances'. The AR has filed the copies of the relevant bank accounts. A perusal of the assessment order shows that the AO has herself also mentioned that the amounts were received through cheques and in the assessment order the cheque number,, date and name of the bank are mentioned. The concern M/s. Vasu Trading Co. is an old existing shareholder of the assessee and the addition has been made only on the ground that it is merely entry provider whereas no adverse inference has been drawn in past when it acquired the shares of the assessee*



*in the preceding years. As already mentioned, Sh. Vasu Kalia Prop. M/s. Vasu Trading Co. is regular income tax assessee and assessment for assessment year 2012-13 was completed under scrutiny u/s 143(3) where no such adverse view was taken. Accordingly, the addition of Rs. 5,83,00,000/- is not found sustainable and hence deleted.”*

20. We have heard the rival contentions of both the representatives of the parties. The Ld. CIT(A) after verifying the accounts of the assessee as well of the creditor has made a categorical observation that M/s. Vasu Trading Co. was an old share holder of the assessing company. It, however, during the year applied for more shares in the assessee company by providing share application money of Rs. 5,83,00,000/- from through cheques/banking channel out of its bank account only. The AO did not doubt the source of the funds but made addition into the income under the head 'difference of balances' also. The Ld. CIT(A) has noted that the AO has also mentioned that the amounts were received through cheques and in the assessment order the cheque number,, date and name of the bank have been mentioned. The concern M/s. Vasu Trading Co. was an old existing shareholder of the assessee and the addition had been made only on the ground that it was merely entry provider whereas no adverse inference has been drawn in past when it acquired the shares of the assessee in the preceding years. That Sh. Vasu Kalia Prop. M/s. Vasu Trading Co. was a regular income tax assessee

and assessment for assessment year 2012-13 was completed under scrutiny u/s 143(3) where no such adverse view was taken. Moreover, the AO did not call upon the assessee or Sh. Vasu Kalia to prove the source of the funds. The addition made by the AO was only on the basis of mere doubt or suspicion which was not sustainable as per law. The Ld. CIT(A) has, therefore, rightly deleted the addition made by the AO on this issue. This ground of the revenue is, therefore, dismissed.

21. **Ground No.4:** Vide Ground No. 4 of the appeal, the Revenue has contested the action of the CIT(A) in deleting the addition made by the AO of Rs. 20,592/- on account of commission income. The AO observed that from the facts it was clear that assessee was merely an entry provider. As per AO the books of accounts of the assessee were not reliable and hence rejected the same. The AO then estimated the Commission income from business of entry providing @ 0.50% of the gross receipts of Rs. 41,18,400/- and computed the commission income at Rs. 20,592/-.

22. The Ld. CIT(A), however, deleted the addition so made by the AO, observing as under:

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that full details were provided in response to the letters issued by the AO. The AR*

*argued that the assessee is in the business of trading of goods and no godown has been maintained by the assessee as the goods purchased from supplier are directly delivered to the parties without bringing the goods to the assessee premises. The AR further submitted that the assessee is carrying the same business since so many years and is a regular Income Tax assessee and the Returned Income has been accepted by the Department in all these previous years. As per AR all the parties with whom the assessee has transaction of sales and purchases have duly paid taxes on their income, after accounting for the sales and the purchases, to and from the assessee. As per AR the AO failed to point out any defect or omission in the books of accounts which would indicate that the assessee has done only debit/credit entries with a view to earn Commission on the same. As per AR all the transactions are through banking channel, duly verifiable and the parties are existing assesseees. It has been argued that the assessee has been carrying on the transactions on the principal to principal basis and is legal owner of goods and is liable for any loss/damage done to the goods. Under the facts and the circumstances of the case, the arguments of the AR appear acceptable. The AO did not point out specific mistake warranting application of the provisions of section 145(3) and while rejecting the books of accounts of the assessee, no reason or cogent material has been brought on record. There is merit in the argument of the AR that the AO was having doubt in mind but never issued any notice or summon to any of the parties. Further it is not a case where any confessional statement has been recorded from any entry provider of accommodation entry. It is a case of doubt raised by the assessing officer but such doubt has not been converted into any evidence or material so as to substantiate the addition.*

