

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1085/MUM/2024
(Assessment Year: 2021-2022)**

Assistant Commissioner of Income Tax, Mumbai
Piramal Chambers, Parel,
Mumbai – 400020, Maharashtra.

..... **Appellant**

Vs

Jay Bharat Mehta
83B and C Sheth Govindrao Smruti BL,
Dr. Annie Besant Road, Worli
Mumbai – 400018. Maharashtra.
[PAN:AFCPM1890H]

..... **Respondent**

Appearance

For the Appellant /Department : Shri Solgy Jose T. Kottaram

For the Respondent /Assessee : Shri J. D. Mistry &
Ms. Arati Vissanji

Date

Conclusion of hearing : 16.10.2024
Pronouncement of order : 13.01.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Revenue is directed against the order, dated 12/01/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had allowed the appeal against the Assessment Order, dated 31/12/2022, passed under Section 143(3) read with Section 144B of the Act for the Assessment Year 2021-2022.
2. The Revenue has raised following grounds of appeal :
 - "1. *On the facts and circumstances of the case and in law, the Ld.*

CIT(A) erred in deleting the addition of Rs.1,68,55,71,440/- being entire sale consideration of JBCPL shares as unexplained cash credit u/s.68 r.w.s. 115BBE of the Act without appreciating the fact that the assessee had failed to substantiate the identity, genuineness and creditworthiness to the M/s.TAU Investment against whom the sale of shares was shown.

- 2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.168,55,71,440/- being entire sale consideration of JBCPL shares as unexplained cash credit u/s.68 r.w.s. 115BBE of the Act without appreciating the fact that the assessee had failed to prove the source of fund through which shares of the assessee was purchased.*
 - 3. On the facts and circumstances of the case and in law, whether the Ld. CIT(A) is correct in deciding the creditworthiness of M/s.TAU Investment on the basis of public announcement made KKR i.e. parent company regarding fund raising.*
 - 4. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing the deduction u/s.54F against the unexplained cash credit as determined by the Assessing Officer.*
 - 5. The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.*
 - 6. The appellant prays that the order of the National Faceless Appeal Centre (NFAC), Delhi on the above grounds be reversed and that of the AO be restored."*
3. The relevant facts in brief are that the Assessee filed Return of Income for the Assessment Year 2021-2022 on 15/03/2022 declaring total income of INR.1,54,18,94,570/- including Long Term Capital Gains of INR.1,52,68,77,666/- arising from sale of shares of J. B. Chemicals and Pharmaceutical Ltd. (hereinafter referred to as '**JBCPL**'). The case of the Assessee was selected for regular scrutiny. During the assessment proceedings various details, documents and explanation were called for by the Assessing Officer. In response to the same, the Assessee submitted replies along with

relevant details/documents. The Assessing Officer completed the assessment under Section 143(3) read with Section 144B of the Act vide Assessment Order, dated 31/12/2022, after making following additions/disallowances:

- (a) The Assessing Officer made an addition of INR.1,68,55,71,440/- as unexplained cash credit under Section 68 of the Act in respect of consideration received by the Assessee during the relevant previous year from sale of 22,62,512 equity shares of JBCPL to Tau Investment Holdings Pte. Ltd. [hereinafter referred to as '**Tau Investment**'] on the ground that the Assessee had failed to explain the nature and source thereof.
 - (b) The Assessing Officer also restricted the deduction of INR.11,90,38,405/- claimed by the Assessee under Section 54F of the Act on account of purchase of new residential house utilizing the proceeds from the sale of shares of JBCPL to INR.5,95,29,202/- (being 50% of claim of INR.11,90,38,405/- made under Section 54F of the Act) observing that the Assessee was joint owner of the residential house purchased alongwith his wife and therefore, the Assessee held only 50% share in the aforesaid new residential house. However, the Assessing Officer recorded that no separate addition was being made as the total sale proceeds of INR.1,68,55,71,440/- were added to the returned income of the Assessee by invoking provision contained in Section 68 of the Act.
4. Being aggrieved, the Assessee preferred appeal before the CIT(A) challenging the additions/disallowances made by the Assessing Officer vide Assessment Order dated 31/12/2022.
 5. The Assessee also filed an application, dated 30/01/2023, before the

Local Committee set up by the Central Board of Direct Taxes (CBDT) to deal with tax payers' grievances on High Pitched Scrutiny Assessment which was rejected vide order, dated 23/06/2023.

