

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD – BENCH 'D'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER  
AND  
SHRI RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No.2069/Ahd/2018**

**निर्धारण वर्ष/Asstt. Year: 2013-14**

Aanya Developers Survey No.326/1, Block No.450 Opp: Aarohi Homes, Bopal Ahmedabad 380 015. PAN : AAOFA 8827 H.	Vs.	DCIT, Cent.Cir.2(2) Ahmedabad.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri G.C. Pipara, AR
Revenue by :	Shri Vinod Tanwani, Sr.DR

सुनवाई की तारीख/Date of Hearing : 18/06/2019

घोषणा की तारीख/Date of Pronouncement: 26/06/2019

**आदेश/ORDER**

**PER RAJPAL YADAV, JUDICIAL MEMBER:**

Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-12, Ahmedabad dated 10.7.2018 passed for the Asstt.Year 2013-14.

2. Sole grievance of the assessee is that the Id.CIT(A) has erred in confirming addition of Rs.1,79,29,883/- under section 68 of the Income Tax Act, 1961 and interest of Rs.3,01,277/- alleged to have been paid on such non-genuine unsecured loans.

3. Brief facts of the case are that the assessee is engaged in the business of property development and civil contractor. It has filed its return of income on 20.9.2013 declaring loss of Rs.6,61,964/-. The case of the assessee was selected for scrutiny assessment and notice under section 143(2) was issued on 8.9.2014 which was duly served upon the assessee. On scrutiny of the accounts, it revealed to the AO that the assessee had received unsecured loan of Rs.2,24,89,445/-. In order to verify the genuineness of the above loans, he raised a query bearing no.5 in the notice under section 142(1) issued on 11.6.2015. The AO has directed the assessee to furnish names and addresses of the persons from whom fresh unsecured loans/deposits were received by the assessee during the accounting year relevant to this assessment. The Id.AO has also directed to submit copies PANs, photo-copy of acknowledgement of ITRs, confirmation, balance sheets and evidence supporting credit-worthiness of deposits/lenders in respect of unsecured loans. According to the AO, the assessee has submitted partial details and sought adjournment. He further observed that 50 creditors had filed their return within the range of Rs.1,90,000/- to Rs.2,25,000/-; whereas all of them given loans to the assessee in the range of Rs.2,00,000/- to Rs.5,00,000/-. The assessee thereafter submitted further details and ultimately, the Id.AO issued notice under section 133(6) of the Act to 57 depositors requesting them to submit details of business they are carrying on; copy of returns; specimen copy of such queries has been reproduced by the AO. The Id.AO thereafter made an analysis of evidence submitted by the assessee as well as his observation. He compiled such details in tabular form and annexed those finding

with the assessment order as annexure-A. We take note of this annexure A-1, which reads as under:

**Annexure: A**

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
1	Amrit Bhai Patel	195600	300000	3773	I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Muljibhai V Chaudhari earlier which was received back on 12/06/2012. The same was given by me to the assessee as loan.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Muljibhai V Chuadhary was given which could justify that Muljibhai V Chaudhari had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
2	Arihant Exports	309000	550000	6818		In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04-01-2016, was requested to provide the evidence sought for vide notice u/s. 133(6) of the Act but nothing was given in respect of loan transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
3	Ashaben Praveen Bhai Kubadiya	196440	250000	3144	I am doing trading of goods and have no proofs for same. I had given loan to Hiteshbhai H Shah earlier which was received back and the same was given by me to the assessee as loan.	The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Hiteshbhai H Shah was given which could justify that Hiteshbhai H Shah had taken loan from the depositor and

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						<i>repaid the same to her during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>4</i>	<i>Ashwinbhai Nagjibhai Vekariya</i>	<i>193750</i>	<i>500000</i>	<i>8137</i>	<i>I am doing general trading in Surat which is done from Residence, Hence I don't possess any evidence to submit. Amount in received by me in pursuance of sale done by me to Dipak Gems.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock of Diamond with the depositor which was stated to be sold to Dipak Gems. Mere stating that sale was done to Dipak Gems and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>5</i>	<i>Bharatbhai Shantilal Doshi</i>	<i>196290</i>	<i>300000</i>	<i>2219</i>	<i>I am under business of trading of Diamonds and as this business is carried from my residence. I had given loan to Mansukhbhai K. Patel earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Mansukhbhai K. Patel was given which could justify that Mansukhbhai K. Patel had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting</i>

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						<i>above mentioned transaction.</i>
6	Birenbhai Sanghvi A	189970	600000	9173	<i>I am doing business of retailer of Diamond operating from my house, there is no specific business address in support of business carried. I had given loan to Chetan B. Shah earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Chetan Bhratbhai Shah was given which could justify that Chetan Bhratbhai Shah had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
7	Chandrikaben K Doshi	193520	250000	7027		<i>The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Nileshbhai N. Patel was given which could justify that Nileshbhai N. Patel had taken loan from the depositor and repaid the same to her during the year which was further advance to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
8	Chetanbhai Shah J	191590	400000	5030		<i>In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04-01-2016, was requested to provide the evidence sought for vide notice u/s. 133(6) of the Act but nothing was given in respect of loan transactions. Therefore, creditworthiness of the depositor is treated as</i>

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						<i>unexplained in absence of evidence supporting above mentioned transaction.</i>
9	<i>Chintan P Doshi</i>	<i>196910</i>	<i>200000</i>	<i>5671</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Prakash A. Doshi earlier which was received back and the same was given by me to the assessee as loan</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Prakash A. Doshi was given which could justify that Prakash A. Doshi had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
10	<i>Darshnaben P Shah</i>	<i>196790</i>	<i>250000</i>	<i>3576</i>	<i>I am doing retail trading from my house, I have no any evidence in support of business carried. I have given loan to the assessee from sale proceeds from M/s. Raj &amp; Sons and Sejal R. Mehta</i>	<i>The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold to M/s. Raj &amp; Sons and Sejal R Mehta. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to M/s. Raj &amp; Sons and Sejal R Mehta and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
11	<i>Deveshbhai M</i>	<i>195840</i>	<i>500000</i>	<i>7151</i>	<i>I am doing general</i>	<i>The depositor had not given any</i>

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	<i>Shah</i>				<i>trading in surat which is done from residence, hence I don't possess any evidence to submit. Amount in received by me in pursuance of sale done by me to M/s. Raj &amp; Sons</i>	<i>evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock of diamond with the depositor which was stated to be sold to M/s. Raj &amp; Sons. Mere stating that sale was done to M/s. Raj &amp; Sons and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>12</i>	<i>Gautam Jems</i>	<i>197950</i>	<i>250000</i>	<i>3699</i>	<i>I have done business of retailer of Diamond operating at my house, there is no specific business address in support of business carried. I had given loan to M/s. Radhe Corporation earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of M/s. Radhe Corporation was given which could justify that M/s. Radhe Corporation had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>13</i>	<i>Ghanshyambhai G Rokhaliya</i>	<i>211550</i>	<i>250000</i>	<i>3144</i>		<i>No reply as required vide notice u/s 133(6) was given. The earlier submission filed was again sent. Since, no evidence in respect of source of deposit of Rs.250000/- in the bank account was given by the depositor which was later on given by the depositor to the</i>

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						<i>assessee, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
14	Ghanshyambhai V Kabariya	215000	500000	14178	We have received payment of Rs.5,00,000/- on 06-12-2012 of Polished Diamond Sales from M/s. Mahashakti Gems	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock of polished Diamond with the depositor which was stated to be sold to M/s. Mahashakti Gems. Mere stating that sale was done to M/s. Mahashakti Gems and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
15	Girishbhai L Vora	191880	200000	2712	I am doing trading in Surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs.200000 received by me is in purchase of loan taken by me from Mittal V. Vora	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Mittal V. Vora was given which could justify the genuineness of the loan taken by the depositor from Mittal V. Vora and creditworthiness of Mittal V. Vora who had given to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
16	Gitaben Jagabhai Patel	196980	250000	1849	I am doing trading in Surat which is done	<i>The depositor had not given any evidence in support of nature of</i>