*The AR has also argued that similar issue arose during the assessment of Sh. Vasu Kalia for A.Y. 2012-13 and the addition made has been deleted by CIT(A)-3, Ludhiana in appeal No. 1007/IT/CIT(A)-3/LDH/2014-15 vide order dated 27.09.2016. The facts of the case under consideration are similar to the facts of the case, decided by the Ld. CIT(A)-3, Ludhiana vide order dated 27.09.2016 i<sup>1</sup> Appeal No. 1007/IT/CIT(A)-3/LDH/2014-15. Thus for the reasons mentioned in the above order and the fact that for A.Y. 2012-13 in the case of the assessee himself the nature of business of the assessee has been accepted, the AO was not justified in holding during the year that the assessee was an entry provider since the nature of business has remained the same and no new facts have been brought on record. The AO was therefore, not justified in making the addition of Rs. 20,592/- on account of Commission income without bringing any adverse material on record. The addition of Rs. 20,592/- is therefore, not found sustainable and hence directed to be deleted.”*

The Ld. CIT(A) has given a categorical observation that the AO could not find any such discrepancy in the accounts of the assessee warranting rejection of the same. The addition has been made by the AO merely on the basis of suspicion only without any evidence on the file that the assessee was an entry provider only. The AO did not make any effort to verify the veracity of the business transactions by summoning the concerned parties, whereas, the assessee duly explained its nature and manner of business and the same being accepted in the earlier years by

the AO. We, therefore do not find any infirmity in the order of the CIT(A) on this issue also. This ground is , therefore, also dismissed.

23. **Ground No. 5** : This ground is general in nature and does not require any specific adjudication.

This appeal of the revenue is, therefore, dismissed.

**ITA No. 387/Chd/2018 (A.Y. 2013-14)**

24. In **ITA No. 387/Chd/2018**, following grounds have been raised by the Revenue :-

1. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.37,57,13,800/- on account of Sundry Payables to M/s Metro Synthetics.*
2. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.29,72,94,000/- on account of Sundry Payables to M/s Vasu Trading Co.*
3. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.2,40,11,000/- on account of 'differences in balance' under the head Sundry Payables and Loan & Advances received from M/s Vasu Trading Company & M/s Metro Synthetics not appearing in their audited Balance Sheet.*
4. *Whether on the facts and in circumstances of the case, the Ld. CIT(A) is correct in deleting the addition of Rs.23,591/- on account of Commission Income despite the fact that assessee is an entry provider and assessee's books are not reliable, resulting in rejection of its books of account.*

5. *The Appellant craves leave to add or amend the grounds of appeal on or before is heard and disposed off.*

25. **Ground No.1 :** Vide ground No. 1 of the appeal, the Revenue has agitated action of the CIT(A) in deleting the addition of Rs. 37,57,13,800/- made by the AO on account of the sum shown as payable in the name of M/s. Metro Synthetics.

The assessee is a private limited company and has been engaged in the business of trading of yarn, fiber and knitted cloth. During the assessment proceedings, the AO observed that under the head Current Liabilities, the assessee had shown an amount of Rs. 37,57,13,800/- in the name of M/s. Metro Synthetics. The AO further observed that the concern M/s. Metro Synthetics was merely an entry provider and had no worth of its own. He, therefore, added the amount shown as payable as undisclosed income of the assessee u/s 68 of the Income Tax Act.

26. In appeal, the Ld CIT(A), however, deleted the addition so made by the AO observing as under: -

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that the concern M/s. Metro Synthetics Prop. Sh. Rajinder Kumar is a regular Income Tax assessee from last many years and has filed the copies of Income Tax Returns for assessment year 2010-11 onwards. The AR further submitted that it is carrying the same business since so many years and the returned income has been*