6. Thereafter, the Assessee approached the Hon'ble Bombay High Court in writ jurisdiction, inter alia, seeking quashing of the Assessment Order, dated 31/12/2022, and setting aside of the order, dated 23/06/2023, passed by the Local Committee. In the aforesaid Writ Petition [Writ Petition (L) No.24936 of 2023], the Hon'ble Bombay High Court passed Order, dated 07/11/2023, giving following directions to the CIT(A):

"Respondent No. 5 shall dispose the stay application as well as appeal together on or before 31.01.2024 after giving personal hearing to the petitioner and by considering all documents and further material that petitioner has filed. Should petitioner wish to file any further documents/submissions, the same to be filed within two weeks of the portal being made available for filing." (Emphasis Supplied)

7. In compliance with the above directions of the Hon'ble Bombay High Court, the CIT(A) took into consideration the documents/details furnished by the Assessee during the appellate proceedings and allowed the appeal preferred by the Assessee vide order, dated 31/12/2022. The CIT(A) deleted the addition of INR.1,68,55,71,440/- made by the Assessing Officer under Section 68 of the Act in relation to sale of 22,62,512 equity shares of JBCPL by the Assessee to Tau Investment (i.e., TAU Investment Holding Pte Ltd.). Further, the CIT(A) also accepted the Assessee's claim for deduction under Section 54F of the Act by placing reliance upon the judgment of the Hon'ble Delhi High Court in the case of CIT Vs. Ravindra Kumar Arora [2011] 15 taxmann.com 307 (Delhi).
8. Being aggrieved by the above Order, dated 12/01/2024, passed by the CIT(A), the Revenue has preferred the present appeal before the Tribunal on the grounds reproduced in paragraph 2 above. The

grounds raised by the Revenue are taken up hereinafter in seriatim along with connected grounds, if any.

Ground No. 1 to 3

9. Ground No. 1 to 3 are directed against the order of CIT(A) deleting the addition of INR.1,68,55,71,440/- made by the Assessing Officer under Section 68 of the Act in respect of consideration credited to the account of the Assessee on sale of equity shares of JBCPL.
10. The Learned Departmental Representative appearing before us vehemently contended that the action of the Assessing Officer in making addition of INR.1,68,55,71,440/- under Section 68 of the Act could not have been found fault with by the CIT(A) since the Assessee had failed to furnish the relevant documents/details during the assessment proceedings. The Learned Departmental Representative placed reliance on paragraph 3.4 of the Assessment Order which reads as under:

"3.4. Reasons for inference drawn that variation is required on this issue.

3.3.1. In response to show cause notices 16.11.2022 & 15.12.2022, assessee submitted its response on 22.11.2022, 19.12.2022 & 20.12.2022. Replies of the assessee have been examined. The documents submitted by the assessee have been perused but the evidence submitted is not acceptable in view of following observations:-

1. *The assessee on 20.12.2022 has submitted a copy of investment agreement on a mere piece of plain paper. He has submitted unsigned documents on plain pieces of papers without any stamp. This paper can be typed by any person and in no way verify the books of KKR fund or the first source Tau investment holdings Pvt. Ltd. Moreover, despite asking the details of Tau investment company assessee submitted documents of KKR fund. No legal stamp was there; no revenue stamp was there on the accounts submitted. Documents are not audited and certified by any C.A. Hence in absence of all these reasons this document has no legal sanctity and is not a valid evidence as per Indian evidence act.*

2. The assessee submitted extract of bank statement of Tau investment holdings Pvt. Ltd. However, in the said extract, details of all previous entries have been blackened and no information/idea about source of money has been given. The bank statement is of no use as the AO is unable to know the source of funds and also how the funds have been routed.
3. No document has been submitted which proves that the KKR Asia III Fund Investment PTE. Ltd has funded TAU investment holdings PTE Ltd., Singapore. Also no confirmation has been submitted by KKR Asia III fund to explain the flow of funds.
4. No document has been submitted by the assessee regarding TAU investment holdings Pvt. Ltd., Singapore which provides any data to the AO.
5. Currently, the flow of fund from tax havens has emerged as a major source of concern for the world countries. The companies are routing their own funds through multiple channels and finally through tax haven. Mauritius and Singapore are one of the major tax havens through which funds are routed in India. It is also a major area of concern where fund houses and holding companies create a paper company in tax havens and use them as a conduit to hold Indian companies and finally evade capital gains tax due to misuse of provisions of DTAA. There are several instances where NSDL has took action in respect of companies where funds were received from tax haven countries. Recently, it has been noticed that four Mauritius based funds linked to Adani Group companies including three whose account were earlier chosen by National securities depository limited (NSDL), have a history of investing in firms that ended up defaulting or were invested for wrong doing. As money has been routed through tax haven countries it raises suspicions about the genuineness of the transaction. As on date investment by big funds in Indian companies has become area of grave concern. Hence it creates more of a responsibility of the AO to carefully scrutinize the source of funds.
6. The assessee has been continuously requesting the AO to use s. 133(6) section instead of discharging its onus. When explained to him, he emphasized on use of reference to FTTR. In this regard, it is to be emphasized that reference to FTTR is not a norm but an exception to be used by the AO when he is not satisfied with the reply of the assessee. The department has emphasized it time and again and also asked the AO to take approvals of higher officials, primarily due to the fact that this does not start happen indiscriminately. The reference can be