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					<i>from residence, hence I don't possess any evidence to submit. I am saying that the amount received by me is in pursuance of sale done by me to Mansukhbhai K Bhalala.</i>	<i>business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold Mansukhbhai K Bhalala. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Mansukhbhai K Bhalala and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>17</i>	<i>Gomtiben Jivrajbhai Chaudhary</i>	<i>196810</i>	<i>250000</i>	<i>7027</i>	<i>I am doing trading in Surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Jivrajbhai S. Chaudhary earlier which was received back on 06-12-2012 and the same was given by me to the assessee as loan</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Jivrajbhai S. Chaudhary was given which could justify that Jivrajbhai S. Chaudhary had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>18</i>	<i>Gomtiben Bhurabhai Patel</i>	<i>197170</i>	<i>150000</i>	<i>999</i>		<i>In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04-01-2016, was requested to provide the evidence sought</i>

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						<i>for vide notice u/s. 133(6) of the Act but nothing was given in respect of load transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
19	<i>Harjibhai Devarambhai Patel</i>	<i>195700</i>	<i>200000</i>	<i>2712</i>	<i>I am doing trading in Surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Pritiben J. Shah earlier which was received back on 02-02-2013 and the same was given by me to the assessee as loan</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Pritiben J. Shah was given which could justify that Pritiben J. Shah had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
20	<i>Hetalben Mehulbhai Dharu</i>	<i>195600</i>	<i>525000</i>	<i>7767</i>	<i>I am doing trading in Surat which is done from residence, hence I don't possess any evidence to submit. I have given loan to the assessee out of sale proceeds from Vitragbhai Dhirajlal Dharu</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold Viragbhai D Dharu. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Vitragbhai D Dharu and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. It is very relevant to mention here that Hetalben Dharu deposited cash of Rs.</i>

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						<p>3,00,000/- each on 11-12-2012 &amp; 07-01-2013 and then, cheque was issued to Vitragbhai D. Dharu. Thereafter, Vitragbhai D. Dharu issued cheque of Rs.5,25,000/- to Hetalben Dharu. This clearly proves that there was no sale transaction and cash was deposited and rotated to the books of the assessee. It is also relevant to mention that Hetalben Dharu stated that she had received sale proceeds from Vitragbhai Dharu, whereas Vitragbhai Dharu stated that he had received loan from her and given to the assessee. Therefore, there is a clear contradiction in the statement of both the depositor who had given loan to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</p>
21	Jagdishbhai D Padhiyar	199220	250000	3575	<p>I have done business of Diamond Retail Trading. I have no any evidence in support of business carried as it is not fixed. I Have given loan to the assessee out of sale proceeds from M/s. Sundha Gems.</p>	<p>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold to M/s. Sundha Gems. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to M/s. Sundha Gems and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</p>

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22	Jayshreeben K Sanghvi	206240	550000	8137	I am doing business of Retailer and Operating at my house. There is no specific business address in support of business carried. I had given loan to M/s. Radhe Corporation earlier which was received back and the same was given by me to the assessee as loan.	The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of M/s Radhe Corporation was given which could justify that M/s Radhe Corporation had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
23	Jitendrabhai Himatlal Shah	193450	300000	8507	I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Rutikaben A. Shah earlier which was received back on 06.12.2012 and the same was given by me to the assessee as loan.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Rutikaben A. Shah was given which would could justify that Rutikaben A. Shah had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
24	Kiranben Dilipbhai Shah	195880	300000	8359	I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Ashokbhai B. Doshi HUF earlier which was received back on 08.12.2012 and the same was given by me to the assessee	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Ashokbhai B. Doshi HUF was given which could justify that Ashokbhai B. Doshi

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					<i>as loan.</i>	<i>HUF had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>25</i>	<i>Laljibhai Devrambhai Patel</i>	<i>193160</i>	<i>350000</i>	<i>9407</i>	<i>I am doing trading in surat which done from residence, hence don't possess any evidence to submit. I am saying that of Rs. 350000 received by me is in pursuance of loan taken by me from Ritesh R. Saliya &amp; Ramjibhai G. Patel.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement Ritesh R. Saliya &amp; Ramjibhai G. Patel was given which could justify the genuineness of the loan taken by the depositor from Ritesh R. Saliya &amp; Ramjibhai G. Patel and creditworthiness of Ritesh R. Saliya &amp; Ramjibhai G. Patel who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>26</i>	<i>Mahendra Dhirubhai Pipalya</i>	<i>197410</i>	<i>300000</i>	<i>8063</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs 300000 received by me on 12.12.2012 is in pursuance of loan taken by me from Nitaben K. Pipaliya.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Nitaben K. Pipaliya was given which could justify the genuineness of the loan taken by the depositor from Nitaben K. Pipaliya and creditworthiness of Nitaben K. Pipaliya who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>

S. No	Name of Party	ITR	Loan given	Interest	Submission of the Depositor	Findings
27	Mahendrabhai Shantilal Doshi HUF	196330	250000	6596	I am doing trading in Surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs. 250000 received by me on 14.12.2012 is in pursuance of loan taken by me from Mitul M Shah.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Mitul M Shah was given which could justify the genuineness of the loan taken by the depositor from Mitul M shah and creditworthiness of Mitul M shah who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
28	Maheshbhai Devshibhai Koladiya	195450	600000	17014	We Have received payment of Rs. 6,00,000/- on 06.12.2012 of Polished Diamond Sales from M/s. Bhuvneshvari Diamond.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock of Polished Diamond with the depositor which was stated to be sold to M/s Bhuvneshvari Diamond. Mere stating that sale was done to M/s Bhuvneshvari Diamond and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
29	Maheshbhai Nanjibhai Savliya	208550	700000	8803		In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04.01.2016, was requested to provide the evidence sought for vide notice u/s .133(6) of the

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
						<i>Act but nothing was given in respect of loan transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
30	<i>Mehulbhai Sumatilal Shah</i>	185540	525000	8544	<i>I am doing purchase and sale along with LIC commission income in surat which is done from residence, hence I don't possess any evidence to submit. I am saying that I had given loan to Chetan B. Shah earlier which was received back on 05.02.2013 and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Chetan Bharatbhai Shah was given which could justify that Chetan Bharatbhai Shah had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
32	<i>Mukeshbhai B Malaviya HUF</i>	195740	500000	8137	<i>I am doing trading in Surat, which is done from residence, hence I don't possess any evidence to submit. I had given loan to the Assessee out of sale proceeds from Vijay K. Talaviya</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which stated to be sold to Vijay K. Talaviya. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Vijay K. Talaviya and sale process was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in</i>