*accepted by the department in all these previous years. The AR argued that assessment of M/s. Metro Synthetics Prop. Sh. Rajinder Kumar for assessment year 2012-13 was completed u/s 143(3) by DCIT, CC-III, Ludhiana vide order dated 30.01.2015, where the income of the concern M/s. Metro Synthetics has been assessed at Rs. 10,37,675/- after making an agreed addition of Rs. 4,00,000/- to the net profit Rs. 6,37,665/- declared on Gross receipts of Rs. 4,79,19,36,840/-. Based upon the documents filed by the AR and looking to the past history of the concern where assessments were made under Section 143(3) by the same AO, (viz the DCIT CC-III, Ludhiana) it cannot be said that it is merely an entry provider. There is further merit in the argument of the AR that no adverse inference was drawn by the same AO while completing the assessment in the case of Sh. Rajinder Kumar Prop. M/s. Metro Synthetics for assessment year 2013-14 in respect of the outstanding balances in the name of M/s. Shiva Spinfab Pvt. Ltd. and hence no addition in respect of outstanding amount in the name of M/s. Metro Synthetics should be made while completing the assessment of the assessee (M/s. Shiva Spinfab Pvt. Ltd). It is further argued that the outstanding balances are continuing from the assessment year 2010-11 onwards and reflected in the relevant balance sheets. Under the facts and the circumstances of the case, the arguments of the AR appear acceptable and the addition of Rs. 37,57,13,800/-, as other current liabilities to M/s. Metro Synthetics, is not found sustainable and hence deleted.”*

27. We have heard the rival contentions. As noted by the Ld CIT(A), additions of payable has been made by the AO only on assumption basis without any convincing adverse material coming to his knowledge. The

Ld CIT(A) has duly verified the accounts of the assessee and other concerns. The Ld CIT(A) has noted that no adverse inference was drawn by the same AO while completing the assessment in the case of Sh. Rajinder Kumar Prop. M/s. Metro Synthetics for assessment year 2013-14 in respect of the outstanding balances in the name of the assessee. The books of account of the assessee were duly audited and that the assessee was regular income tax payee. No enquiry was made by the AO as to the source of M/s Metro Synthetic. In view of the above, the Ld CIT(A) was justified in deleting the impugned additions. We do not find any merit in this ground of appeal and the same is accordingly dismissed.

28. **Ground No. 2:** Vide Ground No.2 the Revenue has agitated the action of the CIT(A) in deleting the addition of Rs. 29,72,94,000/- made by the AO on account of this sum shown as payable in the name of M/s. Vasu Trading Co. The AO observed that under the head Current Liabilities, the assessee has shown an amount of Rs. 29,72,94,000/- in the name of M/s. Vasu Trading Co. The AO held that the concern M/s. Vasu Trading Co. was merely an entry provider and has no worth of its own. He, therefore, added this amount to the income of the assessee as undisclosed income u/s 68 of the Income Tax Act.



29. The Ld CIT(A), however, deleted the addition so made by the AO observing as under:-

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that the concern M/s. Vasu Trading Co. Prop. Sh. Vasu Kalia is a regular Income Tax assessee from last many years and has filed the copies of Income Tax Returns for assessment year 2010-11 onwards. The AR further submitted that it is carrying the same business since so many years and the returned income has been accepted by the department in all these previous years. The AR has argued that assessment of Sh. Vasu Kalia for assessment year 2012-13 was completed u/s 143(3) by ITO Ward-6(3), Ludhiana at an income of Rs. 1,14,90,962/- against the returned income of Rs. 5,27,670/- by making an addition of Rs. 1,09,63,292/- in the proprietary concern M/s. Vasu Trading Co., however in appeal, the CIT(A)-3, Ludhiana vide order dated 27.09.2016 deleted the addition of Rs. 1,09,63,292/- by holding that transaction were done by the appellant (M/s. Vasu Trading Co.) on principal to principal basis, all transactions for sale and purchases have been done through banking channel and all the vendors with whom assessee (M/s. Vasu Trading Co.) has done sale/purchases are regular Income Tax assessee's and already paid tax on their income after duly accounting for the income earned from the assessee (M/s. Vasu Trading Co.). Based upon the documents filed by the AR and looking to the past history of the concern where assessment was made under Section 143(3) in the case of Sh. Vasu Kalia Prop. M/s. Vasu Trading Co. by ITO Ward-6(3), Ludhiana, it cannot be said that it is merely entry provider because in the case of Sh. Vasu Kalia Prop. M/s. Vasu Trading Co., the CIT(A)-3, Ludhiana decided the appeal in*

*favour of the appellant (M/s Vasu Trading Co.) and the addition made by the Assessing Officer was deleted.*