made for inquiry or verification but in this case, assessee has not even submitted basic documents. Had assessee submitted documents than AO would have definitely used them to verify. But if such a request is allowed, then every assessee would shun away from his responsibility and instead put onus on the department to collect documents. Then for every transaction instead of asking the assessee to fulfill his basic duties, department would only be engaged in collecting information from third parties and this would lead to collapse of department structure. Also such a demand is made at the fag end of time barring and it's not possible to do reference in such a short notice.

7. A simple google search shows that *Tau investment holdings Pvt. Ltd.* does not even has its own website. It was formed hardly 2.8 years ago on 20.3.2020 i.e just months before investment in the assessee company and that too in a tax haven of Singapore. Its paid up capital is hardly USD 14,927,608, which is meager in comparison to the amount of transaction it undertook. It is difficult to understand as to how a company formed hardly months before the investment was able to do proper business and garner funds so as to fund a Rs 3200 crore deal of JB chemicals. It clearly points to suspicion that it is a merely paper company and is being formed in a tax haven and used as a conduit to evade capital gain and other taxes. Also its source appears dubious.
8. The assessee has been requested to only prove creditworthiness of first source and not source of source. The department has not even gone deeper to source of source. Giving the basic documents of first source is the primary responsibility of the assessee, Even if assessee would have explain the first source that would have been acceptable as assessee would have discharged its primary responsibility and onus would have shifted to the department.” (Emphasis Supplied)

On the basis of the above, it was contended by the Learned Departmental Representative that the information/details asked for by the Assessing Officer were never furnished by the Assessee during the assessment proceedings. The Assessee had admittedly asked the Assessing Officer to obtain the relevant documents/details directly from Tau Investment. Even when the information/details related to Tau Investment were furnished, the same were in redacted form and were incomplete. The Assessee failed to submit

even the basic documents pertaining to the transaction and parties thereto. The financial accounts and bank statements of Tau Investment requisitioned by the Assessing Officer were not furnished during the assessment proceedings. Thus, the Assessee had failed to discharge the primary onus cast upon the Assessee under Section 68 of the Act to establish the genuineness of the Transaction, as well as to prove the identity and creditworthiness of Tau Investment. In the aforesaid facts and circumstances, the Assessing Officer was also not in a position to gather understanding of the transaction by carrying out any further inquiry/investigation. As a result, the Assessing Officer had no option but to frame assessment on the basis of material on record. Accordingly, the Assessing Officer made addition of INR.1,68,55,71,440/- under Section 68 of the Act.

11. Per contra the Learned Senior Learned Counsel appearing for the Assessee submitted that the identity of the purchaser and genuineness of the transaction were never in doubt. The transaction was examined/approved by the Securities Exchange Board of India (SEBI) and the Competition Commission of India (CCI). The Assessing Officer had made addition under Section 68 of the Act holding that the Assessee had failed to '*prove creditworthiness of the first source*'. Taking us through the reply/submission filed during the assessment proceedings [*forming part of paper-book submitted by the Assessee*], the Learned Senior Counsel submitted that all the relevant details in the possession of the Assessee at the relevant time were placed before the Assessing Officer and the CIT(A). During the Assessment Proceedings, the Assessee had filed before the Assessing Officer, inter alia, complete Share Purchase Agreement, Letter of Offer to public filed with SEBI and exchanges (containing details/information of the transaction under consideration), approval received from CCI, details of purchaser/Tau Investment, financial statements and bank accounts of Tau Investment as provided to the Assessee by Tau Investment. Before the CIT(A), the Assessee had

additionally filed copy of audited accounts of Tau Investments for the year Financial Year 2019-2020 and the Confirmation, dated 30/08/2023, given by Tau Investment clearly providing the source of fund utilized by Tau Investment for making payment of consideration of INR.1,68,55,71,440/- to the Assessee for the purchase of equity share of JBCPL. All the aforesaid documents/details were examined by the CIT(A) and after taking the same into consideration, in compliance with the directions issued by the Hon'ble Bombay High Court, the CIT(A) deleted the addition. The Revenue has failed to bring on record any material to controvert the findings returned by the CIT(A). The primary objection of the Assessing Officer relating to the source of credit/funds stands explained and therefore, the grievance of the Assessing Officer does not survive. Accordingly, grounds raised by the Revenue should be rejected.

