

1. At point no. 4 of the notice dated 23.10.2019, it has been show-caused that why addition to the tune of Rs. 79,44,979/- u/s 68 of the act shall be made on account of unexplained credit balances of trade creditors appearing as at the end of impugned financial year. In this regard, our detailed submissions are as under:

- 1.1. As on the last date of the financial year under consideration i.e. 31.03.2018, the assessee company had total outstanding balances of trade creditors to the tune of Rs. 79,44,979/- in following manner:

S. No.	Party Name	Amount (Rs.)	Remarks
1.	ABC India Ltd. Add: PAN:	69,94,284/-	The outstanding balance was on account of purchase of _____/ _____ service received during the year.
2.	EFG Pvt. Ltd. Add: PAN:	7,44,265/-	The outstanding balance was on account of purchase of _____/ _____ service received during the year.
3.	XYZ Pvt. Ltd. Add: PAN:	2,06,430/-	The outstanding balance was on account of purchase of _____/ _____ service received during the year.
	Total	79,44,979/-	

In regards to these alleged creditors, it is pertinent to note that these balances were duly paid in following financial years through proper banking channel. *(Copy of account alongwith invoices received from aforementioned trade creditors during the period under consideration is attached herewith for your kind perusal on page no. Also, confirmations from these alleged parties are also attached herewith on page no. for your kind perusal.)*

1.2. As per the settled legal position in regards to applicability of section 68 of the act, it can be inferred that following three aspects in respect of the credits under question is required to be explained with documentary evidences:

- a. Identity of the creditor
- b. Genuineness of the transaction
- c. Creditworthiness of the creditor

In this regard, it is submitted that the assessee company had duly filed necessary details regarding the identity of the creditors by bringing on record complete address and PAN of such creditors at Para 1.1 above. In respect of the genuineness of transaction, your goodself may kindly appreciate that the impugned balances of alleged unexplained trade creditors have been duly reported in the audited financial statements prepared for the period under consideration and duly audited by an independent chartered accountant and no adverse inference in this regard have been drawn by him in his audit report. (*Copy of Audited financial Statements is attached herewith on page no.*) Further, in respect of the creditworthiness of the creditors, it is submitted that these purchases were made in regular course of business of the assessee company and as such it was not feasible for any business concern to obtain documents including ITR and bank statement of such vendors to assess its creditworthiness. As such, to the best of information available with the assessee company at such a short span of time provided by the Ld. AO in the show cause notice dated 16.12.2019, all necessary details regarding the alleged trade creditors including ITR-V, Audited Financial Statements of the creditor indicating such receivable are attached herewith on page no. for your kind perusal. Further, to prove the creditworthiness of the aforesaid trade creditors and genuineness of the transaction, we hereby attach copy of confirmations obtained from these trade creditors on **page no.**

1.3. In regards to check the authenticity and veracity of the aforesaid documents, your goodself is most humbly requested to conduct independent enquiry in this regard with the alleged trade creditors being complete details for issuance of notice u/s 133(6) of the act had already been brought on record. Also, we request your goodself to raise specific query in respect of any other document required by your goodself before drawing and adverse inference in this regard.

1.4. Further, in this regard, we place our reliance on following judicial pronouncements:

1.4.1. In the case of **CIT vs. Orrisa Corpn. Pvt. Ltd. [1986] 25 Taxman 80F (SC)**, Hon'ble Apex Court had dismissed the appeal of revenue stating as under:

"In this case the assessee had given the names and addresses of the alleged creditors. It was in the knowledge of the revenue that the said creditors were the income-tax assesseees. Their index number was in the file of the revenue. The revenue, apart from issuing notices under section 131 at the instance of the assessee, did not pursue the matter further. The revenue did not examine the source of income of the said alleged creditors to find out whether they were credit-worthy or were such who could advance the alleged loans. There was no effort made to pursue the so-called alleged creditors. In those circumstances, the assessee could not do any further. In the premises, if the Tribunal came to the conclusion that the assessee has discharged the burden that lay on him then it could not be said that such a conclusion was unreasonable or perverse or based on no evidence. If the conclusion is based on some evidence on which a conclusion could be arrived at, no question of law as such arises. [Para 13]

In the premises it cannot be said that any question of law arose in these cases. The High Court was, therefore, right in refusing to refer the questions sought for. The appeals, therefore, fail and are dismissed with costs. [Para 15]"

1.4.2. In the case of **Pr. CIT vs. N. C. Cables Ltd. [2017] 88 Taxmann.com 649 (Del.)**, Hon'ble Jurisdictional High Court held as under:

"The assessee had furnished large amount of materials in the form of documents to evidence the genuineness of the identity and the transactions as well as the creditworthiness of the parties. The Assessing Officer apparently conducted the perfunctory inquiry by deputing an inspector to the premises. The absence of these parties, after seven or eight years, ipso facto could not have led the Assessing Officer to conclude that the parties were fictitious or non-existent. The assessee had provided details of the Permanent Account Numbers (PAN) and Income Tax Returns (ITR) for the relevant years. Nothing

prevented the Assessing Officer from inquiring into these details in support of its suspicion that the transactions were not genuine. Since the investigation wing had levelled several allegations, the Assessing Officer should have carried out a more intensive investigation into the income tax records to actually discern the volume of trade or commerce of the share applicants/creditors and their inability, if any, to invest or advance the amounts in issue. Having failed to do so, the Assessing Officer was not justified in making the addition under section 68."

In light of the aforesaid submissions and judicial pronouncements, it is submitted that the proposed addition u/s 68 of the act to the tune of Rs. 79,44,979/- on account of unexplained trade creditors is bad in law and shall be dropped being the assessee company had filed necessary details in respect of the alleged unexplained trade creditors. Thus, we most humbly request your goodself to drop the impugned additions to the tune of Rs. 79,44,979/- as the same is bad in law.