*It was also submitted by the AR that the addition has been made without any conclusive evidence with the AO. The concern M/s. Vasu Trading Co. is an old existing assessee and the addition has been made only on the ground that it is merely entry provider, whereas no adverse inference has been drawn in past where balances were appearing in the name of M/s. Vasu Trading Co. in the preceding years also. As already mentioned, Sh. Vasu Kalia Prop. M/s. Vasu Trading Co. is regular income tax assessee and assessment for assessment year 2012 13 were completed under scrutiny u/s 143(3) where no such adverse view was taken regarding the balances. Accordingly, the addition of Rs. 29,72,94,000/- is not found sustainable and hence deleted”.*

30. We have heard the rival contentions. The fact and issue involved is identical to the issue as discussed in the case of Vasu Kalia as well as in the case of the assessee vide Ground No.1, as discussed above. The additions made by the AO merely on assumptions and presumptions are no sustainable in the eyes of law. The Ld CIT(A) after duly verifying the accounts of the respective concerns, source of funds and the differences being reconciled has rightly deleted the additions so made by the AO. We do not find any infirmity of the CIT(A) on this issue and the same is upheld.

31. **Ground No. 3:** The Revenue through this ground has contested the action of the CIT(A) in deleting the addition of Rs. 2,40,11,000/- (Rs. 10000000 + Rs. 14011000) made by the AO on account of 'difference in balances'. The AO has mentioned that assessee received huge amount from the various parties shown under the head Current Liabilities. As per AO, when compared with the balance sheets of those parties, there were discrepancies noticed in the amounts. As per AO, the balances in the assessee's books of account did not match with the balance shown as payable/receivable to the assessee by those parties/concerns in their balance sheets. The AO mentioned that since there were differences in the amounts shown in the balance sheet of the respective parties in the name of the assessee viz-a-viz the amounts shown by the assessee in its Balance Sheet in the name of the these parties, hence the difference was taken as undisclosed income of the assessee. The AO accordingly made addition of Rs. 2,40,11,000/- (Rs. 1,00,00,000 + Rs. 1,40,11,000/- ) to the returned income of the assessee as undisclosed income u/s 68 being part of overall addition of Rs. 69,70,18,800/-.

32. The Ld CIT(A), however, deleted the additions so made by the AO observing as under:-

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The*

*AR has argued that there is no difference in the balances and the factual position is that in the books of the assessee the whole amount has been shown under different heads whereas the amount has been shown in the books of the other concerns under one head. As per AR it is not the case where the amounts of debit balance and credit balance are different, rather it is a case where the amount of investment held in the company have been portrayed under some other heads. The AR argued that there has been change in only sub head of the balance sheet and not the debit or credit side of the balance sheet i.e. the amount of payables, share application money or share capital are all liabilities for the assessee. The AR further contended that this does not have any effect on the computation of income. The copy of account of the assessee in the books of said concerns/parties along with the confirmation from the said parties that the assessee hold balances in their concerns as per the reconciled statement have been enclosed. The AR further argued that complete books of accounts were produced before the AO and audited Balance Sheet with enclosure were also placed on the assessment record during the assessment proceedings; however, the AO ignored the evidence placed on record. As per AR, the AO neither gave reasonable opportunity asking for reconciliation of such difference nor made any enquiry from the parties about the balances appearing in their books in the name of the assessee. Thus, as per AR the principle of natural justice has been violated. On merits, the AR submitted that the amounts were duly reflected in the balance sheet of the assessee and some of these are old balances appearing in the balance sheets of the preceding years. Regarding the current year investment (as share application money) it was submitted that these were received in the regular bank account of the assessee and made out of the regular bank accounts of the parties. The*

*submission filed by the AR was sent to the AO for comments and the AO has given his report without specifically pointing out any discrepancy in the submission. Thereafter to verify the source of the payments during the current year as well as during the preceding years, the AR was requested to file the Bank Account statement from which the payments were made as well as the balance sheet of the preceding year of the assessee to verify the balances appearing in the preceding years. The Balance Sheets of the concerns/parties have also been called for to verify the balances appearing in their balance sheet in the preceding year in the name of the assessee. The party wise position is discussed below:*