12. In rejoinder, the Learned Departmental Representative invited our attention of pages 320 to 323 of the paper-book filed by the Assessee containing the redacted version of the bank statement pertaining to account held by Tau Investments with HSBC Bank and documents furnished during the assessment proceedings and reiterated the stand of the Revenue.
13. We have heard the rival submission, and perused the material on record. It emerges that the Assessee held shares of Jyotindra Mody Holdings Pvt. Ltd. and Ansuva Mody Securities Pvt. Ltd. The aforesaid two companies merged into JBCPL in financial year 2013-2014 and as a result, the Assessee received the 22,62,512/- equity shares of JBCPL. Kohlberg Kravis Roberts & Co. L.P. (KKR), a global investment group/fund, was interested in taking over JBCPL by acquiring Promoters' Stake constituting around 55.91% shareholding of JBCPL through Tau Investment, a company owned and controlled by the KKR Fund/Group. The Promoter Group of JBCPL (which

included the Assessee holding around 2.9% shareholding) agreed to sell their shareholding to Tau Investment at INR.745/- per share, in three tranches - the third tranche being subject to Tau Investment not acquiring the requisite number of shares in Open Offer to public as per the provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 [for short '**Takeover Code**']. A Share Purchase Agreement (**SPA**) to this effect was executed between the Promoter Group of JBCPL (including the Assessee) and Tau Investment. The transactions contemplated under the SPA were completed in 2020 after complying with the provisions of the Takeover Code, and getting necessary approval from the Competition Commission of India (**CCI**). The Assessee also transferred 22,62,512 equity shares, constituting around 2.9% of shareholding of JBCPL, to TAU Investment in an off market deal in terms of the SPA for a total consideration of INR.168,55,71,440/-. Since the shares were listed in recognized stock exchange in India, the Assessee computed long term capital gain tax @10% [without indexation] in accordance with the provisions contained in Proviso to Section 112(1) of the Act. However, the Assessee claimed deduction of INR.11,90,58,405/- under Section 54F of the Act claiming to have purchased a new residential house [i.e., Flat No. 6 admeasuring 1020 sq. ft. in the building known as Avillion situated at L.D. Ruparel Marg (Little Gibbs Road), Malabar Hill, Mumbai 400006 (hereinafter referred to as 'the Residential Property')] during the relevant previous year.

14. During the assessment proceeding, vide notice dated 13/08/2022, the Assessee was asked to submit copy of Demat Account, computation of capital gain, valuation report, confirmation from purchaser with name, PAN & address etc. The Assessee, vide letter dated 11/10/2022, submitted (a) relevant pages of SPA, (b) capital gain working, (c) copy of Demat Account, (d) bank statements of the Assessee reflecting receipt of sale consideration, and (e) history

and cost of acquisition of JBCPL shares and (f) fair value of shares as on 01/04/2001.

15. Thereafter, vide notice dated 19/10/2022, the Assessee was asked to submit copy of complete SPA, and provide clarification on applicability of Section 112A of the Act. Further, the Assessee was also asked to provide Audit Report, Balance Sheet and Profit & Loss Account of Tau Investments along with copy of bank statements of Tau Investments.
16. On receipt of the above notice, the Assessee, vide email dated 22/10/2022, requested Tau Investment to provide the necessary documents. Tau Investment replied to the aforesaid email of the Assessee vide email, dated 22/11/2022, wherein it was stated that since Tau Investments was an independent third party and the Assessee was not in position of the documents/details requisitioned, the tax Officer may write to Tau Investments directly for obtaining the required documents.
17. In the meanwhile, on 27/10/2022, the Assessee had already filed part reply to notice dated 19/10/2022 and submitted (a) entire copy of SPA, (b) justification on applicable tax rate of 10% under Section 112 of the Act, (c) share price movement of JBCPL shares on BSE during the month of July 2020 to justify the sale consideration of INR.745/- per share. Further, another notice, dated 16/11/2022, had been issued to the Assessee requiring the Assessee to show cause as to why the sale consideration of INR.1,68,55,71,440/- should not be treated as unexplained cash credit under Section 68 of the Act as the details to prove the genuineness and creditworthiness of TAU had not been submitted. On receiving the above email dated 22/11/2022 from Tau Investments, the Assessee filed letter, dated 22/11/2022, in response to the aforesaid notice dated 16/11/2022, and submitted the following documents/explanation:

- (a) Explanation about the transfer of stake in JBCPL by its promoters as per SPA,
 - (b) Copy of Letter of Offer filed with SEBI and Exchanges in compliance with the provisions of the Takeover Code containing, inter alia, details of KKR group (including Tau Investment and its holding company)
 - (c) Approval received from Competition Commission of India (CCI).
 - (d) Copy of email, dated 22/11/2022 received from Tau Investment wherein it was stated that the tax Officer may write to Tau Investments directly for obtaining the required documents.
18. Subsequently, vide notice dated 15/12/2022, the Assessee was again asked to submit the Audit Report, Balance Sheet and Profit & Loss Account of Tau Investment along with copy of Bank Statement to prove the genuineness of transaction & creditworthiness of Tau Investments. In response to the same, the Assessee requested the Assessing Officer to direct Tau Investment to provide the required documents. For the same, communication address of Tau Investments and the relevant email ID was also furnished to the Assessing Officer. The Assessee also wrote email, dated 19/12/2022, requesting Tau Investments to provide the documents sought by the Assessing Officer. Vide email dated 20/12/2022, the Assessee received (a) the relevant bank statement of Tau Investment highlighting receipt of sale consideration *[and redacting all other entries therein]* and (b) copy of Letter of Offer filed with SEBI which were provided by the Assessee to the Assessing Officer vide letter dated 20/12/2022. In the aforesaid letter the Assessee reiterated the contention that consideration received from the sale of the shares of JBCPL cannot be treated as unexplained cash credit under Section 68 of the Act.
19. The Assessing Officer was not satisfied by the documents/details

furnished by the Assessee. According to the Assessing Officer the bank statement of Tau Investment furnished by the Assessee contained entries which were blackened/redacted and therefore, there was no information about the source of funds and how the same were routed. The Assessing Officer also observed that the Assessee had failed to furnish any documents showing how Tau Investment was funded. Further, no information/details were submitted by the Assessee related to Tau Investments and its shareholding companies. The Assessing Officer concluded that the Assessee had failed discharge onus cast upon the Assessee to provide primary documents and supporting details pertaining to the transactions. Therefore, the Assessing Officer added the sale consideration on INR.168,55,71,440/- in the hands of the Assessee under Section 68 of the Act holding the same to be unexplained cash credit.

20. In appeal before the CIT(A), the Assessee placed on record Confirmation Letter, dated 30/08/2023 as well as Audited Accounts of Tau Investment for the year ended 31/12/2020. The CIT(A) was directed by the Hon'ble Bombay High Court, vide order dated 07/11/2023, passed in Writ Petition [Writ Petition (L) No.24936 of 2023], to consider the same while adjudicating the appeal. Therefore, the CIT(A) examined the aforesaid documents and on reading the same with the Letter of Offer, CCI approval and other documents furnished by the Assessee, the CIT(A) noted that (a) the Assessee had disclosed the source of funds utilised for purchase of share of JBCPL; (b) the Letter of Offer furnished by the Assessee during the assessment proceedings contained relevant details about Tau Investment and Persons Acting in Concert (PAC), namely, Tau Holdco Pte Ltd and KKR Asia Fund Investment Pte Ltd., as well as their *inter se* relationship and affiliation/nexus with KKR Group/Fund; (c) the Letter of Offer was vetted by SEBI and the same clearly stated that Tau Investment had received equity

commitment from PAC2 (i.e. KKR Asia Fund Investment Pte Ltd.) to meet the obligations under the open offer to the public and (d) transaction under consideration was also examined and approved by CCI. Taking the aforesaid into account, the CIT(A) deleted the addition made by the Assessing Officer under Section 68 of the Act. Therefore, the Revenue has carried the issue in appeal before the Tribunal.

21. We have given thoughtful consideration to rival submission.
22. On perusal of the Assessment Order we find that there was no dispute as to the identity of the purchaser (i.e. Tau Investment). In paragraph 3.2 of the Assessment Order, the Assessing Officer has observed that the Assessee had failed to provide documents necessary to prove genuineness of the transaction and creditworthiness of Tau Investment from which amount of INR.168,55,71,440/- has been received by the Assessee.
23. It is admitted position that SPA, Letter of Offer as well as CCI approval were placed before the Assessing Officer during the assessment proceedings. Vide letter dated 22/11/2022, the Assessee had disclosed that INR.168,55,71,440/- was received by the Assessee from Tau Investment against transfer of shares of JBCPL at the agreed price of INR.745 per share in an off market deal undertaken in terms of SPA. The aforesaid transfer of shares was made after complying with the provisions of the Takeover Code. It was further stated that Tau Investment was a step-down subsidiary of KKR Asia III Fund Investments Pte Ltd [*referred to as PAC 2 in Letter of Offer*]. A snapshot of financial position of KKR Asia III Fund Investments Pte. Ltd. was available at page 31 to 32 of the aforesaid Letter of Offer and according to the same the Net Worth of KKR Asia III Fund Investments Pte. Ltd. as on 31/03/2020 was around INR.31,318 Crores. It was explained that KKR Asia III Fund