S. No	Name of Party	ITR	Loan given	Interest	Submission of the Depositor	Findings
						absence of evidence supporting above mentioned transaction
33	Nayanaben Jagdishbhai Bhansali	197930	225000	6103	I am under business of trading of Diamond as this business is carried from my residence no evidence is submitted. I had given loan to Vardhman Developers earlier which was received back on 08.12.2012 and the same was given by me to assessee as loan. Further, I had taken loan from Bhavnaben J. Doshi on 11.12.2012 which was also given by me to assessee as a loan.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Vardhman Developers was given which could justify that Vardhman Developers had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Furthermore, no PAN, copy of ITP and bank statement of Bhavnaben J. Doshi was given which could justify the genuineness of the loan taken by the depositors from Bhavnaben J. Doshi and creditworthiness of the Bhavnaben J. Doshi who had given loan to the depositors. Therefore, Creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
34	Niteshbhai Dineshchandra Shah	No ITR	300000	3773		In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04.01.2016, was requested to provide the evidence sought for vide notice u/s. 133(6) of the Act but nothing was given in respect of loan transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
35	Pari Jems	196030	250000	3699	I have done business of Retail Diamond Trading and I have no any evidence of business carried. I had given loan to M/s. Radhe	The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
					<i>Corporation earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>nature of the business. Further, no PAN, copy of ITP and bank statement of M/s Radhe Corporation was given which could justify that M/s Radhe Corporation had taken loan to the assessee. Therefore, creditworthiness of the depositors is treated as unexplained in absence evidence supporting above mentioned transaction.</i>
<i>38</i>	<i>Poojaben Hasmukhlal Mehta</i>	<i>173980</i>	<i>200000</i>	<i>1825</i>	<i>I am into business of Purchase / Sale of Diamonds and it is done in market no proofs is there. I had given loan to Hasmukhbhai Mehta earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Hasmukhbhai Mehta was given which could justify that Hasmukhbhai Mehta had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
<i>39</i>	<i>Pravinchandra K Shah</i>	<i>193350</i>	<i>525000</i>	<i>7638</i>	<i>I am doing business of Retailer of Diamond, operating at my house there is no specific business address however in support of business carried. I had given loan to M/s. Radhe Corporation earlier which was received back and the same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of M/s Radhe Corporation was given which could justify that M/s Radhe Corporation had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>

S. No	Name of Party	ITR	Loan given	Interest	Submission of the Depositor	Findings
40	Pravinbhai G Shah HUF	195740	375000	5733	I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs.375000 received on 28.01.2013 by me is pursuance of loan taken by me from Pravinbhai G. Shah.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Pravinbhai G. Shah was given which could justify the genuineness of the loan taken by the depositor from Pravinbhai G. Shah who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
43	Rameshbhai Mohanlal Shah HUF	195660	400000	5425		In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04.01.2016, was requested to provide the evidence sought for vide notice u/s.133(6) of the Act but nothing was given in respect of loan transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.
45	Ranjitbhai Padhiyar	193700	400000	5918	I have done business of Retail of Diamond Trading and I have no any evidence of business carried. I had given loan to M/s. Radhe Corporation earlier which was received back and the same was given by me to the assessee as loan.	The depositor had not given any evidence in support of nature of business carried on by her. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of M/s Radhe Corporation was given which could justify that M/s Radhe Corporation had taken loan from the depositor and repaid the same to him during the year which was further advanced by her to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
46	<i>Sahilbhai Hasmukhlal Mehta</i>	<i>198520</i>	<i>250000</i>	<i>3144</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs.250000 received on 08.02.2013 by me is pursuance of loan taken by me from Poojaben H. Mehta</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Poojaben H. Mehta was given which could justify the Genuineness of the loan taken by the depositor from Poojaben H. Mehta and creditworthiness of Poojaben H. Mehta who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
47	<i>Sangitaben Kalpeshbhai Doshi</i>	<i>197570</i>	<i>300000</i>	<i>2219</i>	<i>I am doing trading in surat which is done from Residence, hence I don't possess any evidence to submit. I have given loan to the assessee out of sale proceeds from Mansukhbhai K. Bhalia.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold to Mansukhbhai K. Bhalala. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Mansukhbhai K. Bhalala and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
49	<i>Sanjaybhai Nanalal Shah HUF</i>	<i>1936000</i>	<i>350000</i>	<i>9752</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the</i>

S. No	Name of Party	ITR	Loan given	Interest	Submission of the Depositor	Findings
					<i>evidence to submit. I am saying that of Rs. 375000 received on 28.01.2013 by me is in pursuance of loan taken by me from Ajay R Salvi &amp; Hitesh R. Shah</i>	<i>depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Ajay R Salvi &amp; Hitesh R. Shah was given which could justify the genuineness of the loan taken by the depositor from Ajay R Salvi &amp; Hitesh R. Shah and creditworthiness of Ajay R Salvi &amp; Hitesh R. Shah who had given loan to the depositor. Therefore, creditworthiness of the depositor is treated as unexplained in absence supporting above mentioned transaction.</i>
50	<i>Sanjaybhai Vardhilal Sanghvi</i>	<i>195550</i>	<i>325000</i>	<i>8575</i>		<i>In this case, notice issued u/s 133(6) of the Act returned unserved. The AR of the assessee vide order sheet entry dated 04.01.2016, was requested to provide the evidence sought for vide notice u/s. 133(6) of the Act but nothing was given in respect of load transactions. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
51	<i>Shaileshgiri Gulabgiri Goswami</i>	<i>198370</i>	<i>250000</i>	<i>6658</i>	<i>I am doing general trading in Surat which is done from residence, Hence I don't possess any evidence to submit. I had given loan to Rameshbhai L Diyora earlier which was received back on 12.12.2012. The same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Rameshbhai L Diyora was given which could justify that Rameshbhai L Diyora had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
52	Shantilal Manilal Mehta	198080	675000	6158	I am doing trading in surat which is done from Residence, hence I don't possess any evidence to submit. I have given loan to the assessee out of sale proceeds from Bharatbhai B. Ghelani.	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44 AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold to Bharatbhai B. Ghelani. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Bharatbhai B. Ghelani and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mention transaction.
53	Shilpaben Champaklal Shah	194630	500000	4562	I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I have given loan to the assessee out of sale proceeds from Mansukhbhai K. Bhalala	The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no evidence was furnished with regard to purchase or stock with the depositor which was stated to be sold to Mansukhbhai K. Bhalala. It is very surprising that what was sold is not at all mentioned by the depositor. Mere stating that sale was done to Mansukhbhai K. Bhalala and sale proceed was given to the assessee as unsecured loan is a self-serving statement. It is not supported by any evidence, when the business is carried on from residence and no evidence of purchase or stock was given. Therefore, creditworthiness of

S. No	Name of Party	ITR	Loan given	Interest	Submission of the Depositor	Findings
						<i>the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
54	<i>Sushilaben Rameshbhai Shah</i>	<i>194550</i>	<i>300000</i>	<i>3995</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I had given loan to Rameshbhai M Shah HUF earlier which was received back on 05.02.2013. The same was given by me to the assessee as loan.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, no PAN, copy of ITR and bank statement of Rameshbhai M Shah HUF was given which could justify that Rameshbhai M Shah HUF had taken loan from the depositor and repaid the same to him during the year which was further advanced by him to the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>
57	<i>Vitragbhai Dhirajlal Dharu</i>	<i>197690</i>	<i>300000</i>	<i>8063</i>	<i>I am doing trading in surat which is done from residence, hence I don't possess any evidence to submit. I am saying that of Rs.300000 received by me is in pursuance of loan taken by me from Hetalben Dharu on 12.12.2012.</i>	<i>The depositor had not given any evidence in support of nature of business carried on by him. In the computation of income, the depositor had simply disclosed income u/s 44AD of the Act without specifying the name and nature of the business. Further, it is very surprising that Hetalben Dharu Stated that she had received sale proceeds from Vitragbhai Dharu, whereas Vitrangbhai Dharu stated that he had received loan from her and given to the assessee. Therefore, there is clear contradiction in the statement of both the depositor who had given loan to the assessee. It is a willfull attempt both by Hetalben Dharu and Viragbhai D.Dharu to route unexplained money to the books of accounts of the assessee. No evidence of sale of item was given by Hetalben Dharu and no explanation was given by Hetalben Dharu with regard to cash deposits of RS.3,00,000/- each on 11.12.2012 &amp;</i>

<i>S. No</i>	<i>Name of Party</i>	<i>ITR</i>	<i>Loan given</i>	<i>Interest</i>	<i>Submission of the Depositor</i>	<i>Findings</i>
						<i>07.01.2013 in her bank account and thereafter issuing cheque to Vitragbhai D. Dharu. Similarly, Vitragbhai D. Dharu issued cheque of RS.5,25,000/- to Hetalben Dharu for the purchase of items but what was done with the item purchased and where such items were accounted for in books had not been explained by Vitragbhai D. Dharu. This clearly proves that there was no sale/purchase transaction between them and cash was deposited and rotated to the books of the assessee. Therefore, creditworthiness of the depositor is treated as unexplained in absence of evidence supporting above mentioned transaction.</i>

4. The Id.AO on the above analysis, made addition of Rs.1,79,29,883/- under section 68 of the Act. He further observed that the assessee has alleged payment of interest on these loans which were termed as bogus, therefore, the expenses claimed in the shape of interest deserves to be disallowed. He disallowed such interest expenditure and made addition of Rs.3,01,277/-.