*(a) Balances with M/s. Vasu Trading Co.:-*

*The AR submitted that in the books of accounts of the Sh. Vasu Kalia an amount of Rs. 31,13,05,000/- has been shown as Loan & Advances to M/s. Shiva Spinfab Pvt. Ltd. which in the books of the assessee M/s. Shiva Spinfab Pvt. Ltd. is shown under two heads as 'Share Application Money received' and 'Sundry Payable' amounting to Rs. 1,40,11,000/- and Rs. 29,72,94,000/- respectively. As per AR, the AO has considered only Rs. 29,72,94,000/- shown as Sundry payable and ignored the Share Application Money of Rs. 1,40,11,000/- receipt by the assessee M/s. Shiva Spinfab Pvt. Ltd. from Sh. Vasu Kalia. The AR has argued that the Share application money of Rs. 1,40,11,000/- given during the financial year under consideration was out of the bank account of the Sh. Vasu Kalia with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of the assessee M/s. Shiva Spinfab Pvt. Ltd. for the year ending 31.03.2013.*

*To verify the above contention raised by the assessee, the balance sheet and bank account statement of the assessee have been called and placed on file. The Share Application Money of Rs. 1,40,11,000/- has been received during the year in the bank account of the assessee with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee from the Allahabad Bank of Sh. Vasu Kalia. The amount is duly appearing in the Balance Sheet of the assessee under the head Share Application Money received during the year. A perusal of the documents filed shows that no addition on this account is called for.*

*(b) Balances with M/s. Metro Synthetics:-*

*The AR submitted that in the books of accounts of the Sh. Rajinder Kumar Prop. M/s. Metro Synthetics an amount of Rs. 38,57,13,800/- has been shown under Sundry Debtors in the name of the assessee M/s. Shiva Spinfab Pvt. Ltd. which in the books of M/s. Shiva Spinfab Pvt. Ltd. is shown under two heads as 'Share Application Money received' and 'Sundry Payable/Current Liabilities' to M/s. Metro Synthetics amounting to Rs. 1,00,00,000/- and Rs. 37,57,13,800/- respectively. As per AR, the AO has considered only Rs. 37,57,13,800/- shown as Sundry payable under current liability and ignored the Share Application Money Rs. 1,00,00,000/- received by the assessee M/s. Shiva Spinfab Pvt. Ltd. The AR has argued that the Share application money of Rs. 1,00,00,000/- received during the financial year under consideration in the bank account of the assessee with Allahabad Bank was given out of the bank account of M/s. Metro Synthetics also with Allahabad Bank. The AR has filed the copy of the Bank Statement to substantiate the same. It has also been argued that the Share Application Money is appearing in the Balance Sheet of the assessee M/s. Shiva Spinfab Pvt. Ltd. for the year ending 31.03.2013.*

*To verify the above contention raised by the assessee, the balance sheet and bank account statement of the assessee and M/s. Metro Synthetics have been called and placed on file. The Share Application Money of Rs. 1,00,00,000/- has been received during the year in the bank account of the assessee with Allahabad Bank which is regularly appearing in the Balance Sheet of the assessee. The amount is duly appearing in the Balance Sheet of the assessee M/s. Shiva Spinfab Pvt. Ltd. under the head Share Application Money received during the year. A perusal of the documents filed shows that no addition on this account is therefore called for.*

*Hence, under the facts and the circumstances of the case, no addition on account of differences of Balances is called for as all the amounts are duly reflected in the Balance sheet of the assessee as well as the Balance sheets of the concerned party. The amounts were paid out of the bank accounts of the parties regularly reflected in their balance sheet under different heads. The arguments of the AR that the AO failed to reconcile the same, is found acceptable and the addition made by the AO is deleted”.*

33. We have heard the rival contentions and have also gone through the record. The facts and issue involved are identical as discussed above in the case of Vasu Kalia vide Ground No.3 of the ITA No. 1118/Chd/2017. Since the differences in figures duly explained and reconciled the source of funds proved and some of the balances being old balances, the Ld CIT(A) after duly verifying the accounts of the assessee and other concerns was justified in deleting the impugned

additions made by the AO on assumptions and presumptions. We do not find any merit in this ground and the same is accordingly dismissed.

34. **Ground No. 4:** Vide Ground No.4, the Revenue has agitated the action of the CIT(A) in deleting the addition of Rs. 23,591/- made by the AO as Commission income. The facts and issue involved are identical to that have been discussed vide Ground Nos 1 & 2 in the case of Vasu Kalia in ITA No. 1118/Chd/2017. Our findings given above will mutatis-mutandis apply on this issue. This ground of the appeal of the Revenue is accordingly dismissed.

35. Ground No.5 : This ground is general in nature.

This appeal of the Revenue is hereby dismissed.