Investments Pte. Ltd. and Tau Investments formed part of KKR Group. It was submitted that aforesaid could be verified from the website of KKR (kkr.com) wherein the investments made in JBCPL was also appearing as part of the portfolio. In the aforesaid letter it was also stated that Tau Investment was an independent third party and in response to email sent by the Assessee for seeking relevant documents/details, Tau Investment had sent reply email stating that Indian Tax Authorities could write to Tau Investment directly for requisitioning the relevant documents and to facilitate the same communication address to Tau Investments as well as the relevant Email ID were also furnished by the Assessee. On perusal of material on record we find that no efforts were made by the Assessing Officer to requisition relevant documents/details from Tau Investment directly. During the course of hearing it was contended by the Learned Departmental Representative that the Assessing Officer was constrained from carrying out any independent inquiry or investigation on account of lack of basic information and documents. In this regard, we find that the Letter of Offer to public shareholders of JBCPL was placed before the Assessing Officer. The aforesaid Letter of Offer contained relevant information/details about the transaction under consideration, the background of Tau Investments and its holding company as well as details shareholders. Part III of the Letter of Offer contained details about the background to the open offer, details of open offer and the object of open offer. Part IV of the Letter of Offer contained background about the Tau Investments, Tau Holdco Pte. Ltd. (PAC 1), and KKR Asia III Fund Investments Pte. Ltd. (PAC 2). It was clearly stated therein that (a) Tau Investments, (b) Tau Holdco Pte. Ltd., and (c) KKR Asia III Fund Investments Pte. Ltd. were private companies limited by shares incorporated under laws of Republic of Singapore. All the three companies had registered office at 10, Changi Business Park Central 2, Hansapoint, Singapore. Tau Investment was an investment

holding company which was wholly-owned by Tau Holdco Pte. Ltd. (PAC 1). 83.59% of shareholding of Tau Holdco Pte. Ltd. (PAC 1) was held by KKR Asia III Fund Investments Pte. Ltd. (PAC 2) which was a wholly owned subsidiary of KKR Asia III Fund Investments L.P. Part IV of the Letter of Offer contained financial information of KKR Asia III Fund Investments Pte. Ltd. (PAC 2) for the year ended 31/12/2017, 31/12/2018 and 31/12/2019 [as extracted from the standalone audited financial statements for the said period] and for the first quarter ended 31/03/2020 [extracted from the standalone reviewed interim financial statement for the said period]. It was stated therein that the Net Worth KKR Asia III Fund Investments Pte. Ltd. (PAC 2) as on 31/03/2020 was around INR.31,318 Crores. Part V of the Letter of Offer contained details of sellers [including the Assessee]. Part IX of the Letter of Offer contained the procedure for acceptance and settlement of the Open Offer and provided, inter alia, that the Open Offer would be implemented through stock exchange mechanism made available by stock exchanges. It would be pertinent to note that the aforesaid Open Offer was regulated by SEBI being the securities market regulator. The Letter of Offer was prepared in accordance with the provisions of Takeover Code which mandated making of public offer on execution of SPA for acquiring shares in excess of 25% of shareholding of JBCPL. The Letter of Offer provided credence to the submission of the Assessee that the transaction undertaken by the Assessee was part of the larger transaction of acquisition of controlling stake of JBCPL by Tau Investments and therefore, the genuineness of the same could not be doubted. It would be pertinent to note that as a part of regulatory requirements, copies of specified documents were to be made available to the public shareholders during the tendering period of the Public Offer since the statement/representation made in the Letter of Offer were based upon and/or were supported by the and the same included, inter alia, the following:

- (a) Copies of the constitutional documents and certificate of incorporation of the the Tau Investment (Acquirer), Tau Holdco Pte. Ltd. (PAC 1), and KKR Asia III Fund Investments Pte. Ltd. (PAC 2).
- (b) Certificate issued by the Chartered Accountants certifying that the Acquirer, PAC1 and PAC2 had adequate financial resources to fulfill its obligations under Open Offer,
- (c) Copies of the audited financial statements pertaining to PAC 2 for the financial year ended on 31/12/2017, 31/12/2018, 31/12/2019 and reviewed interim financials for the first quarter ended on 31/03/2020 (redacted for non-relevant information);
- (d) Copy of the letter from the Escrow Agent, dated 28/08/2020 confirming the receipt of INR 14,981,846,504 (being 100% of the Maximum Consideration payable under the Open Offer assuming full acceptance)
- (e) Copy of the Share Purchase Agreement;
- (f) Copy of the Public Announcement submitted to the Stock Exchanges on 02/07/2020,
- (g) Copy of the email dated 21/08/2020 issued by SEBI with respect to its observations on the Draft letter of Offer

24. Thus, in our view, the Assessing Officer was not justified in brushing aside the Letter of Offer filed by the Assessee during the assessment proceedings and completely ignoring the information contained therein. Accordingly, we reject the contention of the Revenue that the Assessing Officer was curtailed from making any independent enquiry/investigation on account of lack of basic information/documents regarding the transaction under consideration. We concur with the CIT(A) that the Assessee had discharged the initial onus cast upon the Assessee under Section 68 of the Act regarding the genuineness of the transaction by placing before the Assessing Officer the Letter of Offer and the approval given by CCI.