5. Dissatisfied with the additions, the assessee carried the matter in appeal before the Id.CIT(A). Assessee has compiled details in tabular form exhibiting the names of lenders/depositors; the amount received, evidence submitted by it and observation of the AO. It has also filed its explanation *qua* such observation of the AO. These details are available on page no.1 to 9 of the paper book. These details are also been compiled in tabular form and submitted before us which read as under:

Sr. No. as per Chart of the Order	Name of depositor	Loan Received during the year (Rs.)	Interest Credited during the year (Rs.)	Evidences submitted		Observation of the Assessing Officer	Explanation of the appellant firm
				Details	Page No. of the Paperbook		
1	Amratbhai Patel	300000	3773	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	26 27 28-29 30	There is no evidence that amount was received from Muljibhai V. Chaudhari.	In the passbook of the depositor at page no. 29 of paperbook, it is reflected that amount was received from Muljibhai V. Chaudhari.
2	Arihant Exports	550000	6818	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Repayment of Loan A/c.	232 233 234	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 232 to 234 of paperbook.
3	Ashaben Pravinbhai Kubadiya	250000	3144	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	31 32 33-34 35	There is no evidence that amount was received from Hiteshbhai H. Shah.	In the passbook of the depositor at page no. 34 of paperbook, it is reflected that amount was received from Hiteshbhai H. Shah.
4	Ashvinbhai Nagjibhai Vekariya	500000	8137	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Akhand Anand Co-op Bank (d) Repayment of Loan A/c.	173 174 175-176 177	Creditworthiness of the depositor is treated as unexplained in absence of evidence	In the bank passbook of the depositor submitted at page no. 176 of paperbook, it is reflected amount of loan is earlier received in bank account.

5	Bharatbhai Shantilal Doshi	300000	2219	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	36 37 38-39 40	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 39 of paperbook, it is reflected amount of loan is earlier received in bank account.
6	Birenbhai A Sanghavi	600000	9173	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of UBI (d) Repayment of Loan A/c.	41 42 43-44 45	There is no evidence that amount was received from Chetanbhai Bharatbhai Shah.	In the passbook of the depositor at page no. 44 of paperbook, it is reflected that amount was received from Chetanbhai Bharatbhai Shah.
7	Chandrikaben K Doshi	250000	7027	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Nileshbhai Patel (e) Repayment of Loan A/c.	464748- 495051	There is no evidence that amount was received from Nileshbhai Narsangbhai Patel.	The ledger account of depositor in the books of accounts of Nileshbhai Narsangbhai Patel is placed at page no. 50 of paperbook, where it is reflected that amount has been paid to Chandrikaben Doshi.
8	Chetanbhai J Shah	400000	5030	(a) Confirmation of Account (b) ITR & COI of AY 2013-14 (c) Bank Passbook (d) Repayment of Loan A/c.	235 236-238 239 240	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 235 to 240 of paperbook.
9	Chintan Doshi	200000	5671	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Dena Bank (d) Ledger Account in books of Prakashbhai Doshi (e) Repayment of Loan A/c.	52 53 54-55 56 57	There is no evidence that amount was received from Prakashbhai Doshi.	The passbook and ledger account of the depositor in the books of accounts of Prakashbhai Doshi is placed at page no. 54 to 56 of paperbook, where it is reflected that amount has been paid to Chintan Doshi.

10	Darshanaben P Shah	250000	3575	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of UBI (e) Repayment of Loan A/c.	178 179 180-181 182	Creditworthiness of the depositor is treated as unexplained in absence of evidence	In the bank passbook of the depositor submitted at page no. 181 of paperbook, it is reflected amount of loan is earlier received in bank account.
11	Deveshbhai M Shah	500000	7151	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of UBI (e) Repayment of Loan A/c.	183 184 185 186	Creditworthiness of the depositor is treated as unexplained in absence of evidence	In the bank statement of the depositor submitted at page no. 185 of paperbook, it is reflected amount of loan is earlier received in bank account.
12	Gautam Gems	250000	3699	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of UBI (d) Repayment of Loan A/c.	58 59 60 61	There is no evidence that amount was received from M/s. Radhe Corporation.	In the bank statement of the depositor at page no. 60 of paperbook, it is reflected that amount was received from M/s. Radhe Corporation.
13	Ghanshyambhai G Rakholiya	250000	3144	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Repayment of Loan A/c.	241242243	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 241 to 243 of paperbook.
14	Ghanshyambhai V Kabariya	500000	14178	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Vijaya Bank (e) Repayment of Loan A/c.	187 188 189-190 191	There is no evidence that amount was received from M/s. Mahashakti Gems.	In the bank passbook of the depositor at page no. 190 of paperbook, it is reflected that amount was received from M/s. Mahashakti Gems.
15	Girishbhai L. Vora	200000	2712	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	62 63 64-65 66	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 65 of paperbook, it is reflected amount of loan is earlier received in bank account.
16	Gitaben Jagabhai Patel	250000	1849	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	192 193 194-195 196	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 195 of paperbook, it is reflected amount of loan is earlier received in bank account.

17	Gomtiben Chaudhary	250000	7027	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Jivrajibhai Chaudhary (e) Repayment of Loan A/c.	67 68 69-70 71 72	There is no evidence that amount was received from Jivrajibhai S. Chaudhary.	The ledger account of the depositor in the books of accounts of Jivrajibhai Chaudhary is placed at page no. 71 of paperbook, where it is reflected that amount has been paid to Gomtiben Chaudhary.
18	Gomtiben Bhurabhai Patel	150000	999	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	244 245 246-247 248	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 244 to 248 of paperbook.
19	Harjibhai Devrambhai Patel	200000	2712	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	737475- 7778	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 76 of paperbook, it is reflected amount of loan is earlier received in bank account.
20	Hetalben Mehulbhai Dharu	525000	7767	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Vitragbhai D. Dharu (e) Repayment of Loan A/c.	197 198 199-200 201 202	There is no evidence that amount was received from Vitragbhai D. Dharu.	The ledger account of the depositor in the books of accounts of Vitragbhai D. Dharu is placed at page no. 50 of paperbook, where it is reflected that amount has been paid to Hetalben M. Dharu.
21	Jagdishbhai D Padhiyar	250000	3575	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of UBI (d) Repayment of Loan A/c.	203 204 205 206	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank statement of the depositor submitted at page no. 285 of paperbook, it is reflected amount of loan is earlier received in bank account.