**ITA No. 1200/Chd/2017 (A.Y. 2013-14)**

36. The Revenue **ITA No. 1200/Chd/2017** appeal has taken the following grounds:-

- 1. The Ld. CIT (A), Ludhiana has erred in law to delete the addition of Rs.4,41,47,622/- on account of Commission Income ignoring the fact that AO has proved that assessee is merely an entry provider and assessee's books are not reliable, hence AO has rejected assessee's books of account.*
- 2. The Ld. CIT(A) has erred in law to rely on the order of CIT(A) for A.Y. 2012-13 in the case of Sh. Vasu Kalia ignoring the fact that both the cases have different facts. In the case of assessee, the books of accounts were rejected for detailed reasons given in the assessment order whereas this was not so*



*in the case of Sh. Vasu Kalia for the A.Y. 2012-13. Without prejudice the department is in appeal in AY 2012-13 before the Hon'ble ITAT.*

3. *The Ld. CIT (A), Ludhiana has erred in law to delete the addition of Rs.28,19,74,500/- on account of differences of balances in the parties accounts despite the fact that the assessee had failed to file any details before the Assessing officer inspite of repeated opportunities. The accounts of the assessee wherein differences were noticed were duly audited and signed by the auditors. Without prejudice no independent enquiry was made through Banks by Ld. CIT(A) to reconcile the accounts of the parties.*
4. *The Appellant craves leave to add or amend the grounds of appeal on or before is heard and disposed off.*

37. **Ground Nos. 1 & 2:** The Revenue vide Ground Nos. 1 & 2 has agitated the action of the CIT(A) in deleting the addition of Rs. 4,41,47,622/- made by the AO as Commission Income. The AO has mentioned that from the facts it was clear that assessee is merely an entry provider. As per AO the books of accounts of the assessee were not reliable and hence rejected the same. The AO then estimated the Commission income from business of entry providing @ 0.50% of the gross receipts of Rs. 882,95,24,543/- and computed the commission income at Rs. 4,41,47,622/-.

38. The Ld CIT(A), however, deleted the addition so made by the AO observing as under:-

*“The facts of the case, the basis of addition made by the A.O. and the arguments of the AR during the appellate proceedings have been considered. The AR has argued that full details were provided in response to the letters issued by the AO. The AR argued that the assessee is in the business of trading of goods and no godown has been maintained by the assessee as the goods purchase from supplier directly deliver to the parties without bringing the goods to the assessee premises. The AR further submitted that the assessee is carrying the same business since so many years and is a regular Income Tax assessee and the returned income has been accepted by the department in all these previous years. The AR has filed the copy of assessment order dated 30.01.2015 for assessment year 2012-13 passed u/s 143(3) by DCIT, CC-III, Ludhiana. Where the income of the assessee from his proprietary concern M/s. Metro Synthetics has been assessed at Rs. 10,37,675/- after making an agreed addition of Rs. 4,00,000/- to the net profit Rs. 6,37,665/- declared on Gross receipts of Rs. 479,19,36,840/-. As per AR all the parties with whom the assessee has transaction of sales and purchases have duly paid tax on their income after accounting for the sales and the purchases to and from the assessee. As per AR the AO failed to point out any defect or omission in the books of accounts which would indicate that the assessee has done only debit/credit entries with a view to earn commission on the same. As per AR all the transactions are through banking channel, duly verifiable and the parties are existing assesseees. It has been argued that the assessee has been carrying on the transactions on the principal to principal basis and is legal owner of goods and is liable for any loss/damage done to the goods. Under the facts and the circumstances of the case, the arguments of the AR appear acceptable. The undisputed facts remains that the assessee has been consistently*

*carrying the same business or the last many years in the same manner and the AO has been accepting these facts without any demur in the past. For the current year the AO did not point out specific mistake warranting application of the provisions of section 145(3) and while rejecting the books of accounts of the assessee, no reason or cogent material has been brought on record. There is merit in the argument of the AR that the AO was having doubt in mind but never issued any notice or summon to any of the parties. Further it is not a case where any confessional statement has been recorded from any entry provider of accommodation entry. It is a case of doubt raised by the assessing officer but such doubt has not been converted into any evidence or material so as to substantiate the addition.*