25. As regards the doubts harbored by the Assessing Officer regarding the source of funds are concerned, we find that the same are allayed by the Confirmation Letter, dated 31/08/2023, filed before the CIT(A). We note that the Confirmation Letter, dated 31/08/2023, issued by Tau Investments to the Assessee [which was filed before the CIT(A)] clearly stated as under:

- (a) Tau Investments (having PAN No.AAHCT9365R) had filed return of income for the Assessment Year 2021-22
- (b) Tau Investments had acquired 22,62,512 equity shares of J.N.Chemicals from the Assessee in terms of SPA for purchase consideration of INR.1,68,55,71,440/- which was remitted from the bank account maintained by Tau Investments with 'The Hongkong and Shangahi Banking Corporation Limited' Singapore in the following manner:

Date on which funds were debited from Tau Investment's Singapore account	Date on which consideration is received by Mr. Jay Mehta	Number of shares acquired from Mr. Jay Mehta	Purchase Consideration paid to Mr. Jay Mehta in INR
28/08/2020	31/08/2020	4,00,191	29,81,42,295
28/08/2020	09/11/2020	7,03,267	1,38,74,29,145
07/10/2020	09/11/2020	11,59,054	

- (c) Tau Investments also confirmed that aggregate investments made by Tau Investments for acquiring 54% equity capital of JBCPL was funded by way of following:

Entity from which funds received	USD
Tau Holdco Pte. Ltd.	31,24,17,364
Borrowing from External Lender	11,15,27,500
Total	42,39,44,864

26. We find that the Learned Departmental Representative was correct in submitting that the bank statement of Tau Investment furnished by the Assessee before the Assessing Officer were in redacted form and that the Assessee had failed to furnish confirmation and audited

financial statements of Tau Investment during the assessment proceedings. However, we note that Confirmation Letter, dated 30/08/2023, issued by Tau Investments as well as the Audited Financial Statements of Tau Investment for the year ended 31/12/2020 were filed by the Assessee before the CIT(A) as additional documents. In terms of the order, dated 07/11/2023, passed by the Hon'ble Bombay High Court in Writ Petition [Writ Petition (L) No.24936 of 2023], the CIT(A) was required to consider the same along with other documents/details forming part of assessment record while adjudicating the appeal of the Assessee. Thus, the action of the CIT(A) to consider all the documents/details and submissions filed by the Assessee before the CIT(A) was in compliance with the aforesaid directions of the Hon'ble Bombay High Court which were binding upon the CIT(A). Further, we note that the statements made in the aforesaid Confirmation Letter stand corroborated by the redacted bank statement of Tau Investment, Letter of Offer, Audited Financial Statements for the year ended 31/12/2020, and SPA. Accordingly, the source and nature of funds utilized by Tau Investment for purchase of shares of JBCPL from the Assessee stands explained.

27. In view of the above, we hold that the findings returned by the CIT(A) are based upon the material on record. In our view, the Assessee had discharged the initial onus cast upon the Assessee in terms of Section 68 of the Act to prove genuineness of the transaction of sale of shares of JBCPL by the Assessee to Tau Investment and creditworthiness of the Tau Investment. On the other hand, we note that the Revenue has failed to point out any infirmity in the documents furnished by the Assessee. No independent inquiry was conducted by the Assessing Officer to gather material to challenge the veracity of documents furnished by the Assessee. The Assessing Officer did not even have the benefit of considering the Confirmation Letter and/or the Audited Financial

Statements for the year ended 31/12/2020 as the same were filed before the CIT(A). There nothing on record to either support the observations/findings of the Assessing Officer or to controvert the findings of the CIT(A). Accordingly, we do not find any infirmity in the order passed by the CIT(A) on this issue. Therefore, Ground No. 1 to 3 raised by the Revenue are dismissed.