22	Jayshreeben K Sanghavi	550000	8137	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of UBI (d) Repayment of Loan A/c.	79 80 81-82 83	There is no evidence that amount was received from M/s. Radhe Corporation.	In the bank passbook of the depositor at page no. 82 of paperbook, it is reflected that amount was received from M/s. Radhe Corporation.
23	Jitendrabhai Himatlal Shah	300000	8507	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Dena Bank (d) Repayment of Loan A/c.	84 85 86-87 88	There is no evidence that amount was received from Rutikaben A. Shah.	In the bank passbook of the depositor at page no. 87 of paperbook, it is reflected that amount was received from Rutikaben A. Shah.
24	Kiranbhai Dilipbhai Shah	300000	8359	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Dena Bank (d) Repayment of Loan A/c.	89 90 91-92 93	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 92 of paperbook, it is reflected amount of loan is earlier received in bank account.
25	Laljibhai Devrambhai Patel	350000	9407	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	94 95 96-97 98	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 97 of paperbook, it is reflected amount of loan is earlier received in bank account.
26	Mahendra Dhirubhai Pipaliya	300000	8063	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	99 100 101-102 103	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 100 of paperbook, it is reflected amount of loan is earlier received in bank account.
27	Mahendra Shantilal Doshi HUF	250000	6596	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Mitul M. Shah (e) Repayment of Loan A/c.	104 105 106-107 108 109	There is no evidence that amount was received from Mitul M. Shah.	The ledger account of the depositor in the books of accounts of Mitul M. Shah is placed at page no. 108 of paperbook, where it is reflected that amount has been paid to Mahendra S. Doshi HUF.

28	Maheshbhai Devshibhai Koladiya	600000	17014	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of BOB (d) Repayment of Loan A/c.	207 208 209-210 211	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 210 of paperbook, it is reflected amount of loan is earlier received in bank account.
29	Maheshbhai Nanjibhai Savaliya	700000	8803	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of Akhand Anand Co-op. Bank (d) Repayment of Loan A/c.	249 250-253 254 255	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 249 to 255 of paperbook.
30	Mehulbhai Sumatilal Shah	525000	8544	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Syndicate Bank (d) Repayment of Loan A/c.	110 111 112-113 114	There is no evidence that amount was received from Chetanbhai B. Shah.	In the passbook of the depositor at page no. 113 of paperbook, it is reflected that amount was received from Chetanbhai B. Shah.
32	Mukeshbhai B Malaviya HUF	500000	8137	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Akhand Anand Co-op. Bank (d) Repayment of Loan A/c.	212213214- 215216	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 215 of paperbook, it is reflected amount of loan is earlier received in bank account.
33	Nayanaben Jahdishbhai Bhansali	225000	6103	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Vardhman Developers and Bhavnaben J. Doshi (e) Repayment of Loan A/c.	115 116 117-118 119-120 121	There is no evidence that amount was received from Bhavnaben J. Doshi & Vardhman Developers.	In the passbook of the depositor at page no. 118 of paperbook and the ledger accounts of the depositor in the books of accounts of Vardhman Developers and Bhavnaben Doshi placed at page no. 119 and 120 of paperbook respectively, it is reflected that amount has been paid to Nayanaben Bhansali.
34	Niteshbhai Dineshchandra Shah	300000	3773	(a) Confirmation of Account (b) Repayment of Loan A/c.	256 257	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 256 to 257 of paperbook.

35	Pari Gems	250000	3699	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of UBI (d) Repayment of Loan A/c.	122 123 124 125	There is no evidence that amount was received from M/s. Radhe Corporation.	In the bank statement of the depositor at page no. 124 of paperbook, it is reflected that amount was received from M/s. Radhe Corporation.
38	Poojaben Hasmukhlal Mehta	200000	1825	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	126 127 128-129 130	There is no evidence that amount was received from Hasmukhbhai Mehta.	In the bank passbook of the depositor at page no. 129 of paperbook, it is reflected that amount was received from Hasmukhbhai Mehta.
39	Pravinchandra K Shah	525000	7638	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	136 137 138-139 140	There is no evidence that amount was received from M/s. Radhe Corporation.	In the bank statement of the depositor at page no. 139 of paperbook, it is reflected that amount was received from M/s. Radhe Corporation.
40	Pravinbhai G Shah HUF	375000	5733	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	131 132 133-134 135	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 134 of paperbook, it is reflected amount of loan is earlier received in bank account.
43	Rameshbhai Mohanlal Shah HUF	400000	5425	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Sushilaben Shah (e) Repayment of Loan A/c.	258 259 260-261 262 263	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 258 to 263 of paperbook.
45	Ranjitbhai V Padhiyar	400000	5918	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Statement of UBI (d) Repayment of Loan A/c.	141 142 143 144	There is no evidence that amount was received from M/s. Radhe Corporation.	In the bank statement of the depositor at page no. 139 of paperbook, it is reflected that amount was received from M/s. Radhe Corporation.

46	Sahilbhai Hasmukhlal Mehta	250000	3144	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	145 146 147-148 149	There is no evidence that amount was received from Poojaben H. Mehta.	In the bank passbook of the depositor at page no. 148 of paperbook, it is reflected that amount was received from Poojaben H. Mehta.
47	Sangitaben Kalpeshbhai Doshi	300000	2219	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	217 218 219-220 221	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 220 of paperbook, it is reflected amount of loan is earlier received in bank account.
49	Sanjaybhai Nanalal Shah HUF	350000	9752	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Ledger Account in books of Vitragbhai D. Dharu (e) Repayment of Loan A/c.	150151152- 153154155	<u>There is no evidence that amount was received from Ajay R. Salvi &amp; Hitesh R. Shah.</u>	<u>No such amount is received from Ajay R. Salvi or Hitesh R. Shah. This amount is received from Vitragbhai Dharu, which is reflected in the bank passbook of the depositor at page no. 153 of paperbook and ledger account of the depositor in the books of accounts of Vitragbhai D. Dharu.</u>
50	Sanjaybhai V. Sanghavi	325000	8575	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	264 265 266-267 268	Notice u/s 133(6) was unserved and no response is received from depositor	Requisite details are submitted at page no. 264 to 268 of paperbook.
51	Shaileshgiri Gulabgiri Goswami	250000	6658	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of BOB (d) Ledger Account in books of Rameshbhai L. Diyora (e) Repayment of Loan A/c.	156 157 158-159 160 161	There is no evidence that amount was received from Rameshbhai L. Diyora.	The ledger account of Shaileshbhai G. Goswami in the books of accounts of Rameshbhai L. Diyora is submitted at page no. 160 of paperbook, where it is reflected that amount has been paid to Shaileshbhai G. Goswami.

52	Shantilal Manilal Mehta	675000	6158	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of BOB (d) Repayment of Loan A/c.	222 223 224-225 226	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 225 of paperbook, it is reflected amount of loan is earlier received in bank account.
53	Shilpaben Champaklal Shah	500000	4562	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of BOB (d) Repayment of Loan A/c.	227 228 229-230 231	Creditworthiness of the depositor is treated as unexplained in absence of evidence.	In the bank passbook of the depositor submitted at page no. 230 of paperbook, it is reflected amount of loan is earlier received in bank account.
54	Sushilaben Rameshbhai Shah	300000	3995	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	162163164- 165166	There is no evidence that amount was received from Rameshbhai M. Shah HUF.	In the bank passbook of the depositor at page no. 148 of paperbook, it is reflected that amount was received from Rameshbhai M. Shah HUF.
57	Vitragbhai Dhirajlal Dharu	300000	8063	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Passbook of Bank of India (d) Repayment of Loan A/c.	167 168 169-170 171	Creditworthiness of the depositor is treated as unexplained in absence of evidence	In the bank passbook of the depositor submitted at page no. 170 of paperbook, it is reflected amount of loan is earlier received in bank account.
Grand Total		1,72,25,000	2,94,187				
58	Pushpaben Ashokkumar Shah	250000	7089	(a) Confirmation of Account	172	No observation of the AO	-
59	Alpesh Gami	15000	0	(a) Confirmation of Account (b) Repayment of Loan A/c.	10 11	No observation of the AO	-
60	Anita	10000	0	(a) Confirmation of Account (b) Repayment of Loan A/c.	12 13	No observation of the AO	-
61	Naman	15000	0	(a) Confirmation of Account (b) Repayment of Loan A/c.	14 15	No observation of the AO	-

62	Pankajbhai R. Shah	404883	5425	(a) Confirmation of Account (b) ITR of AY 2013-14 (c) Bank Passbook and Ledger Accounts	16 17 18-23	No observation of the AO	-
63	Viral N. Patel	10000	0	(a) Confirmation of Account (b) Repayment of Loan A/c.	24 25	No observation of the AO	-
	Grand Total	1,79,29,883	3,06,701				

6. The Id.CIT(A) has gone through the submissions of the assessee, but did not find any merit and confirmed the addition by recording the following finding:

*"5.6 There should not be any dispute that u/s 68 the opinion of the AO for not accepting the explanation offered by the assessee being not satisfactory is required to be based objectively on proper appreciation of materials and other attending circumstances. I find that the AO based on the very small incomes of the lenders and doubtful sources of fund in the bank statements of the lenders came to form the opinion of his being not satisfied as to genuineness of the transactions of loans given and creditworthiness of the lenders to advance loans of respective amounts. It is well settled in law that the onus of providing the source of fund received by the assessee is on the assessee. In this regard this also is an established law that mere transactions through bank accounts banking channels are not enough to explain money and that creditworthiness of creditors and genuineness of transaction have to be examined by the AO and that the transactions made by cheques may not necessarily be sacrosanct and enough to discharge the burden of the assessee. In Kamal Motors Vs CIT 131 Taxman 155 it has been held that the onus is on the assessee to prove that creditors are persons of means. In this case it was also held that when the cash creditors are income tax assesseees it cannot be said that they are not the persons of means. But this by itself cannot be sufficient and end in itself. To me mere filing of income tax returns does not prove the worthiness of the persons rather the worthiness of the creditors have to be determine based on their capacity to give such loans which is combination of the income, the capital and turnover i.e. volume of receipts of that person. The income tax returns of the creditors should not be returns of marginal income paying little tax and only for the purpose of building up capital and creating records of loans transactions. The returns of the creditors which have not been found worthy of giving loans to the appellant are short on these aspects and the AO is justified in his not being satisfied and in having adverse inference on creditworthiness of lenders and thus the genuineness of loans taken by the appellant. The inference of the AO in the present case is not matter of conjecture and surmises.*

*5.7 It is also a settled law that unless the assessee has discharged the burden u/s 68, the onus of proving that the lenders had no creditworthiness will not shift on the AO. However in the case of appellant it is seen that though the appellant had not discharged its onus completely the AO had issued notices u/s 133(6) to 57 creditors and has analysed the details submitted by them and the details provided by the appellant in case of the creditors to whom the notices u/s 133(6) was returned unserved. The Ld. ARs are not justified in asserting that the appellant had discharged its onus and was not required to establish the source of fund in the hand of the lenders to advance loans to the appellant. No doubt the case laws relied by the appellant lay down the principles as to various components required for satisfaction of section 68 but with due respect to those case laws and the Ld. ARs, in my considered opinion, the appellant has failed to establish that the facts of those case laws are similar to the facts of the appellant as marshalled by the AO after analyzing the details received on enquiry u/s 133(6). I am of the considered view that having established the identity, the appellant had to establish the creditworthiness of the creditors and if the same is not proved the loan transactions cannot be held genuine. Mere ratios of these cases cannot rescue the appellant unless the appellant proves that the AO is not objective in his non satisfaction and that the creditors had the capacity to give the alleged loans. In fact the appellant has not even contended that the lenders are persons of means and have capacity to give loans.*

*5.8 During the appeal proceedings vide letter dated 27/12/2017 to the appellant it was required that either the appellant produces the lenders before me for examination or I may refer the case to the AO before whom those lenders can be produced by the appellant because without establishing the creditworthiness of the lenders no relief to the appellant can be granted.*

*5.9 In response to the letter dated 27/12/2017 the Ld. ARs appeared on 15/01/2018 and again pointed out to various case laws wherein in essence it has been held that capacity of the creditor is proved when the amounts are received by the assessee by account payee cheques drawn from bank accounts of the creditors. But again with due respect to*

*those case laws the ratios do not protect the appellant as the creditors have neither enough incomes and capitals nor enough balances in their bank accounts on regular basis. The Ld. ARs have not mentioned based in the capita/income/balance in bank account, the lenders had financial capacity to give loans. It will not be wrong to say that the Ld. AR's submission is long in law and short on facts."*

7. Before us, the Id.counsel for the assessee contended that the assessee has fulfilled all requirements of the section 68 in order to explain the genuineness of the loans taken by it. It has submitted confirmation of amounts, copy of income-tax returns, PAN data, bank statements along with copy of pass-book, repayment of loan amounts. It was also contended before us that on the last occasion, Bench has directed to submit copies of bank statement indicating that the amounts returned by the assessee have been credited in their accounts. The assessee has prepared the details of such repayment in tabular form and also annexed copies of bank statement, wherein the amounts repaid by the assessee have been credit in the accounts of the depositors. He specifically took us through the details which contained in page no.1 of the paper book showing how the creditors have recognized their receipt of money from the assessee. We deem it appropriate to take note of these details also which reads as under:

No.	Name of depositor	Amount of loan added (Rs.)	Interest Credited during the year (Rs.)	Repayment of Loan		Utilization of funds received by depositors	Page Nos.
				Date	Amount (Rs.)		
1	Amratbhai Patel	3,00,000	3,773	08-12-2014	3,08,987	Copy of bank statement is not received from depositor	-

2	<i>Arihant Exports</i>	5,50,000	6,818	18/04/2014	5,50,000	<i>Copy of bank statement is not received from depositor</i>	-
3	<i>Ashaben P. Kubadiya</i>	2,50,000	3,144	05-01-2014	2,50,000	<i>Loan of Rs. 2,50,000 given to Nileshkumar D Viradi on 12-05-2014 by cheque no. 246709</i>	<b>310</b>
4	<i>Ashvinbhai Nagjibhai Vekariya</i>	5,00,000	8,137	23/06/2015	5,49,710	<i>Balance carried forward in savings bank account</i>	<b>311-312</b>
5	<i>Bharatbhai Shantilal Doshi</i>	3,00,000	2,219	08-12-2014	3,08,987	<i>Copy of bank statement is not received from depositor</i>	-
6	<i>Birenbhai A Sanghavi</i>	6,00,000	9,173	08-12-2014	6,17,976	<i>Loan of Rs. 7,00,000 given to Shantinath Associates on 13-08-2014 by cheque no. 030195</i>	<b>313</b>
7	<i>Chandrikaben K Doshi</i>	2,50,000	7,027	05-01-2014	2,50,000	<i>Copy of bank statement is not received from depositor</i>	-
8	<i>Chetanbhai J Shah</i>	4,00,000	5,030	23/06/2015	4,39,767	<i>Copy of bank statement is not received from depositor</i>	-
9	<i>Chintan Prakashbhai Doshi</i>	2,00,000	5,671	23/06/2015	2,19,884	<i>Loan of Rs. 2,20,000 given to Rupalben on 24-06-2015 by cheque no. 108888</i>	<b>314-315</b>
10	<i>Darshanaben Shah</i>	2,50,000	3,575	07-08-2014	2,55,215	<i>Transferred Rs. 2,55,000 as loan on 10-07-2014 by cheque no. 007500</i>	<b>316-317</b>
11	<i>Deveshbhai M Shah</i>	5,00,000	7,151	28/07/2014	5,13,204	<i>Copy of bank statement is not received from depositor</i>	-

12	<i>Gautam Gems</i>	2,50,000	3,699	07-04-2014	2,55,215	<i>Loan of Rs. 3,00,000 given to Mukeshbhai B. Patel on 10-07-2014 by cheque no. 029740</i>	<b>318</b>
13	<i>Ghanshyambhai G Rakholiya</i>	2,50,000	3,144	09-02-2014	2,58,544	<i>Copy of bank statement is not received from depositor</i>	-
14	<i>Ghanshyambhai V Kabariya</i>	5,00,000	14,178	09-02-2014	5,17,087	<i>Copy of bank statement is not received from depositor</i>	-
15	<i>Girishbhai L Vora</i>	2,00,000	2,712	08-12-2014	2,05,992	<i>Loan of Rs. 2,00,000 given to Upendra C Shah on 16-08-2014 by cheque no. 477031</i>	<b>319</b>
16	<i>Gitaben Jagabhai Patel</i>	2,50,000	1,849	08-12-2014	2,57,490	<i>Loan of Rs. 2,55,000 given to Upendra C Shah on 16-08-2014 by cheque no. 884776</i>	<b>320-321</b>
17	<i>Gomtiben Jivrajbhai Chaudhary</i>	2,50,000	7,027	28/07/2014	2,56,602	<i>Loan of Rs. 2,50,000 given to Riteshbhai K Shah HUF on 30-07-2014 by cheque no. 000027</i>	<b>322-323</b>
18	<i>Gomtiben Bhurabhai Patel</i>	1,50,000	999	08-12-2014	1,54,494	<i>Loan of Rs. 1,60,000 given to Upendra C Shah on 16-08-2014 by cheque no. 043738</i>	<b>324-325</b>
19	<i>Harjibhai Devrambhai Patel</i>	2,00,000	2,712	18/04/2014	2,00,000	<i>Loan of Rs. 2,00,000 given to Pritiben on 22-04-2014 by cheque no. 000023</i>	<b>326-327</b>
20	<i>Hetalben Mehulbhai Dharu</i>	5,25,000	7,767	28/07/2014	5,38,864	<i>Balance carried forward in savings bank</i>	<b>328-329</b>

						account	
21	Jagdishbhai D Padhiyar	2,50,000	3,575	07-04-2014	2,55,215	Copy of bank statement is not received from depositor	-
22	Jayshreeben K Sanghavi	5,50,000	8,137	28/07/2014	5,64,525	Copy of bank statement is not received from depositor	-
23	Jitendrabhai Himatlal Shah	3,00,000	8,507	08-12-2014	3,08,987	Copy of bank statement is not received from depositor	-
24	Kiranbhai Dilipbhai Shah	3,00,000	8,359	28/07/2014	3,07,922	Loan of Rs. 3,00,000 given to Ashok B Doshi on 30-07-2014 by cheque no. 000017	330-331
25	Laljibhai Devrambhai Patel	3,50,000	9,407	18/04/2014	3,50,000	Loan of Rs. 3,75,000 given to NCPL Developers on 23-04-2014 by cheque no. 000026	332-333
26	Mahendra Dhirubhai Pipaliya	3,00,000	8,063	18/04/2014	3,00,000	Loan of Rs. 3,25,000 given to NCPL Developers on 23-04-2014 by cheque no. 025427	334-335
27	Mahendra Shantilal Doshi HUF	2,50,000	6,596	28/07/2014	2,56,602	Loan of Rs. 2,50,000 given to Bhadresh Traders on 31-07-2014 by cheque no. 015419	336
28	Maheshbhai Devshibhai Koladiya	6,00,000	17,014	09-02-2014	6,20,506	Withdrawal of Rs. 1,20,500 on 03-09-2014 and balance carried forward	337-338

29	<i>Maheshbhai N. Savaliya</i>	7,00,000	8,803	09-02-2014	7,23,923	<i>Transferred Rs. 7,00,100 as loan on 05-09-2014 by cheque no. 001230</i>	<b>339</b>
30	<i>Mehulbhai Sumatilal Shah</i>	5,25,000	8,544	08-12-2014	5,40,728	<i>Copy of bank statement is not received from depositor</i>	-
32	<i>Mukeshbhai B Malaviya HUF</i>	5,00,000	8,137	23/06/2015	5,49,710	<i>Transferred Rs. 9,50,025 as loan on 24-06-2015 by cheque no. 511691</i>	<b>340-341</b>
33	<i>Nayanaben Jahdishbhai Bhansali</i>	2,25,000	6,103	23/06/2015	2,47,370	<i>Copy of bank statement is not received from depositor</i>	-
34	<i>Niteshbhai D. Shah</i>	3,00,000	3,773	23/06/2015	3,29,826	<i>Copy of bank statement is not received from depositor</i>	-
35	<i>Pari Gems</i>	2,50,000	3,699	07-04-2014	2,55,215	<i>Copy of bank statement is not received from depositor</i>	-
38	<i>Poojaben Hasmukhlal Mehta</i>	2,00,000	1,825	05-01-2014	2,00,000	<i>Copy of bank statement is not received from depositor</i>	-
39	<i>Pravinchandra K Shah</i>	5,25,000	7,638	07-04-2014	5,35,952	<i>Loan of Rs. 5,36,840 given to Mittal Gems on 10-07-2014 by cheque no. 317976</i>	<b>342-343</b>
40	<i>Pravinbhai G Shah HUF</i>	3,75,000	5,733	05-01-2014	3,75,000	<i>Loan of Rs. 3,75,000 given to Nileshkumar D Viradi on 12-05-2014 by cheque no. 0149434</i>	<b>344-345</b>
43	<i>Rameshbhai Mohanlal Shah HUF</i>	4,00,000	5,425	05-01-2014	4,00,000	<i>Transferred Rs. 1,00,000 as loan on 25-02-2013 by cheque no. 228011 and Rs. 5,00,000 as loan on 25-02-</i>	<b>346-347</b>

						2013 by cheque no. 228013	
45	Ranjitbhai V Padhiyar	4,00,000	5,918	07-04-2014	4,08,344	Loan of Rs. 6,00,000 given to Star Galaxy on 08-07-2014 by cheque no. 049465	348
46	Sahilbhai Hasmukhlal Mehta	2,50,000	3,144	05-01-2014	2,50,000	Balance carried forward in savings bank account	349
47	Sangitaben Kalpeshbhai Doshi	3,00,000	2,219	08-12-2014	3,08,987	Loan of Rs. 3,15,000 given to Upendra C Shah on 16- 08-2014 by cheque no. 043032	350-351
49	Sanjaybhai Nanalal Shah HUF	3,50,000	9,752	28/07/2014	3,59,243	Loan of Rs. 3,50,000 given to Bhadresh Traders on 30- 07-2014 by cheque no. 000027	352
50	Sanjaybhai V. Sanghavi	3,25,000	8,575	28/07/2014	3,33,583	Loan of Rs. 3,50,000 given to Pinkiben S Mehta on 30- 07-2014 by cheque no. 880304	353-354
51	Shaileshgiri Gulabgiri Goswami	2,50,000	6,658	18/04/2014	2,50,000	Transferred Rs. 2,70,000 as loan as 23-04- 2014 by cheque no. 000016	355-356
52	Shantilal Manilal Mehta	6,75,000	6,158	23/06/2015	7,42,108	Copy of bank statement is not received from depositor	-
53	Shilpaben Champaklal Shah	5,00,000	4,562	23/06/2015	5,49,710	Copy of bank statement is not received from depositor	-
54	Sushilaben Rameshbhai Shah	3,00,000	3,995	05-01-2014	3,00,000	Copy of bank statement is not received from depositor	-

57	<i>Vitragbhai Dhirajlal Dharu</i>	3,00,000	8,063	18/04/2014	3,00,000	<i>Loan of Rs. 3,30,000 given to NCPL Developers on 23-04-2014 by cheque no. 000014</i>	<b>357</b>
58	<i>Pushpaben Ashokkumar Shah</i>	2,50,000	7,089	28/07/2014	2,56,602	<i>Loan of Rs. 2,50,000 given to Riteshbhai K. Shah HUF on 28-07-2014 by cheque no. 000012</i>	<b>358-359</b>
59	<i>Anita Tatosaniya</i>	10,000	0	18/06/2013	10,000	<i>Repaid in cash</i>	-
60	<i>Naman</i>	15,000	0	30/09/2013	15,000	<i>Repaid in cash</i>	-
61	<i>Pankajbhai R. Shah</i>	4,00,000	5,425	27/06/2014	4,00,000	<i>Cash Withdrawal of Rs. 4,00,000 on 28-06-2014 by cheque no. 096397</i>	<b>360</b>
52	<i>Viral N Patel</i>	10,000	0	31/08/2013	10,000	<i>Repaid in cash</i>	-
		<u>1,79,10,000</u>	<u>3,06,701</u>				

8. In support of his contentions, he relied upon large number of decisions, which have been noticed by the Id.CIT(A) viz. DCIT Vs. Rohini Builders, 256 ITR 360, CIT Vs. Orissa Corporation P.Ltd., 159 ITR 78 (SC), CIT Vs. Shri Mahavir Crimpers, Tax Appeal No.547 of 208, CIT Vs. Chanakya Developers, 3 taxmann.com 91 (Guj), CIT Vs. Ranchhod Jivabhai Nakhava, 21 taxmann.com 159 (Guj) etc. On the strength of these details and decisions, he submitted that the assessee has discharged the onus put upon it by virtue of section 68 and no addition deserves to be made in his hand.

9. On the other hand, the Id.DR relied upon the orders of the Revenue authorities. He specifically took us through paragraph 5.7 of the Id.CIT(A)'s order and submitted that an holistic view is

required to be taken by the adjudicating authority which gives a sense of satisfaction that loans/deposits taken by the assessee were genuine. A cumulative analysis of all the evidences did not infuse confidence in the AO as well as in the CIT(A) to form an opinion that these loans are genuine-one; rather it suggests that once a person advances loans ranging between Rs.2,00,000/- to Rs.3,00,000/- to such developer at a meager rate of interest is an effort of manipulation at the end of the assessee, and the explanation given on papers deserves to be rejected. In support of his contentions, he relied upon the latest decision of Hon'ble Supreme Court in the case of Pr.CIT Vs. NRA Iron & steel P.Ltd., 103 taxmann.com 48 (SC). He placed on record copy of this decision. He also filed copy of the Hon'ble Delhi High Court decision in this very case which has been reversed by the Hon'ble Supreme Court. His emphasis that the Hon'ble Supreme Court has observed that lower appellate authorities failed to appreciate that investor companies which had filed income-tax returns with meager or NIL income have failed to explain how they had invested such huge sum of money in the assessee-company.

10. We have duly considered rival contentions and gone through the record carefully. Section 68 of the Income Tax Act has a direct bearing on the controversy. Therefore, it is pertinent to take note of the relevant part of this section, which reads as under:

*"where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the officer, satisfactory the sum so credited may be charged to*

*income tax as the income of the assessee of that previous year.”*

11. A perusal of this section would indicate that basically this section contemplates three conditions required to be fulfilled by an assessee. In other words, the assessee is required to give explanation which will exhibit nature of transaction, and also explain the source of such credit. The explanation should be to the satisfaction of the AO. In order to give such type of explanation, which could satisfy the AO, the assessee should fulfill three conditions viz. (a) identity of the creditors, (b) genuineness of the transaction, and (c) credit worthiness of the creditors/depositors. As far as construction of section 68 and to understand its meaning is concerned, there is no much difficulty. The difficulty arises when we apply the conditions formulated in section in the given facts and circumstances. In other words, it has been propounded in various decisions that section 68 contemplates that there should be a credit of amount in the books of assessee, (b) such amount has to be sum received during the previous year, (c) the assessee offers no explanation about the nature and source of such credit found in the books, or (d) explanation offered by the assessee is not in the opinion of the AO satisfactory. The above three requirements have to be tested not superficially but in-depth, having regard to the human probabilities and normal course of human conducts. The adjudicating authority should find out the reality of transaction. In other words, if the AO is able to demonstrate that apparent transaction projected by the assessee was not real, then claim of the assessee should not be accepted. This can be tested on the surrounding circumstances, making reference to substantial

evidences produced by the assessee as well as collected by the AO. It is also pertinent to observe that certificate of incorporation or PAN number being referred by the assessee to demonstrate identity of the creditor may not be sufficient documents, because these documents have their own limitation, and PAN is being allotted on an application made by an assessee. It is also pertinent to observe that in these days, such account is being allotted through on-line application. There is no investigation about the identity of the assessee who obtained PAN. Thus, these documents have their own limitation. Similarly, cash credit received from banking channel has a corroborative factor, which does not construe as genuine always.

12. In the light of the above, let us examine facts of the present case. The decision relied upon by the Id.DR in the case of NRA Iron & Steel P.Ltd.(supra) is concerned, the facts are totally different. That was the case where money was received as share application plus premium on purchase of such shares. It is an irreversible nature. The assessee-company who received such money would not refund the money, because, it was cost of purchase of shares. The share applicants in that case have purchased the shares on premium and invested money more than Rs.90 lakhs each. There were roughly 19 applicants who have made investment in the range of Rs.90 lakhs to Rs.95 lakhs. They have shown income of Rs.10,000/-, Rs.14,000/- and Rs.5,000/-. In that context, Hon'ble Supreme Court has recorded a finding that when share applicants were having meager income or NIL income how they can make an arrangement of Rs.90 lakhs and Rs.95 lakhs in investment in the assessee-company. In the

case of the assessee, it has received loans which are to be repaid. If it failed to repay and liability is ceased, then it will be recognized as income in the year, when liability to pay is ceased. The second factor that it has received loans in the range of Rs.2,00,000/- to Rs.5,00,000/- and lenders/depositors have returned income in the range of Rs.1,90,000/- to Rs.2,20,000/-. This income is in consonance with the amount of loans they have advanced. Therefore, no benefit can be drawn from the decision of Hon'ble supreme Court in the case of NRA Iron & Steel P.Ltd. (supra). The facts are totally different.

13. The second important fact in the case of the present assessee is that it has not only filed conformations, copies of income-tax returns, bank statements, all the creditors have responded to the notice of the AO issued under section 133(6) except at serial no.2, 8, 13, 18, 29, 34 and 43. They have confirmed the advancement of loans. The assessee has repaid these loans through account payee cheques, and these entries have been credited in the accounts of the creditors. For buttressing this, the assessee has filed copies of the pass-books. Now, the AO is doubting these evidences on the ground that after receipt of repayment, these creditors have further advanced the loans. They have not kept the money with them. To our mind, this is not a sufficient reason for doubting the explanation of the assessee. It is for the creditors to decide how to treat that amount. We can appreciate the cases of the AO if he was able to lay his hand on any of the evidence that after receipt of repayment of loans, money travelled back to the assessee. Similarly, if the AO is able to demonstrate that the assessee has

given cash which was deposited by the creditors in their account; they have given loans to the assessee and on receipt repayment; they have again withdrawn the amount and repaid to the assessee in cash. There is no such exercise or mechanism discernible from the record. We have analysed all the material produced before us in the light of various authoritative pronouncements, and we are satisfied that the assessee has fulfilled the ingredients of section 68. It has proved identity of the creditors, genuineness of the transactions. The doubt raised by the AO qua their credit-worthiness, but to our mind, that has also been proved by the assessee by producing copies of income-tax returns, copies of the bank pass book, and more so, evidences demonstrating repayment of loans to all the creditors. After making a detailed analysis of all the materials, we are the view that no addition is sustainable in the hands of the assessee. We allow the appeal of the assessee, and delete the addition of Rs.1,79,29,883/-. Since loans received by the assessee have been treated as genuine, therefore, interest expenditure recognized on such loans deserves to be allowed to the assessee. Accordingly, addition of Rs,3,01,277/- is also deleted.

14. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 26<sup>th</sup> June, 2019.

Sd/-  
(RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER

Ahmedabad; Dated 26/06/2019