*The AR has also argued that the similar issue arose during the assessment of Sh. Vasu Kalia for A.Y. 2012-13 and the addition made has been deleted by CIT(A)-3, Ludhiana in appeal No. 1007/IT/CIT(A)-3/LDH/2014-15 vide order dated 27.09.2016. The facts of the case under consideration are similar to the facts of the case, decided by the Ld. CIT(A)-3, Ludhiana vide order dated 27.09.2016 in Appeal No. 1007/IT/CIT(A)-3/LDH/2014-15. Thus for the reasons mentioned in the above order and the fact that for A.Y. 2012-13 in the case of the assessee himself the nature of business of the assessee has been accepted by the same AO, she was not justified in holding during the year that the assessee was an entry provider since the nature of business has remained the same and no new facts have been brought on record. The AO was therefore, not justified in making the addition of Rs. 4,41,47,622/- on account of Commission income without bringing any adverse material on record that the business of the assessee during the year was different from the preceding years. The addition of Rs. 4,41,47,622/- is*

*therefore, not found sustainable and hence directed to be deleted”.*

39. We have heard the rival contentions. The facts and issue involved are identical to that have been discussed vide Ground Nos. 1 & 2 in the case of Vasu Kalia in ITA No. 1118/Chd/2017 and other appeals as discussed above. Our findings given above will mutatis-mutandis apply on this issue also. These grounds of the appeal of the Revenue are accordingly dismissed.

40. **Ground No.3 :** The Revenue through this ground has agitated the action of the Ld CIT(A) in deleting the addition of Rs. 28,19,74,500/- made by the AO on account of difference in balances. The AO has mentioned that the details to various parties under the head Sundry Debtors shows that there are huge balances in the names of various parties and as per AO when compared with the balance sheets of those parties, there were discrepancies noticed in the amounts. The difference was taken as undisclosed income of the assessee. The AO accordingly made the impugned addition.

41. In appeal, the Ld CIT(A), however, deleted the addition so made by the AO. The facts and issue involved are identical to that has been discussed in the case of Vasu Kalia vide ground No.2 in ITA No. 1118/Chd/2017. Since the differences in figures duly explained and

reconciled the source of funds proved and some of the balances being old balances, the Ld CIT(A) after duly verifying the accounts of the assessee and other concerns was justified in deleting the impugned additions made by the AO on assumptions and presumptions. We do not find any merit in this ground and the same is accordingly dismissed.

42. **Ground No. 4** : Ground No.4 is general in nature and needs no specific adjudication.

This appeal of the Revenue is accordingly dismissed.

. **ITA No. 1506/Chd/2018 (A.Y. 2014-15)**

43. The Revenue in ITA No. 1506/Chd/2017l has taken the following grounds:-

1. *Whether on the facts and circumstances of the case, the Ld. CIT (A), has erred in law to delete the addition of Rs.4,64,73,205/- on account of Commission Income without considering the fact that assessee is merely an entry provider and the books of accounts were rejected to tax the undisclosed income.*
2. *Whether on the facts and circumstances of the case, the Ld. CIT (A), has erred in law while deciding the issue of on the basis of its own decision in assessee's case for AY 2013-14 ignoring the fact that no evidence was furnished before the AO in support of business carried on by the assessee.*
3. *The Appellant craves leave to add or amend the grounds of appeal on or before is heard and disposed off.*

44. The sole issue raised by the Revenue in this appeal is regarding the action of the CIT(A) in deleting the addition made by the AO on account of Commission Income. These grounds are identical to that have been taken in the case of the assessee in ITA No. 1200/Chd/2017 for AY 2013-14. As observed above, the facts and issue involved are identical to that have been discussed vide Ground Nos. 1 & 2 in the case of Vasu Kalia in ITA No. 1118/Chd/2017 and other appeals as discussed above. Our findings given above will mutatis-mutandis apply on this issue also. These grounds of the appeal of the Revenue are accordingly dismissed.

This appeal of the Revenue is accordingly dismissed.

In the result, all the appeals of the Revenue are hereby dismissed.

Order could not be pronounced earlier due to non-functioning of the Bench on account of curfew / lockdown in the wake of Covid-19 Pandemic.

Order pronounced on 10.06.2020.

Sd/-

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

(संजय गर्ग / SANJAY GARG)

लेखा सदस्य/ Accountant Member

न्यायिक सदस्य/ Judicial Member

**Dated : 10.06.2020**

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)

5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File