Ground No. 4

28. Ground No. 4 raised by the Revenue is directed against the order of CIT(A) accepting the Assessee's claim of deduction under Section 54F of the Act.
29. In the return of income the Assessee had claimed deduction of INR.11,90,58,405/- under Section 54F of the Act in respect of the Residential Property purchased in the name of the Assessee and his wife during the relevant previous year. During the assessment proceedings, the Assessee was asked to show cause as to why 50% of the deduction should not be disallowed since the Residential Property was jointly owned. Vide reply letter dated 22/11/2022, the Assessee submitted that entire sale consideration was paid by the Assessee after complying with the provisions contained in Section 194IA of the Act and the name of Assessee's wife was added as a joint owner for convenience and good fortune. The Assessee submitted the bank statement reflecting payment of consideration of INR10 Crore and the challans for deposit of tax in compliance of Section 194IA of the Act. The Assessee supported the aforesaid submission by placing reliance upon the provisions contained in Section 45 of the Transfer of Property Act, 1882 and the following judicial precedents:
- a. CIT Vs. Ravinder Kumar Arora (Del) 342 ITR 38
 - b. CIT Vs. Kamal Wahal (Del) 30 Taxman.com 34
 - c. Shri Bhatkal Ramanrao Prakash Vs. ITO (ITAT – Bangalore) (ITA No.2692/Bang/2018)
 - d. Jitendra V. Faria Vs. ITO (Mumbai) 81 Taxman.com 16

30. However, the Assessing Officer, not being convinced, made disallowance of INR.5,95,29,202/- (being 50% of deduction of INR.11,90,58,405/- claimed by the Assessee under Section 54F of the Act) holding that Assessee was joint owner to the extent of 50% of Residential Property.
31. In appeal, the CIT(A) overturned the decision of the Assessing Officer and accepted the Assessee's claim for deduction of INR.11,90,58,405/- under Section 54F of the Act by placing reliance upon the judgment of the Hon'ble Delhi High Court in the case of CIT Vs. Ravindra Kumar Arora [2011] 15 taxmann.com 307 (Delhi).
32. Now the Revenue is in appeal before the Tribunal on this issue.
33. We have considered the rival submissions and perused the material on record.
34. On perusal of the Sale Deed we find that while the Assessee and his wife have executed the Sale Deed as joint owners, the Sale Deed does not specify the share of each joint owner. On perusal of material on record it becomes clear that entire purchase consideration of INR 10 Crore was paid by the Assessee from bank account held with HDFC Bank after complying with the provisions contained in Section 194IA of the Act. Thus, the conduct of the Assessee supports the contention of the Assessee that the Assessee intended to purchase the Residential Property as sole owner and the name of his wife was added for the sake of convenience.
35. We note that during the course of hearing, on behalf of the Assessee, reliance was placed on the provisions contained in Section 45 of the Transfer of Property Act, 1882 (for Short '**TPA**') which reads as under:

"Where immoveable property is transferred for consideration to two

or more persons and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund; and, where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property in proportion to the shares of the consideration which they respectively advanced.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.” (Emphasis supplied)

36. Bare perusal of Section 45 of TPA shows that the said section comes into play when immovable property is transferred for a consideration to two or more persons. Section 45 of TPA, inter alia, provides that in a case where consideration is paid out of separate funds, in absence of a contract to the contrary, the transferees are entitled to interest in the property in proportion of the consideration which they respectively advanced. In the case the aforesaid principle is applied to the facts of the present case, the Assessee would be entitled to 100% interest in the Residential Property having paid entire purchase consideration of INR 10 Crore. During the course of hearing, in response to a query from the Bench, the Learned Senior Counsel, under instruction, stated that no benefit whatsoever has been derived/claimed by the wife of the Assessee by claiming to be co-owner or co-purchaser of the Residential Property under the provisions of the Act and no such benefit shall be derived even in future as well, and that the Assessee was willing to give an undertaking to the effect. Further, we note that in the case of Ravindra Kumar Arora (supra), in similar facts and circumstances, the Hon'ble Delhi High Court had, by adopting liberal interpretation, extended the benefit of Section 54F of the Act to an assessee where the new residential property was purchased by such assessee jointly

with his wife taking note of the fact that entire sale consideration was paid by the assessee. We note that the CIT(A) had deleted the disallowance made by the Assessing Officer by following the aforesaid judgment of the Hon'ble Delhi High Court.

37. In view of the above, we do not find any infirmity in the order passed by the CIT(A) deleting the disallowance of INR.5,95,29,202/- (being 50% of deduction of INR.11,90,58,405/- claimed by the Assessee under Section 54F of the Act). Concurring with the view taken by the CIT(A) that the Assessee would be entitled to claim deduction under Section 54F of the Act as claimed by the Assessee, we decline to interfere with the order passed by the CIT(A) on this issue and dismissed Ground No. 4 raised by the Revenue.

Ground No. 5 &6

38. Ground No. 5 & 6 raised by the Revenue do not require separate adjudication and are, therefore, dismissed as being general in nature.
39. In result, the present appeal preferred by the Revenue is dismissed.

Order pronounced on 13.01.2025.

Sd/-
(Girish Agrawal)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :13.01.2025
Milan,LDC

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai