

आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
AND SHRI O.P.MEENA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.1509/AHD/2016

निर्धारण वर्ष/Assessment Year: 2011-12

The Deputy Commissioner of Income Tax, Circle-1(1) (2), Surat.	Vs.	M/s. Kejriwal Industries Ltd., 7004, World Trade Centre, Ring Road, Surat. [PAN: AACCP 3636 Q]
अपीलार्थी / Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Ramesh Malpani, CA
राजस्वकीओरसे /Revenue by	Shri O. P. Vaishnava, CIT(D.R.)

सुनवाईकीतारीख/ Date of hearing:	06.02.2020
उद्घोषणाकीतारीख/Pronouncement on:	04.05.2020

आदेश /O R D E R

PER O.P.MEENA, AM:

This appeal by the Revenue is directed against the order of learned Commissioner of Income tax (Appeals)-3, Surat (in short “the CIT (A)”) dated 28.03.2016 pertaining to Assessment Year 2011-12, which in turn has arisen from the assessment order passed under section 143 (3)/154 dated 09.04.2014/31.03.2014 of Income Tax Act,1961 (in short ‘the Act’) by the Deputy Commissioner of Income-Tax, Circle -1, Surat (in short “the AO”).

2. **Condonation of delay in filing of appeal before Tribunal:**

3. The registry has pointed out that there is delay by one day in filing of appeal before Tribunal. The Ld. CIT (DR) submitted that one day in filing of the appeal has occurred due to wrongly counting the period of limitation for filing of appeal. The Ld. CIT (DR) had requested to condone the same as it has occurred due to technical reason and the delay was not deliberate or intentional hence, delay in filing of appeal may please be condoned. The learned counsel for the assessee did not oppose the small delay in filing of appeal.

4. We have heard the rival submissions and perused the material available on record. It is settled law that the Court and Quasi-judicial bodies are empowered to condone the delay if the litigant satisfies the Court that there were sufficient reasons for the availing the remedy after the expiry of the limitation. Such a reasoning should be to the satisfaction of the Court. Considering the facts of present case and small delay of 1 day, We are of the view that there was no mala-fide intention for delay. The CIT (D.R.) for the revenue has been able to demonstrate sufficient reasons. Therefore, we fit to condone the delay in filing of appeal and allow the appeal to be proceeded with on merit.

5. The Grounds of appeal raised by the Revenue read as under:

“[1] On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of

Rs. 12,89,25,938/- made on account of unexplained cash credit u/s 68 of the Act as assessee could not prove genuineness of loans and whereabouts of lenders.

[2] On the facts and in the circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.

[3] It is, therefore, prayed that the order of the CIT (A) may be set aside and that of Assessing Officer may be restored to the above extent.”

6. The Revenue has taken as many as three grounds of appeal. However, in substance these are related to deletion of addition of Rs.12, 89, 25,938/- made on account of unexplained cash credit under section 68 of the Act, hence, these are being considered together.

7. Brief facts of the case are that the assessee filed its Return of Income on 29.09.2011 declaring total income at Rs.5, 14, 26,940/- which was assessed for the year under consideration. The AO finalized the assessment proceedings u/s.143(3) on 31.03.2014 by making disallowance of Rs.4,83,821/- u/s.14A, disallowance of PF and ESIC of Rs.23,20,130/- and addition of Rs.12,89,25,938/- u/s.68 of the Act. However, the addition made u/s.68 was left out to be added in computation of income hence, same was later added by the AO vide order u/s.154 dated 09.04.2014 of the Act. The AO noticed that the assessee has taken total unsecured loan of Rs.14,76,38,600 from 56 persons, out of which 54 are based at Ranchi and remaining two are group concerns of the assessee. The AO had issued

commissions to DCIT, Circle-1, Ranchi and ACIT-TDS, Circle- Ranchi under section 131 (1)(d) of the Act to conduct enquiries in case of the lenders based at Ranchi. The said officers have sent the enquiry reports, which are framing part of assessment order. The findings of the AO as per chart is as under:

S. N.	Name of the Lenders	Alleged Loan(including interest)in Rs.	Findings of enquiry
1	Akshay Kumar Singh HUF	6,88,738 including interest Rs. 61,438	The person has neither been found on enquiry nor produced by the assessee. Further, creditworthiness and genuineness of transaction also not proved. Several features of accommodation entries provider detected from bank statement
2	Akshay Kumar Singh	1,51,475	Employed in Saudi Arabia, but still assessee claimed to have obtained his confirmation, which cannot be accepted. Assessee never intimated such employment. Further, creditworthiness and genuineness of transaction are not proved. Several features of accommodation entries provider detected from bank statement
3	Asim Ashraf	1,87,141	The person has neither been found on enquiry nor produced by the assessee. Further, creditworthiness and genuineness of transaction also not proved. Several features of accommodation entries provider detected from bank statement
4	Ashok Kumar Sarkar	1,27,326	The person has neither been found on enquiry nor produced by the assessee. Further, creditworthiness and genuineness of transaction also not proved. Several features of accommodation entries provider detected from bank statement
5	Binod Kumar Jain	1,08,521	The person has neither been found on enquiry nor produced by the assessee. Further, creditworthiness and genuineness of transaction also not proved. Several features of accommodation entries provider detected from bank statement
6	Chandan Sarawgi	1,32,922	-Do-
7	Deepmala	5,10,817	-do-

8	Gyan Enterprise	1,83,90,430	Proprietor concern of Gyanendra Kumar Singh, who has been neither produced and the assessee provided wrong name as Gyan Singh. Fund transfer out of overdraft. Person has tendency to return debt frequently and has substantial cash deposits. The assessee failed to produced cash book and failed to substantiate creditworthiness and genuineness
9	Irshad Khan	3,72,202	The person has neither been found on enquiry nor produced by the assessee. Further, creditworthiness and genuineness of transaction also not proved. Several features of accommodation entries provider detected from bank statement
10	Irshat Jahan	4,00,199	-do-
11	J K Das HUF	1,53,794	Identity proved. However, bank statement reflects the same typographical characteristic as entry provider and genuineness of transaction not proved
12	Jeevn Kumar Das	1,64,780	-do-
13	Juhi Kumari	2,19,706	Daughter of Shri Jeevan Kumar Das, identity proved but creditworthiness not proved. She is found to be receiving entries from none other than some of the entry providers mentioned in the current list itself. Claimed to be earning tuition income, but no evidences submitted
14	Jyoti Vikas Industries	50,84,329	Assessee neither found nor produced. No confirmations filed. Not even proper documentary evidence filed. Case ails on all the three parameters.
15	Kiran Singh	2,52,662	<i>Sister of Shri Jeevan Kumar Das. Identity proved but creditworthiness not proved. She is found to be receiving entries from none other than some of the entry providers mentioned in the current list itself. Claim to be earning commission from Mr. Rajesh Kumar Prahladka but no evidence submitted.</i>
16	Krishna Singh	1,31,824	<i>Son of Shri Jeevan Kumar Das. However, bank accounts statement reflects the same typical characteristics as of entry providing entities. Genuineness of transactions also not proved.</i>
17	Mangal Kumar Singh HUF	3,60,673	<i>The person has neither been found on inquiry nor produced by the assessee.</i>

			<i>Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement</i>
18	Mangal Kumar Singh	3,23,892	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement</i>
19	Manju Devi	2,19,706	<i>Wife of Shri Jeevan Kumar Das. However, bank accounts statement reflects the same typical characteristics as of entry providing entities. Genuineness of transaction also not proved.</i>
20	Manju Hemani	1,36,108	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
21	Mohd Qasim	1,42,271	<i>Identity proved. Creditworthiness not proved, nor is the genuineness of transaction. Several features of Accommodation entry providers detected from the bank account statement</i>
22	Mona Sarkar	2,92,681	<i>The person was not traceable on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
23	Mousami Sinha	4,06,128	<i>The person was not traceable on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
24	Munna Kumar Singh HUF	1,71,232	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry</i>

			<i>providers detected from the bank account statement.</i>
25	<i>Munna Singh</i>	<i>2,29,407</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
26	<i>Nitya Nand Singh HUF</i>	<i>2,70,042</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
27	<i>Nitya Nand Singh</i>	<i>1,51,475</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
28	<i>Poonam Devi</i>	<i>2,09,650</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
29	<i>Priya Thathera</i>	<i>1,65,744</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry</i>

			<i>providers detected from the bank account statement.</i>
30	<i>Pushpa Devi Saraf</i>	<i>1,41,616</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement. Further, it is also seen that on one hand she has shown her status as house wife in the bank passbook and on the other she is showing income from business & profession. These contradictions have not been reconciled by the assessee.</i>
31	<i>R K Sinha HUF</i>	<i>1,44,889</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
32	<i>Rajkumari Sinha</i>	<i>1,67,939</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
33	<i>Rajesh Balmiki HUF</i>	<i>3,45,631</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
34	<i>Rajesh Balmiki</i>	<i>1,71,371</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-</i>

			<i>rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
35	<i>Ramesh Kumar Sinha</i>	<i>2,20,626</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
36	<i>Roshanlal HUF</i>	<i>6,15, 177</i>	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
37	<i>Ruhi Enterprise</i>	<i>75,03,040</i>	<i>This is a proprietorship concern of Shri Gayanendra Kumar Singh, who has neither been found nor produced by the assessee on commission inquiry. First the assessee provided wrong name as Gyan Singh. However, inquiry revealed the correct name. It is seen from the bank account statement that even though the fund transfer is out of over draft, the person has a tendency of returning the debt by frequent and substantial cash deposits. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits. Creditworthiness and genuineness not proved.</i>
38	<i>Shivam Enterprises</i>	<i>2,80,83,183</i>	<i>Identity not proved. No confirmations filed. Genuineness of the transaction not proved. Creditworthiness cannot be established. On the contrary, it is seen that there are cash deposits of nearly Rs.3,00,00,000/- in the same bank account. Despite a specific request, the</i>

			<i>assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits.</i>
39	<i>Shree Ganesh Enterprises</i>	<i>76,47,946</i>	<i>This is a proprietorship concern of Shri Gayanendra Kumar Singh, who has neither been found nor produced by the assessee on commission inquiry. First the assessee provided wrong name as Gyan Singh. However, inquiry revealed the correct name. It is seen from the bank account statement that even though the fund transfer is out of over draft, the person has a tendency of returning the debt by frequent and substantial cash deposits. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits. Creditworthiness and genuineness not proved.</i>
40	<i>Subodh Kumar Sinha HUF</i>	<i>1,59,159</i>	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
41	<i>Subodh Kumar Sinha</i>	<i>2,91,806</i>	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
42	<i>Sumitra Devi</i>	<i>7,30,367</i>	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>
43	<i>Kejariwal Dyeing and printing Mills Pvt. Ltd.</i>	<i>16,80,000</i>	<i>A sister concern of the assessee. However, there are substantial cash deposits prior to transfer of funds to the assessee and no explanation has been offered by the assessee to support such cash deposits. The amount of cash deposits total of Rs. 15,00,000 and interest there upon comes to Rs. 1,80,000.</i>

44	<i>Kejrival integrated Textile park Pvt. Ltd.</i>	<i>4,89,89,817</i>	<i>A sister concern of the assessee without any business activity. There are substantial cash deposits in relation to the transfer of funds to the assessee and no explanation has been offered by the assessee to support such cash deposits. Moreover, it has also been found that the company has been merely used as conduit and the funds has been routed through the net work of the same person / concerns.</i>
45	<i>Sandip Kejrival</i>	<i>1,68,809</i>	<i>Un-signed confirmations. Bank account Statements and other document could not establish the creditworthiness and genuineness of transaction.</i>
46	<i>Vishnu Kejrival</i>	<i>11,91,240</i>	<i>Un-signed confirmations were filed. Later on, the assessee filed some letters in the name of confirmations, which cannot be relied upon in view of discrepancies. Bank account statement and other documents could not established the creditworthiness and genuineness of transaction.</i>
47	<i>Vishnu Kejrival HUF</i>	<i>1,32,636</i>	<i>"D"</i>
48	<i>Vind Devi Kejrival</i>	<i>3,86,811</i>	<i>Confirmation not filed at all. Bk Account Statement and other document could not established. The creditworthiness and genuineness of transaction</i>
	<i>TOTAL</i>	<i>12,89,25,938</i>	

8. Thus, In the light of above fact and findings, the AO made addition of Rs.12,89,25,938 under section 68 of the Act.

9. Being, aggrieved, the assessee filed an appeal before the Ld. CIT (A). The findings given by the CIT (A) in his appellate order is reproduced as under:

"7.1 The AR submitted detailed submissions" dated 24.06.2015 and 28.01.2016 and also paper book containing the copies of show cause notice and details submitted by the appellant during assessment stage. The

relevant portion of submissions are discussed ahead, wherever required. In order to verify the factual correctness of some of assertions made by Id AO and the AR; a joint examination of assessment records was done on 20.01.2016 along with Shri Vipul Chavda, IRS, the ACIT Circle 1 (1)(2), the jurisdictional AO and the A~ and the same is noted in order sheet. The ACIT CIT Circle 1 (1) (2) was asked to furnish, attested copies of following documents for detailed examination and for record purposes, and the same have been furnished by the Officer. The order sheet notings dated 20.01.2016 of the Joint examination of records is reproduced below.

“ Date 20.01.2016

“ Shri. Vipul Chavda ACIT Circle 1 (1)(2) attended with assessment records. Shri Mukesh Khaitan CA & AR also present. Assessment records jointly examined. It is found that the assessment records have

(i) list of unsecured loan creditors along with confirmation, bank accounts copies, ITR copies.

(ii) Address proof of new address of 8 persons mentioned in show cause notice

(iii) In order sheet noting, AO had asked for details of unsecured loans on 08.01.2014.

(iv) The commissions were issued to DCIT Circle 1, Ranchi and ACIT TDS Circle Ranchi on 17.02.2014 and 14. 03. 2014 respectively. The annexures to commission was the chart given by the AR giving all details of lenders. (there is typo error in commission dated 17.02. 2014 , it is wrongly mentioned as 17.02.2013).

5. The ACIT is requested to furnish attested copies of

1. commissions issued to DCIT Circle 1 Ranchi and to ACIT TDS Ranchi

2. show cause notice issued by AO to assessee prior to making assessment

3. order sheet

4. list of unsecured loan creditors in whose case confirmations and other details are not furnished.

5. Details submitted by the lenders at O/o DCIT Circle 1/Ranchi, during enquiry by DCIT / Circle 1 Ranchi Case adjourned to 28.01.2016. “

*Sd/-
ACIT Circle 1(1)(2)*

*Sd/-
CA*

*Sd/-
CIT (A)*

7.2 The Id AO has not made any entry for receipt of details of lenders, nor has he signed any office copy of the letter of appellant. But, from the above, it is clear that the Id AO had all the details of the said lenders. Moreover, the Id AO in the assessment order refers to the bank accounts, annual income, and balance sheets of the lenders. In view of this, it is apparent that the appellant has filed the basic details.

8. Comparison between enquiry reports / show cause notice and the conclusions made in assessment order

8A. The Id AO has given his findings / observation in the case of all lenders in form of table in para 15 of his order. The same is reproduced in first 4 columns of the Annexure -1, however, the 5th column is added by the undersigned, wherein the actual findings of, said enquiry reports are given. Annexure -1 is integral part of this order.

8(B) (i) As evident in column 4 of Annexure - 1, the Id AO observes in case of 42 lenders, neither found in address' nor produced by assessee'. However, on perusal of both the enquiry reports (Exhibits 1 & 2) to assessment order). it is evident that only 8 persons {5 as per DCIT Circle -1, Ranchi and 3 as per ACIT (TDS) Ranchi} were not found in the stated address.

(ii) It, is also seen that, the two inquiry reports together speak of only 27 lenders out of the 54 lenders based in Ranchi. But, still the Id AO has given the above finding in case of the 42 lenders without disclosing the basis of such a finding.

(iii) The show cause notice dt 24. 03.2014 issued by the Id AO, acknowledges that only 8 persons were not found at their given addresses. There is no discussion anywhere in the assessment order on how he arrived at the conclusion that Neither found or produced by the assessee' in case of 42 lenders. The conclusions of the Id AO are contradictory to enquiry reports (Exhibit No 1 and 2).

It is 0150 seen from both the enquiry reports that the. lenders were not asked to be produced. Even in joint examination made of assessment records no such summons or letter was found. The show cause notice, (which in a way narrates all the enquiries done), also does not mention any such summons or request for production of the said lenders.

(iv) The inquiry report forwarded by the DCIT Circle 1, Ranchi mentions that Shri J K Dos was asked to produce copies of ITR, bank details and computation or income for the lost 3 assessment years and the said Shri. J K Dos appeared and produced the said documents in case of all lender except M/s Jyoti Vikas industries. The enquiry report encloses the said

documents , but there is finding given from examination of these documents.

v) The Id AO has not mentioned anywhere whether he has received the documents along with said enquiry report of DCIT Circle -1. Ranchi. The records do not indicate whether the Id AO carried out any examination of these documents. No finding has been given by the Id AO to discredit or refute the above documents.

(vi) The report of ACIT (TDS) covers 13 persons, of which 3 belonging to single family were not found in the given address. The report gives findings of general financial capacity and business profession of all others. but he does not make any specific finding w.r.t. the said loans. No adverse finding or adverse inference was made in the report.

(vii) The AO draws adverse inference on the basis of fact (in his para 8.2 (i)] that a group of seven lenders have shown one common address and another group of 10 lenders show another common address. But, on examination of list and also as evidenced from enquiry report. these two Groups consists of members of two families and hence, given common address.

(viii) In para 8.2(ii) of the assessment order. the Ld AO draws adverse inference that ITR of 33 persons are filed by one Shri. N.K. Kejriwal, the AR has submitted explanation that Shri. N. K. Kejriwal is a Tax Consultant and CA, it is his profession to file ITRs and he is providing this service to more than 2000 persons.

The Id AO has acknowledged th.at the lenders consists of (1) Shri N.K. Kejriwal and his family (2) close associates of Shri N .K. Kejriwal and family members of these close associates. It is also stated in assessment order that many of them are shareholders in appellant - company. It is common for people who know each other to make common investments and also to flock to same Tax Consultant or legal advisor. Moreover, out of said 33, about 12 are family members of Shri. N.K. Kejriwal and his associate Shri Jeevankumar Dash. On porusol of above facts and circumstances, the adverse inference drawn by Id AO on this reason is not justified.

(ix) AO' s observes as under in para 8.2 (iv)

“Shri J K Das family members had no clue regarding the lending of money to the appellant - company. They said that 0/1 their financial affairs are looked after by Shri. J. K. Dos.

The Id AO tries to draw conclusion that since the family members do not know of the said loans, the loans cannot be held as genuine. I have examined this issue; It appears from the enquiry report, that the above statements were made verbally by family members in the enquiry made by the ITI. No mention of any

statements recorded of the said family members is made in enquiry report or in the assessment order. Only statement recorded is of Shri Jeevankumar Dos. However, this statement was not mentioned in the said show cause notice, nor a copy of statement is given to appellant during assessment stage. On perusal of the assessment records, it was not found in the documents received from Ranchi. The Id AO has also not mentioned / reproduced any portion of the said statement, in the assessment order. Hence, the above alleged statement of family members do no carry any evidentiary value . In any case, as the enquiry report states, Shri. Jeevankumar Das appeared before Officers at Ranchi and confirmed the said loans and produced the documents asked for.

Even otherwise, nothing adverse can be drawn from the statement of family members as it is common for the head of the family to manage financial affairs and it is possible that all the family members may not be knowing about all the transactions.

a. 8C. Significant finding of 2nd report.

(i) The Id AO doubts the genuineness of confirmation of loan by one lender Shri. Ashim Ashraf, filed by the appellant. for the reason that he was working and staying in Saudi Arabia. The Id AO appears to state that confirmation could not have been obtained from the said lender, as he stays in Saudi Arabia. The Ld AO has not asked the appellant how the confirmation was received. The AO has drawn his inference unilaterally as if the location of lender in Saudi Arabia makes it impossible for appellant to obtain confirmation. The said confirmation is a document / paper, which can be obtained by way of Courier, or Airmail or through somebody visiting from Saudi Arabia.

(ii) The AO in para 8.2 (iii) (iv) (v) has stated as under;

(iii) As per the details given by the assessee, the proprietor of M/s Gyan Enterprise and Ruhi Enterprise IS one Shri Gyan Kumar Singh addressed at Blraj Nagar, Lalpur, Ranchi. However, on inquiry it was found that one Shri. Gyan Singh has been found who is an unemployed person and earlier used to work for one Arya Hotel.

(iv) On further probing, it was found that the assessee had provided wrong details and the correct person IS actually Gyanendra Kumar Singh and not Gyan Kumar Singh and the correct person is a resident of Near Akhil Memorial School, Sukhdeo Nagar, Ranchi -5. It was also found. that Shri Gyan Singh stands as a proprietor of concerns such as Gyan Enterprise, Ruhi Enterprise and Shree Ganesh Enterprise having office addressed at 1, Neelkuni Sukhdeo Nagar, Raw Rod, Ranchi. It is also seen that these concerns are showing business activities relating to manufacturing and trading of coke and crushing activity. The total of unsecured loans received by our assessee from Gyan Enterprise / Ruhi Enterprise and Shree Ganesh Enterprise comes to Rs. 1, 77, 00, 000, Rs 73,00,000/- and Rs.

75,00,000/- respectively.

(v} Another alleged lender namely Shivam Enterprise is owned by one Shri Aditya Kumar Dhanuka. This concern is shown to be engaged in transportation and trading of coal. “

However, it is seen from the report of the ACIT (TDS), Ranchi ,the said Shri Gyankurnar Singh was identified and ITR of his concerns were examined by the ACIT (TDS) . M/s Gyan Enterprises has turnover to the extent of Rs. 3.27 crores and it has lent a sum of Rs. 1.77 crores, which has also been repaid by the appellant during the year itself. M/s Ruhi Enterprises has a turnover of Rs. 2.88 crores and it has lent Rs 75 lakhs and the same has also been repaid during the year. The turnover of M/s Ganesh Enterprises (belonging to one Shri. Kailashchadra Kejriwal) has not been mentioned in report and the concern has lent Rs 73,00,000/-, which has been repaid by the appellant in the same year. The ACIT (TDS) has not given any adverse finding in respect of creditworthiness or genuineness of the loans. Even the Id AO has not given any adverse findings from examination of the financial statements. The Id AO has erred factually here in concluding that M/s Ganesh Enterprises belongs to Mr. Gyanendra Kumar Singh, whereas it is the proprietary concern of Shri. Kailashchandra Kejriwal as per ITR and Tax audit report. The Id AO is hence, not justified in saying assessee has provided wrong address.

9. Other conclusions of the Id AO

9.1 The Id AO said that bank accounts of following concerns have huge cash deposits, but, he has not specified the actual amounts. When perused by the undersigned the bank account statements, reveal the following cash deposits around the dates of advancing said loans.

Sr.No.	Name of the concern	Date of loan and amount of loan	Cash deposits within 15 days before the loan	Cash Deposits within 15 days after the loan
1	M/s Ganesh Enterprises	16.12.2010	NIL	NIL
2	M/s Gyan Enterprises 1,77,00,000	16.12.2010 02.07.2010	NIL	NIL
3	M/s Rubi Enterprises (2 bank accounts)	12.06.2010 Rs.73,00,000	Rs 3,00,000	Rs. 8,60,000
4	Shivam Enterprises	03.07.2010 Rs 1,20,00,000 16.09.2010 1,50,00,000	NIL NIL Nil	13,00,000 NIL Nil
5	Kejriwal Dyg & Ptg Mills Pvt Ltd.	05.04.2010 15,00,000	NIL	NIL
6	Keriwal	Various	Total cash deposits in the	

	<i>Integrated Textile Park P Ltd.</i>	<i>dates Rs 4.86 crores</i>	<i>year Rs 47.50 lacs</i>
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As seen above, the cash deposits are either NIL or negligible as compared to the quantum of the loan. It can be further seen that all the accounts have substantial OD limits as compared to loans given by them. In view of this, the cash deposits are too meager and irrelevant to draw inference of any kind.

9.2 Common Source - Motilal Oswal

The Id AO has drawn conclusion that 40 lenders have received money from the common source, since the amounts have been received from M/s Motilal Oswal on online shore broking firm. The conclusion of the Id AO is not appreciable as amounts transferred to and from M/s Motilal Oswal are towards purchase or sale of securities alone through Motilal Oswal brokerage portal. The actual source of fund is the buyer of the shares. The above amounts are not loans received from M/s Motilal Oswal to say that lenders have common source. The Id AO has failed to appreciate this. There is no finding regarding the purchaser of the said shares.

Further, the Id AO argues that why would anybody sell shares at a loss and invest as loan in appellant - company ? The question can be answered only by the said seller and the Id AO has not asked him to clarify this. In the share market, there is bound to be some selling of shares at loss on some occasions. People may sell at loss to stop further loss or to shift to more secure investments or with better returns. Moreover, here the loans are given to the company wherein the lenders are share - holders, and they have some control.

9.3 Cases in which the lenders were not found in the given addresses, and the case of M/s Jyoti Vikas Industries.

9.3.1 As regards the eight persons not found in their stated addresses, it can be seen that there is a contradiction in two reports in respect of (i) Mangal Kumar Singh (ii) Mangal Kumar Singh (HUF). The Exhibit no. 1 states that Mr. Mangal Kumar Singh is assistant of Jeevan Kumar Das, whereas the Exhibit no. 2 states that Mr. Mongol Kumar Singh was not traceable at the given address.

Regarding Irshad Khan and Ishrat Jahan, the table says addressee was not found on given address ,however, in the last paragraph of report , it is mentioned Jeevan Kumar Das has told that both have shifted and has given the new address in Karbala Ranchi. No enquiry was made on new address.

Tile AR contends that in response to the show cause notice from Ld AO, the address proofs of all the above have been submitted before the AO. The AR also explained that in the time gap between advancing of loan to appellant- company and the date of enquiry, it is possible

that a few might have changed their residences. The new residence addresses and address proofs have been provided to the Id AO and he has not made enquiries to refute the same. During joint examination of records, it is found that address proofs are available on record. It is also seen that, in all the above cases, the copies of ITR and bank accounts have been filed by Shri. Jeevan Kumar Dos. It is also seen that 6 of the above 8 are also shareholders in the appellant - company. On careful consideration of above facts, and the copies of ITR and bank account copies and proofs of new addresses, I find that the evidences are overwhelmingly in support of AR 's explanation.

9.3.2 In the case of MIs Jyoti Vikas Industries, Proprietary concern of Shri Kamal Kumar Dhanuka, the loan received is Rs 50 lacs. The required details could not be given by Shri Jeevan Kumar Dos at Ranchi. The AR 's explanation for the same is that Shri Kamal Dhanuka was in custody in connection with a Coal Scam and also the bank account has been attached. However, the AR insists that the details were initially filed alongwith details of other lenders before the AO. Since as already discussed, it is not possible to give definite finding on what was filed before AO, the presumption goes in favour of the appellant.

Further, during tile appeal proceedings, the AR furnished copy of confirmation, ITR copy, bank a/c and also FIR copy. It is seen that loan was received from M/s Jyoti Vikas Industries on 08.07.2010 and repaid by appellant on 03.09.2010. It is also seen that Shri Kamal Dhanuka has been named as accused in FIR for soft coal scam involving loot of Rs.8.92 crores by CBI. Ranchi. Ironically, the FIR serves as evidence of identity as well as creditworthiness of the lender to advance the said loan.

10. Identity

*10.1 The 2 enquiry reports give findings regarding 27 (14 + 13) numbers of lenders out of 56. In that 27, only eight persons were not found at the given address, whereas rest 19 were found living at .the stated address. Hence, the adverse inference drawn by the Ld AO regarding 49 persons (i.e. 30 + 19) is **patently wrong**. The identity of the 49 lenders is beyond doubt. Regarding the rest 8 persons, I have given my finding in para 9.3.1 (supra). In all the cases, the appellant and also Shri. Jevankumar Das have furnished the following (i) confirmation (ii) ITR copy (iii) Bank statements. In view of the extensive documents provided by the appellant before the AO, and also by the lenders before the DCIT , Circle (1), Ranchl . I hold that the identities of the said lenders **stand established** and the inferences / conclusion drawn by the Id AO in this aspect are not supported by facts.*

10.2 Creditworthiness

10.2.1 The two enquiry reports do not give any finding regarding

the creditworthiness of the lenders. The Ld AO ,however, in the para 9.1 has made ' common observation'. Most of these persons are actually showing nominal incomes. As is typical of entry provider entities, these persons have neither a healthy balance sheet nor a potent enough Capital account which can vouch for the claimed investment in the shares of the appellant - company. The Ld AO follows it up with a table in next para where, he gives income of all lenders for the relevant assessment years. From this he draws conclusion that except one or two stand alone instances the lenders are not creditworthy in the true sense.

10.2.2 The Id AO in paragraph in 9.6 writes that the assessee has not filed balance sheet and capital accounts of individual lenders. At the same time, he has commented in para 9.1 that' the lenders have neither a healthy balance sheet nor a potent enough Capital account. Interestingly, the Id AO in paragraph 3 of his show cause notice dated 24. 03. 2014 has stated that ' it is however, noted from primary examination of the balance sheets and other details of the respective parties filed by the assessee - company during assessment. it appears that most of the concerns did not possess creditworthiness to advance any such quantum of monies to' the assessee". Thus, there is a contradiction on the part of the Id AO and it is also. not clear, which documents have been relied on by the Id AO.

10.2.3 The Id AO has not given specific findings from examination of any balance sheet/ Capital account. Once the said loan transaction appears in the balance sheet, it is presumed to have source as evident on liability side of the balance sheet, unless the same is refuted by specific adverse finding/ discrepancies. No such findings have been given by the Id A.O. The 'creditworthiness to make investment or to give loan cannot be judged by current year's income, but, by net worth . The investments or loans can be made out of accumulated savings, from borrowals or from realization of an earlier investment / asset, even though income for that years is NIL. In the instant case, the Id. AO himself has given a finding that many lenders have advanced the loans out of proceeds of sale of shares through M/s Motilal Oswal share Brokers. The immediate source of the said loans are apparent. Hence, there is no relevance of discussion on annual income of the lenders. The AR has submitted that 'even though the annual income were to be adopted, for the purpose of following the creditworthiness of the persons , the total incomes are not so weak as to fail to justify the amounts advanced'. The chart showing annual income , capital, amount lent is furnished by the AR and the same are examined.

10.2.3 Analysis of Bank accounts :

The AO states that several lenders sold their shares / investments at loss through Motilal Oswal Securities and advanced the same as loan to the appellant. The Id AO concludes that the pattern followed by

the lenders is abnormally identical as the lenders do not have any commercial connection among themselves. The Id AO further states that. the lenders who have received credit from other than Motilal Oswal Securities, it is seen that cheques are issued from the same cheque Book. On examination of records, I find that even these file lenders have received cheques from same cheque Book and the cheques are in the name of Motilal Oswal only. So, immediate source for the said loan in case of 40 lenders is the amount received through Motilal Oswal.

The AR submits as under on this issue ;

i) the AO has not questioned source of investment' of lenders in the shares which have been sold now.

ii) Motilal Oswal Securities is not a lender or creditor to the lenders. It is a leading share booking firm with online share broking portal all over India. Millions of people purchase and sell shares through it.

iii) the Id AO himself states that lenders are all known to each other by connection to either Shri Jeevan Kumar Dos or Shri Sandeep Kejriwal who are admitted associates. Further, as stated in para 13.9 of the assessment order 30 lenders are also share-holders in the appellant - company, This shows that the said lenders take common investment decisions.

On perusal of above narrated facts by Id AO, only inference that can be safely drawn is that, the above 40 lenders, have indulged in trading in shares and securities through one Sharebroking firm and that they have taken common decision to sell some of their shares and to lend the same to appellant. Given the, fact that all of them are either share- holders in appellant - company or family members or Group concerns. This decision does not strike as abnormal or glaring enough to draw any conclusion. Hence, the conclusion drawn by the AO is not justifiable.

10.3 Genuineness

As already discussed, the lenders are either share -holders of appellant - company or their family members or their business associates or Group concerns hence. the advancing of loan by them to appellant cannot be said to lack genuineness. Moreover, the said loans are interest bearing (@ 12 %) , which is more than bank rate. All the transactions are made through banking channels. It is also seen that. in nine cases, the loans have been repaid by the appellant in the same year. Repayment of loan in many cases is itself a evidence of the genuineness of loan, unless there is an adverse finding such as immediate cash withdrawal of the amount by lender to handover back the same to the appellant. Here, no such finding has been made. As already discussed in para 9.1 (supra) , the bank statements do not show high cash deposits

within 15 days immediately before or 15 days after the said loan transactions. Seven of the lenders are either sister concerns or family members of the Managing directors of the appellant company. No specific finding from examination of bank accounts or documents filed by the appellant / Jeevan kumar Das has been given in view of the above, the loans appear prima facie genuine, and the Ld AO has not given any specific or significant finding to refute same.

11 Loans not added

11.1 It is seen that, the Ld AO has not made addition of the following loans. However, there is no discussion on the same in the assessment order.

S r N o .	Name	PAN	Open ing Balan ce	Paid / Debi t	Recei ved / Credi t	Inter est credi ted (net of TDS)	Balan ce
45	Ajay Kejriwal (HUF)	AADHA2805E	-36671	0	105000	14213	-155884
46	Anup Kejriwal HUF	AADHA3790G	0	0	152000	14842	-16642
47	Hinddustan Industries (Prop Anil Kumar Kejriwal)	ADLPK4427F	-6536800	4300000	13600000	1286451	-17123251
49	Sanjay Kejriwal	AJLPK3896Q	-104911	0	643500	72069	-820480
50	Sanjay Kejriwal (HUF)	AAIHS0093K	0	0	201000	19329	-220329
51	Suman Kejriwal	AJKPK3901C	-177914	0	185000	37005	-399919
52	Sunita Kejriwal	AFSPK1883N	(164453)	0	1384000	68546	-1288093
56	Inderlal Kejriwal	ADPPK3266Q	0	0	900000		-900000

11.2 There is no discussion on why these loans are treated as

'explained' whereas the other loans are treated as "unexplained loans'. On examination of records, it is also seen that the facts and circumstances are identical for these loans too. Some type of documents were produced before the Id AO as well as the officer at Ranchi, doing inquiry. Since, there is no distinguishing feature, pointed out by the Id AO, explanation and documents furnished in these cases carry the same degree of credibility as in the case of other lenders. It is also not the case of the Id AO that these loans were not added, because lenders are family members / group concerns of the appellant, because loans from other family members and Group concerns (given in table below) have been added u/s 68 of the Act, b I the Id AO. When the same documents have been accepted by the Id AO, as proof enough for few of the loans, then rejection of said documents for others, is not explained at all, in the assessment order. This inconsistency to views taken by the Ld. A.O.

List of Relatives of Kejriwal Group whose loans has been added

Name	Pan	Addition Amount
Sumitra Devi,	AGQPD0632B	730367
Kejriwal Dyg. & Prg Mills.Pvt. Ltd.	AACCT1359G	16,80,000
Kejriwal Integrated Textile Park .Pvt Ltd.	AADCK3490J	4,89,89,817
Sandeep Kejriwal,,	ADHPK3865H	168809
Vinod Devi Kejriwal,,	ADBPK0510F	386811
Vishnu Kejriwal (Huf),,	AACHV8541D	132636
Vishnu Kejriwal,,	AJOPK5598A	1191240

12. LEGAL POSITION

12.1 The learned AR has cited & relied upon the following decisions to say that once the assessee files basic details' like, confirmation, ITR copy, bank account. etc, then the onus is discharged by appellant.

Sr No	Case laws relied upon by the appellant	Citation number
1	Orissa Corporation P Ltd.	1986 159 ITR 789 (SC)
2	Aaravali Trading Co	(2008) 220 LTR 622 (Raj)
3	Ranchhod J Nakhwa	(2012) 21 taxmann. 159(Gui)
4	Rohini Builders	(2003)_127Taxmann. 523 (Guj)
5	Hingora Industries Ltd.	ITA N.2109/Ahd 2008
6	Apex Thearm Packaging P Ltd.	(2014)42Taxman.Com473(Guj)
7	Dhrmdev Finance P Ltd.	(2014) 43Taxmann. Com 395 (Guj)

12.2 On perusal of all above case laws, it is seen that the ratio upheld is that ;

i) when full particulars inclusive of name, address, confirmation. ITR, bank account, balance sheet in respect of all creditors / lenders are furnished and when it had been found that loan accounts were duly reflected in balance sheet and loans were furnished through cheques, the AO is not justified in making additions.

ii) even when the bank account of the lenders show cash deposits , it cannot be automatically presumed that the cash belongs to appellant and the AO is free to examine said cash deposits in the assessments of the said lenders (in instant case no substantial cash deposits have been found).

iii) Once the above details are filed, it is for the AO to do enquiry and give findings to refute the documents with cogent reasons.

(iv) The Hon'ble jurisdictional High Court of Gujarat, in Sr No.3 above, has held as under:-

" Once the assessee has established that he has taken money by way of account payee cheques from the lenders who are all income tax assessees whose PAN have been disclosed, the initial burden under section 68 was discharged. It further appears that the assessee had also produced confirmation letters given by those lenders. [Para 15]

Once the Assessing Officer gets hold of the PAN of the lenders it was his duty to ascertain from the Assessing Officer of those lenders, whether in their respective returns they had shown existence of such amount of money and had further shown that those amount of money had been lent to the assessee If before verifying of such fact from the Assessing Officer of the lenders of the assessee, the Assessing Officer decides to examine the lenders and asks the assessee to further prove the genuineness and creditworthiness of the transaction, the Assessing Officer does not follow the principle laid down under section 68. [Para 16] "

12.3 The facts of the appellant 's case are squarely covered by the decisions above, Since the said decisions are of the Hon'ble Supreme Court and Hon'ble High Court of Gujarat, they are binding. Respectfully following the above binding decisions, I hereby delete the addition of Rs.12,89,25,938/- made u/s 68 of the Act in respect of 'unexplained cash credits'.

10. Thus, as per above findings of the Ld. CIT (A), the CIT (A) has examined the each lender and given his finding in the chart as Annexure -A attached with appellate order. The CIT (A) was of the view that once the assessee has established that he has taken money

by way of account payee cheques from the lenders who are all income tax assessees whose PAN have been disclosed, the initial burden under section 68 was discharged. The CIT (A) further observed that the assessee had also produced confirmation letters given by those lenders, as mentioned in Para 15 of his order and full particulars of name and address, PAN, confirmation, ITR acknowledgement, bank account, and loans are by cheques and same have been reflected in books of accounts, then the AO has no jurisdiction to make addition under section 68 of the Act. The ld. CIT (A) has also supported his view by placing reliance on the decision of Hon`ble Jurisdictional High Court of Gujarat and Hon`ble Supreme Court as mentioned in his findings reproduced above and accordingly, deleted the addition so made by the AO.

11. Being aggrieved, the Revenue has filed this appeal before the Tribunal. The Ld. CIT (DR) referring para No. 2 of assessment order submitted that the assessee is engaged in the business of manufacturing texturized yarn during the year under consideration and shown Gross Profit Rate of 10.85% turnover of Rs. 236,87,71,991 against Gross Profit Rate of 9.05% on turnover of Rs. 191,83,08,939 shown in the immediate preceding year. The Ld. CIT (DR) submitted that the AO has observed that the assessee has taken unsecured loan of Rs. 14,76,38,600 from 56 persons. Out of these, 54 persons are

from Ranchi, Jharkhand and remaining two namely Kejriwal Dyeing & Printing Mills Pvt. Ltd. and Kejriwal Integrated Textile Park Pvt. Ltd. are the sister concern of the assessee from Surat. The Ld. CIT (DR) submitted that the AO had issued commission under section 131 (1) (d) of the Act to DCIT- TDS Ranchi to make enquiries with regard unexplained creditors shown by the assessee. The inquiry report received by the AO were made part of assessment order as Exhibit - Exhibit-I and II. The AO discussed the finding of enquiry report in para No. 8.2 to 87 and summarized the conclusion in chart form in para 8.8 of his order. The Ld. CIT (DR) contended that the pattern of deposits and issuance of cheque established that not only the alleged lenders are not have any creditworthiness and mere accommodation entries through their bank account. The Ld. CIT (DR) contended that that mere filing of return of income of such lenders does not justify the genuineness of transaction. There is no justifiable commercial connection as to why these companies would investment with the assessee company. The ld. CIT vehemently supported the findings recorded by the AO and contended that the Ld. CIT (A) was not justified in deleting the addition made under section 68 of the Act by the AO.

12. *Au contraire*, the learned counsel for the assessee referred para No. 8.2 (vii) at Page No. 10 of assessment order and submitted that

the AO has observed that the ACIT-TDS, Ranchi has categorically mentioned as finding of fact that all of the alleged lenders are family members or associates of either Shri N K Kejriwal or Shri Jeevan Kumar Das, who are the promoters of the assessee company. In para 8.2 (vi) the AO has stated that these two person have clearly stated before the AO that persons are genuine and can provide document in this regard. The learned counsel for the assessee further referred Page No. 22 at para No.11.1 of assessment order and submitted that the assessee company has duly provided copy of bank statement of each person, which has been prepared and discussed by the AO in table drawn as para No.11.1 of assessment order. The learned Counsel took us through this table and referred item no. 37 in the case of Ruhi Enterprise and submitted that loan of Rs.73,00,000 has been taken from CCA bank account. Similarly, loan of Rs.2,70,00,000 in the case of M/s. Shivam Enterprise (item No.38), and loan of Rs. 75,00,000 from M/s. Shree Ganesh Enterprise (item No.39) have been taken from CCA bank account. Hence, these loans are genuine and same have been taken through bank by way of overdraft from CCA Account. Similarly loan of Rs.15 00,000 from M/s. Kejriwal Dyeing and Printing Mills Pvt. Ltd. taken in cash has been accepted by the same AO in assessment order passed under section 143 (3) of the Act on same date, in the case of said concern and no adverse

inference has been drawn. Therefore, the law does not allow the AO to consider the said loan as non-genuine transaction, when he himself has accepted the same in assessment in respect of said concern. With reference to AO`s observation`s in para 12.2 at Page No. 28 of assessment order that why these person having weak financial credential would advance unsecured loans the assessee company when return on such loans does not justify the associated risk. The learned counsel for the assessee pointed out that the interest paid to these entities are @ 12% , hence, the observation of the AO are mere suspicion notice conjecture. With regard to AO`s observation at para No. 13.9 in the assessment order, several alleged lenders are share applicant in earlier years, the learned counsel for the assessee submitted that the loan has been given from CCA account and from Kejriwal Dyeing and Printing Mills Pvt. Ltd. whose financial have been accepted by the same AO in the assessment order made under section 143 (3) of the Act of even date.

13. The learned counsel for the assessee referred point no. 9 at Page No. 3 of appellate order wherein Ld. CIT (A) has mentioned the claim of the assessee that it is surprising that cash deposits of Rs. 15, 00,000/- in the case of M/s. Kejriwal Dyeing & Printing Mills Pvt. Ltd. has been considered as unexplained in the case. Whereas the Ld. AO himself has scrutinized the said assessee u/s. 143(3) and have

verified the books of accounts of M/s. Kejriwal Dyeing & Printing Mills Pvt. Ltd. This shows the predetermination of the state of mind of the Ld.AO which superseded the facts available on the record with the AO and led the AO to make an unjustified and unlawful decision. The learned counsel for the assessee referred para No. 7.1 of CIT (A) order and submitted that the CIT (A) in the presence of the AO, the ACIT, Circle- 1(1)(2) Surat and the A.R. of the assessee has carried out joint examination of records and recorded a finding in his order sheet dated 20.01.2016 and found that the assessment record were having list of unsecured loan creditors along with confirmation, bank account and ITR's copies address proof of new creditors of 8 persons and the commission issued by the AO to DCIT Circle-1 Ranchi and ACIT-TDS, Circle, Ranchi. Further, the ACIT was requested to furnish attested copies of various documents as mentioned in the order sheet and mentioned in appellate order. However, the ld. CIT (A) observed in para No. 7.2 of his order that the AO has not made any entry for receipts of details of lenders nor has signed any office copy of letter of the appellant. However, from the above it is clear that the Ld.AO had all details of the lenders. Moreover, the Ld.AO in the assessment order refers to bank account, annual income and balance sheet of the lenders. In view of this, the appellant has filed the basic details. The learned counsel referred the Annexure-A of the appellate order

of CIT (A) and submitted that the Id. CIT (A) has verified the factual details and confirmation bank account etc. income-tax returns, of each lenders and has given his findings and considering the enquiry report of the AO, in respect of each creditors and arrived at a finding that cash credits are genuine loan transaction. The CIT (A) observed that it is seen from column no. 4 of Annexure-1 of assessment order and enquiry report (Exhibits 1&2 to assessment order) from which it was evident that only 8 persons (5 as per DCIT Circle -1 Ranchi and 3 as per ACIT(TDS) Ranchi were not found at the stated address. The show-cause notice of the AO dated 24.03.2014 also acknowledged that only 8 person on the given address were not found. There is no discussion in the assessment order as to how the AO arrived at the conclusion that 42 lenders were **neither found nor produced by the assessee**. The conclusion of the AO are contradictory to enquiry reports. It is also seen from the enquiry reports that lenders were not asked to be produced. Even joint examination made of assessment record no such summons or letters were found. The enquiry report forwarded by the DCIT Circle-1, Ranchi mentions that Shri J. K. Das was asked to produce copies of ITR, bank details and computation of income for last 3 assessment years and said Shri J.K. Das appeared and produced the said documents in the case of all lenders except M/s. Jyoti Vikas Industries. The enquiry reports encloses the said

documents but there is no finding given from the examination of said documents. The learned counsel for the assessee referred para No. 9 of appellate order and submitted that CIT (A) has observed that the enquiry report of ACIT (TDS) Ranchi revealed that M/s. Gyan Enterprise was having turnover of Rs. 3.27 crores and who have lent a sum of Rs. 1.77 crores. This loan was repaid by the Appellant during the year itself. M/s. Ruhi Enterprise had turnover of Rs. 2.88 crores, it has lent Rs. 75 lakhs, and the Appellant has repaid the same in the same year. Similarly, M/s. Ganesh Enterprise who lent Rs. 73 lakhs, which has been repaid by the Appellant in the same year. The ACIT (TDS) Ranchi or the AO has not given any adverse finding in respect of creditworthiness or genuineness of transaction in respect of these concerns. The learned counsel for the assessee further submitted that the lenders were not asked to be produced by the AO before him. The learned counsel for the assessee referred para No. 9.3.1 to 9.3.2 of appellate order and submitted that Ld. CIT (A) has observed that there is contradictory reports of the AO. It was further observed that the assessee had filed all address of the creditors but due to time gap, it is possible that at the time of enquiry they will have shifted to new address. However, copies of income-tax returns and copy of new address was filed before CIT (A) in respect of 8 person who were not found at the stated address as per enquiry reports. The

learned counsel for the assessee referred para No. 10 of appellate order wherein the CIT (A) has examined and discussed the issue of identity, creditworthiness and analysis of bank account and genuineness of transaction. It was submitted that that as per para No. 11 of order of CIT (A). The AO has not made addition in respect of person mentioned in table at para No. 11.1 in respect of Serial No.45, 46, 47,49,50,51 and 52 without any discussion in the assessment order. There is no discussion about these loans as to why these were treated as explained, whereas fact and circumstances of other creditors are also same.

14. The learned counsel vehemently supported the findings of Ld. CIT (A) and placed reliance in the case of CIT v. Ranchhod Jivabhai Nakhava [2012] 21 taxmann.com 159 (Gujarat)/[2012] 81 CCH 193 Guj-HC of Hon'ble Gujarat High Court wherein it was held that Where lenders of assessee are income-tax assesseees whose PAN have been disclosed, Assessing Officer cannot ask assessee to further prove genuineness of transactions without first verifying such fact from income-tax returns of lenders. The learned counsel for the assessee further referred and relied in the case of DCIT v. Rohini Builders [2002] 256 ITR 360 (Guj.)/ [2003] 127 Taxman 523 (Guj) of Hon'ble Gujarat High Court which laid down that when the assessee has primarily discharged the initial onus laid on him in terms of section

68 by providing details to establish genuineness of transaction, identity and creditworthiness of depositors then the assessee is not expected to prove genuineness of cash deposited in bank account of those creditors because under the law the assessee can be asked to prove the source of credits in his books of accounts but not the source of source.

15. The learned counsel relied in the case of in the case of CIT v. Apex Therm Packaging (P.) Ltd. [2014] 42 taxmann.com 473 (Gujarat) wherein it was held that where name, address , PAN copy of IT Returns, balance sheet , Profit & Loss Account of all creditors / lenders as well as their confirmation has been furnished , Assessing Officer could not make addition on account of unsecured loan and interest thereon.

16. The learned counsel relied in the case of CIT v. Orissa Corporation (P) Ltd. [1986] 159 ITR 78 (SC)/ 25 Taxman 80(SC), the Hon`ble Supreme Court observed that when the assessee furnishes names and addresses of the alleged creditors and the GIR Numbers, the burden shifts to the Department to establish the revenue's case and in order to sustain the addition the revenue has to pursue the enquiry and to establish the lack of creditworthiness and mere non-compliance of summons issued by the Assessing Officer under section

131 by the alleged creditors will not be sufficient to draw an adverse inference against the assessee.

17. The learned counsel for the assessee submitted that many lenders, the loan were repaid in same year and thereafter, therefore, it was submitted that where the loan were repaid in immediate next financial year and Department has accepted the repayment of loans without probing into it. Then no addition is required to be made in respect of said lenders. In support of this claim , the learned counsel for the assessee has relied in the case of CIT v. Ayachi Chandrasekhar Narsangji [2014] 42 taxmann.com 251 (Gujarat) wherein it was held that where Department had accepted repayment of loan in subsequent year, no addition was to be made in current year on account of cash credit.

18. We have heard the rival submissions and perused the relevant material on record. The perusal of chart as given in assessment order shows that the AO observed that identity was established in most of cases, but he was of the opinion that creditworthiness and genuineness of transaction is not established. Therefore, the AO has made impugned additions. However, during the course of appellate proceedings, the Id. CIT (A) has conducted joint examination of assessment record with the AO and with the Ld. AR of the assessee with reference to and enquiry reports obtained from DCIT Circle -1,

Ranchi and ACIT (TDS)-Ranchi. The outcome of joint examination with the ACIT Circle 1(1) (2) Surat has been duly discussed by the Ld. CIT (A) in para No. 7 to 10 of his appellate order. These findings as given by the Ld. CIT (A) are duly reproduced in para No. 9 above in this order. We find that the AO has observed that the ACIT-TDS, Ranchi has categorically mentioned the finding of fact that all the alleged lenders are family members or associates of either Shri N. K. Kejriwal or Shri Jeevan Kumar Das, who are the promoters of the assessee company. In para 8.2 (vi) the AO has stated that these two person have clearly stated before the AO that persons are genuine and can provide document in this regard. The learned counsel for the assessee further referred Page No. 22 at para No.11.1 of assessment order and submitted that the assessee company has duly provided copy of bank statement of each person, which has been prepared and discussed by the AO in table drawn as para No.11.1 of assessment order. We find that item no. 37 of the table in the case of Ruhi Enterprise, loan of Rs.73,00,000 has been taken from CCA bank account. Similarly, loan of Rs.2,70,00,000 in the case of M/s. Shivam Enterprise (item No.38), and loan of Rs. 75,00,000 from M/s. Shree Ganesh Enterprise (item No.39) have been taken from CCA bank account. Hence, these loan are cannot be treated as non-genuine as some have been taken through bank by way of overdraft from CCA

Account. Similarly, loan of Rs.15 00,000 from M/s. Kejriwal Dyeing and Printing Mills Pvt. Ltd. taken in cash has been accepted by the same AO in assessment order passed under section 143 (3) of the Act on same date, in the case of said concern and no adverse inference has been drawn. Therefore, the law does not allow the AO to consider the said loan as non-genuine transaction, when he himself has accepted the same in assessment in respect of said concern. With reference to AO`s observation`s in para 12.2 at Page No. 28 of assessment order that why these person having weak financial credential would advance unsecured loans the assessee company when return on such loans does not justify the associated risk. The learned counsel for the assessee pointed out that the interest paid to these entities are @ 12% , hence, the observation of the AO are mere suspicion and conjecture only. We observe that Ld. CIT (A) has given a categorical findings column no. 4 of Annexure-1 of assessment order and enquiry report (Exhibits 1&2 to assessment order) revealed that only 8 persons (5 as per DCIT Circle -1 Ranchi and 3 as per ACIT(TDS) Ranchi were not found at the stated address. The show-cause notice of the AO dated 24.03.2014 also acknowledged that only 8 person on the given address were not found. We observe that Ld. CIT (A) noted that there is no discussion in the assessment order as to how the AO arrived at the conclusion that 42 lenders were neither found or

produced by the assessee. Therefore, the conclusion of the AO are contradictory to enquiry reports. It is also seen from the enquiry reports that lenders were not asked to be produced. Even joint examination of assessment record, does not shows that such summons or letters were found to have been issued. The enquiry report forwarded by the DCIT Circle-1, Ranchi mentions that Shri J. K. Das was asked to produce copies of ITR, bank details and computation of income for last 3 assessment years and said Shri J.K. Das appeared and produced the said documents in the case of all lenders except M/s. Jyoti Vikas Industries. The enquiry reports encloses with the said documents, but there is no finding given from the examination of said documents. We find that that CIT (A) has observed that the enquiry report of ACIT (TDS) Ranchi revealed that M/s. Gyan Enterprise was having turnover of Rs. 3.27 crores and who have lent a sum of Rs. 1.77 crores. This loan was repaid by the assessee company during the year itself. M/s. Ruhi Enterprise has turnover of Rs. 2.88 crores, it has lent Rs. 75 lakhs, and the assessee has repaid the same in the same year. Similarly, M/s. Ganesh Enterprise who lent Rs. 73 lakhs, which has been repaid by the assessee company in the same year. Therefore, where loan amount is repaid in same year or in subsequent assessment year, no addition of the same could be made as held by the Hon'ble Gujarat High Court

in the case of CIT v. Ayachi Chandrasekhar Narsangji [2014] 42 taxmann.com 251 (Gujarat) wherein it was held that where Department had accepted repayment of loan in subsequent year, no addition was to be made in current year on account of cash credit. The ACIT (TDS) Ranchi or the AO has not given any adverse finding in respect of creditworthiness or genuineness of transaction in respect of these concerns. The learned counsel for the assessee further submitted that the lenders were not asked to be produced by the AO before him. We note that learned counsel for the assessee referred para No. 9.3.1 to 9.3.2 of appellate order and submitted that Ld. CIT (A) has observed that there is contradictory reports of the AO. It was further observed that the assessee had filed all address of the creditors but due to time gap, it is possible that at the time of enquiry they will have shifted to new address. However, copies of income-tax returns and copy of new address was filed before CIT (A) in respect of eight person who were not found at the stated address as per enquiry reports. In view of these facts and circumstances, we are of the considered opinion that Ld. CIT (A) has rightly deleted the addition made under section 68 of the Act by the AO.

19. We further observed that the ld. CIT (A) has examined each and every creditors/ lenders and given his factual findings of enquiry

report as well as facts of each lenders in column 5 of Annexure-A

forming part of his appellate order which is reproduced as under:

Sr. No.	Name of Lender	Remarks	Statement made by Ld AO	What the inquiry report reveals
1	Akshay Singh HUF	Rs.6,88,73R (Loan-6,27,300 + Interest-61,438)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. (Several features of Accommodation entry providers detected from the bank account statement.) (Para 94 of AO).	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
2	Akshay Singh	Rs.1,51,475 (Loan-1,38,000 + Interest-13,475)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
3	Asim Ashraf	Rs.1,87,141 (Loan-1,71,000 + Interest-16,141)	Employed in Saudi Arabia but still assessee claims to have obtained his confirmation, which cannot be accepted. Assessee never intimated the department regarding such employment in Saudi Arabia. Further, creditworthiness & genuineness of transactions are not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
4	Ashok Sarkar	Rs.1,27,326 (Loan-1,16,000 + Interest-11,326)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
5	Binod Jain	Rs.1,08,521 (Loan-1,00,000 + Interest-8,521)	The person has neither been found on inquiry nor produced Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
6	Chandan Sarawgi	Rs.1,32,922 (Loan-1,21,000 + Interest-11,922)	The person has neither been found on inquiry nor produced Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
7	Deepmala	Rs.5,10,817 (Loan-	The person neither has been found on inquiry nor produced Further,	Inquiry report is silent about this person. Copies of ITR,

		4,65,000 + Interest- 45,817)	creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	computation and copy of bank accounts given before the inquiry officer, at Ranchi.
8	Gyan Enterprises	Rs.5,10,817 (Loan- 4,65,000 + Interest- 45,817)	This is a proprietorship concern of Shri Gayanendra Kumar Singh, who has neither been found nor produced by the assessee on commission inquiry. First the assessee provided wrong name as Gyan Singh. However, inquiry revealed the correct name. It is seen from the bank account statement that even though the fund transfer is out of overdraft, the person has a tendency of returning the debt by frequent and substantial cash deposits. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits. Creditworthiness and genuineness not proved.	All these concerns are the Proprietorship concern of Shri Gyananendra Kumar Singh and not Gyan Singh as mentioned in the letter. The office address of the Concerns is Neelkunj Sukhdev nagar, Ratu Road, Ranchi and the residential address of the prop is near Akhi memorial School, Sukhdev Nagar Ranchi. The PAN of Gyandra Kumar is AGJPS4948L.
9	Irshad Khan	Rs.3,72,202 (Loan- 3,39,000 + Interest- 33,202)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Gyan Enterprise 3,72,86,490 Ruhi Industries 2,88,55,785/-
10	Ishrat Jahan	Rs.4,00,199 (Loan -3,64 ,500 + Interest- 35,699)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	At the first instance the lender was not found at the given address. However, fresh address of the lender was provided. NO adverse inference has been drawn in the report.
11	J K Das HUF	Rs.1,53,794 (Loan- 1,40,000 + Interest-13, 794)	Identity proved. However, bank account statement reflects the same typical characteristics as of entry providing entities. Genuineness of transactions also not proved.	J K Das (HUF) is the same person with the name Jeevan Kr Das. He is an associate of Sri N K Kejriwal. He has produced ITR copies, bank accounts, etc of all the lenders.
12	Jeevan Kumar Das	Rs.1,64,780 (Loan 1,50 ,000 + Interest- 14,780)	Identity proved. However, bank account statement reflects the same typical characteristics as of entry providing entities. Genuineness of transactions also not proved.	J K Das (HUF) is the same person with the name Jeevan Kr Das. He is an associate of Sri N K Kejriwal. He has produced ITR copies, bank accounts, etc of all the lenders.
13	Juhi Kumari	Rs.2,19,706 (Loan- 2,00,000 + Interest- 19,706)	Daughter of Shri Jeevan Kumar Das. Identity proved but creditworthiness not proved. She is found to be receiving entries from none other than some of the entry providers mentioned in the current list itself. Claims to be earning tuition income, but no evidence submitted.	She is daughter of Jeevan Kumar Das. ITR copy and bank account copy, ITR produced
14	Jyoti Vikash Industries	Rs.50,84,329 (Loan- 50,00,000 + Interest-84 ,329)	Assessee neither found nor produced. No confirmations filed. Not even proper documentary evidences filed. Case fails on all the three parameters.	He (KJD) could not produce the document of Jyoti Vikash Industries (PAN- ACWPD0779M)

				<p>PAN belongs to Shri Kamal Kr Dhanuka and his bank account has been attached by the CBI in coal scam case.</p> <p>The PAN belongs to Kamla Kr Dhanuka. Moreover, the office of M/s Jyoti Vikash Industries was not found on the given address.</p>
15	Kiran Singh	Rs.2,52,662 (Loan-2,30,000 + Interest-22,662)	Sister of Shri Jeevan Kumar Das. Identity proved but creditworthiness not proved. She is found to be receiving entries from none other than some of the entry providers mentioned in the current list itself. Claim to be earning commission from Mr Rajesh Kumar Prahladka but no evidence submitted.	She is sister of Jeevan Kr Das. ITR copy and copy of bank accounts produced.
16	Krishna Singh	Rs.1,31,824 (Loan-1,20,000 + Interest-11,824)	Son of Shri Jeevan Kumar Das. However, bank accounts statement reflects the same typical characteristics as of entry providing entities. Genuineness of transactions also not proved.	He is son of Jeevan Kr Das. ITR copy and bank accounts copy produced.
17	Mangal Singh HUF	Rs.3,60,673 (Loan-3,28,500 + Interest-32,173)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	He is assistant of Jeevan Kr Das ITR copy bank account produced.
18	Mangal Singh	Rs.3,23,892 (Loan-2,95,000 + Interest-28,892)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	He is the same person with the name Mangal Kr Singh (HUF) ITR copy and bank accounts copy produced.
19	Manju Devi	Rs.2,19,706 (Loan-2,00,000 + Interest-19,706)	Wife of Shri Jeevan Kumar Das. However, bank accounts statement reflects the same typical characteristics as of entry providing entities. Genuineness of transaction also not proved.	She is wife of Jeevan Kr Das ITR copy and bank accounts copy produced.
20	Manju Hemani	Rs.1,36,108 (Loan-1,24,000 + Interest-12,108)	The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Addressee not found at the given address. ITR copy and bank accounts copy produced by Jeevandas.
21	Mohd. Qasim	Rs.1,42,271 (Loan-1,30,000 + Interest-12,271)	Identity proved. Creditworthiness not proved, nor is the genuineness of transaction. Several features of Accommodation entry providers detected from the bank account statement.	His PAN is AAAPQ9633 and is resident of east rahmat colony, doranda, Ranchi. The house in which he is leaving is his own property. At present his annual income is approximately Rs.2 Lac. There is no other source of income. Earlier, he retired from swarnrekha enterprises. Hatia, Ranchi and presently

				practicing in sales tax, income tax matters.
22	Mona Sarkar	Rs.2,92,681 (Loan-2,67,000 + Interest-25,681)	The person was not traceable on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
23	Mousami Sinha	Rs.4,06,128 (Loan-3,70,000 + Interest-36,128)	The person was not traceable on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	The assessee is not traceable on the given address, i.e. jorar basti, Namkum, Ranchi. But, ITR copy and bank account copy are filed by Jeevan Kr Das.
24	Munna Singh HUF	Rs.1,71,232 (Loan-1,56,000 + Interest-15,232)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	The Karta does not live at the given address. But, ITR copy, and copy of bank account produced by J Das before the DCIT Circle-1, Ranchi.
25	Munna Singh	Rs.2,29,407 (Loan-2,09,000 + Interest-20,407)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Same as above.
26	Nitya Nand Singh HUF	Rs.2,70,042 (Loan-1,95,000 + Interest-75,042)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
27	Nitya Nand Singh	Rs.1,51,475 (Loan-1,38,000 + Interest-13,475)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
28	Poonam Devi	Rs.2,09,650 (Loan-1,91,000 + Interest-18,650)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further,	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.

			<i>creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	
29	Priya Thathera	Rs.1,65,744 (Loan-1,51,000 + Interest-14,744)	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
30	Pushpa Devi Saraf	Rs.1,41,616 (Loan-1,30,000 + Interest-11,616)	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement. Further, it is also seen that on one hand she has shown her status as house wife in the bank passbook and on the other she is showing income from business & profession. These contradictions have not been reconciled by the assessee.</i>	<i>Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
31	R K Sinha HUF	Rs.1,44,889 (Loan-1,32,000 + Interest-12,889)	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
32	Rajkumari Sinha	Rs.1,67,939 (Loan-1,53,000 + Interest-14,939)	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
33	Rajesh Balmiki HUF	Rs.3,45,631 (Loan-3,14,800 + Interest-30,831)	<i>The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>

34	Rajesh Balmiki	Rs.1,71,371 (Loan-1,56,000 + Interest-15,371)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
35	Ramesh Kumar Sinha	Rs.2,20,626 (Loan-2,01,000 + Interest-19,626)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
36	Roshantal HUF	Rs.6,15,771 (Loan-5,60,000 + Interest-55,177)	The person was not traceable on inquiry nor produced by the assessee. It was rather found that there is an auto-rickshaw driver in the locality of Shri Jeevan Kumar Das. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.	Inquiry report is silent about this person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.
37	Ruhi Enterprise	Rs.75,03,040 (Loan-73,00,000 + Interest-2,03,040)	This is a proprietorship concern of Shri Gayanendra Kumar Singh, who has neither been found nor produced by the assessee on commission inquiry. First the assessee provided wrong name as Gyan Singh. However, inquiry revealed the correct name. It is seen from the bank account statement that even though the fund transfer is out of over draft, the person has a tendency of returning the debt by frequent and substantial cash deposits. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits. Creditworthiness and genuineness not proved.	All these concerns are the Proprietorship concern of Shri Gyananendra Kumar Singh and not Gyan Singh as mentioned in the letter. The office address of the Concerns is Neelkunj Sukhdev nagar, Ratu Road, Ranchi and the residential address of the prop is near Akhi memorial School, Sukhdev Nagar Ranchi. The PAN of Gyandra Kumar is AGJPS4948L. The turnover of these concerns are as under: Gyan Enterprise: 3,72,86,490/- Ruhi Industries : 2,88,55,785/-
38	Shivam Enterprises	Rs.2,80,83,183 (Loan-2,70,00,000 + Interest-10,81,183)	Identity not proved. No confirmations filed. Genuineness of the transaction not proved. Creditworthiness cannot be established. On the contrary, it is seen that there are cash deposits of nearly Rs.3,00,00,000/- in the same bank account. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits.	The proprietor of this concern is Shri Adiya Dhanuka, S/s. Late Raj Kumar Dhanuka. The office address of this concern is 502, Panchwati Plaza, Kutchery Road, Ranchi. The PAN of the proprietor is AKPPD9719E. The PAN of the proprietor is AKPPD9719E. The turnover of this concern as on 31-03-2010 is approximately 20-22 crore.

39	Shree Ganesh Enterprises	Rs.76,47,946 (Loan-75,00,000 + Interest-1,47,946)	<i>This is a proprietorship concern of Shri Gayanendra Kumar Singh, who has neither been found nor produced by the assessee on commission inquiry. First the assessee provided wrong name as Gyan Singh. However, inquiry revealed the correct name. It is seen from the bank account statement that even though the fund transfer is out of over draft, the person has a tendency of returning the debt by frequent and substantial cash deposits. Despite a specific request, the assessee failed to produce the cash book etc of the alleged lenders to substantiate the source of such cash deposits. Creditworthiness and genuineness not proved.</i>	<i>Shri Ganesh Enterprises is engaged in the business of crusher at Barajamda.</i>
40	Subodh Sinha HUF	Rs.1,59,159 (Loan-1,45,000 + Interest-14,159)	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report silent about his person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
41	Subodh Sinha	Rs.2,91,806 (Loan-1,17,000 + Interest-1,74,806)	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report silent about his person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>
42	Sumitra Devi	Rs.7,30,367 (Loan-6,65,000 + Interest-65,367)	<i>The person has neither been found on inquiry nor produced by the assessee. Further, creditworthiness & genuineness of transactions are also not proved. Several features of Accommodation entry providers detected from the bank account statement.</i>	<i>Inquiry report silent about his person. Copies of ITR, computation and copy of bank accounts given before the inquiry officer, at Ranchi.</i>

20. In the light of above findings of Id CIT (A) , we are of the considered opinion the Id. CIT (A) has examined the each lender and arrived at finding that loan creditors are genuine hence, no addition could be made under section 68 of the Act. Therefore, we are in the agreement with the Id. CIT (A). We further notice that the AO

observed para No. 13.9 in the assessment order, several alleged lenders are share applicant in earlier years. However, the learned counsel for the assessee submitted that the loan has been given from CCA account and from Kejriwal Dyeing and Printing Mills Pvt. Ltd. whose financial have been accepted by the same AO in the assessment order made under section 143 (3) of the Act of even date. Further Page No. 3 of appellate order mentioned that the claim of the assessee that it is surprising that cash deposits of Rs. 15,00,000/- in the case of M/s. Kejriwal Dyeing & Printing Mills Pvt. Ltd. has been considered as unexplained in the case. Whereas the ld. AO himself has scrutinized the said assessee u/s. 143(3) and have verified the books of accounts of M/s. Kejriwal Dyeing & Printing Mills Pvt. Ltd. This shows the predetermination of the state of mind of the Ld.AO which superseded the facts available on the record with the AO and the Ld.AO to make an unjustified and unlawful decision. The ACIT (TDS) Ranchi or the AO has not given any adverse finding in respect of creditworthiness or genuineness of transaction in respect of these lenders are concerned. The learned counsel for the assessee further submitted that the lenders were not asked to be produced by the AO before him. The learned counsel for the assessee referred para No. 9.3.1 to 9.3.2 of appellate order and submitted that Ld. CIT (A) has observed that there is contradictory reports of the AO. It was further

observed that the assessee had filed all address of the creditors but due to time gap, it is possible that at the time of enquiry they will have shifted to new address. However, copies of income-tax returns and copy of new address was filed before CIT (A) in respect of 8 person who were not found at the stated address as per enquiry reports. The learned counsel for the assessee referred para No. 10 of appellate order wherein the CIT (A) has examined and discussed h issue of identity, creditworthiness and analysis of bank account and genuineness of transaction. It was submitted that that as per para No. 11 of CIT (A) order the AO has not made addition in respect of person mentioned in table at para No. 11.1 observed that the AO has not made addition in respect of Serial No. 45,46,47, 49,50,51 and 52 without any discussion in the assessment order. There is no discussion authority these loans were treated as explained, whereas fact and circumstances of other creditors are same.

21. The learned counsel relied in the case of CIT v. Ranchhod Jivabhai Nakhava [2012] 21 taxmann.com 159 (Gujarat)/[2012] 81 CCH 193 Guj-HC held that Where lenders of assessee are income-tax assesseees whose PAN have been disclosed, Assessing Officer cannot ask the assessee to further prove genuineness of transactions without first verifying such fact from income-tax returns of lenders. The learned counsel for the assessee further referred and relied in the

case of DCIT v. Rohini Builders [2002] 256 ITR 360 (Guj.) / [2003] 127 Taxman 523 (Guj) of Hon'ble Gujarat High Court which laid down that when the assessee has primarily discharged the initial onus laid on him in terms of section 68 by providing details to establish genuineness of transaction, identity and creditworthiness of depositors then the assessee is not expected to prove genuineness of cash deposited in bank account of those creditors because under the law the assessee can be asked to prove the source of credits in his books of accounts but not the source of source.

22. The learned counsel relied in the case of in the case of CIT v. Apex Therm Packaging (P.) Ltd. [2014] 42 taxmann.com 473 (Gujarat) wherein it was held that where name, address, PAN copy of IT Returns, balance sheet, Profit & Loss Account of all creditors / lenders as well as their confirmation has been furnished, Assessing Officer could not make addition on account of unsecured loan and interest thereon.

23. The learned counsel relied in the case of CIT v. Orissa Corporation (P) Ltd. [1986] 159 ITR 78 (SC) / 25 Taxman 80(SC), the Hon'ble Supreme Court observed that when the assessee furnishes names and addresses of the alleged creditors and the GIR Numbers, the burden shifts to the Department to establish the revenue's case and in order to sustain the addition the revenue has to pursue the

enquiry and to establish the lack of creditworthiness and mere non-compliance of summons issued by the Assessing Officer under section 131 by the alleged creditors will not be sufficient to draw an adverse inference against the assessee.

24. In view of above, we are of the considered view that the assessee has discharged the initial onus which lay on him in the terms of section 68 of the Act by providing identity of creditors and same has not been doubted by the AO also. Further, the assessee has proved the creditworthiness by way of filing ITR returns, bank account, balance sheet, confirmation of the creditors. The assessee is not expected to prove the genuineness of cash deposits in bank accounts of those e creditors because under the law the assessee can be asked to prove source of credit but not the source of the source as held by the Hon`ble Bombay High Court in the case of Orient Trading Co. v. CIT [1963] 49 ITR 723 (Bombay). Therefore, in such a situation and considering above fact and finding , we are in complete agreement with the reasoning given by the Ld. CIT (A) that when full particulars, inclusive of the confirmation with name, PAN, copy of Income-tax returns, balance sheet Profit & Loss Account computation of income are furnished and same reflected in their books of accounts. Further, the findings recorded by the Ld. CIT (A) are also supported by the decision of Hon`ble Gujarat High Court and Hon`ble

Supreme Court as discussed above. The addition so made is rightly deleted by the Ld. CIT (A). In view of these facts and circumstances, we do not find any infirmity in the order of CIT (A), accordingly, same is upheld. Accordingly, all the grounds of appeal of as taken by the Revenue are therefore, dismissed.

25. In the result, the appeal of the Revenue is dismissed.

26. This order is pronounced by listing the case on the Notice Board of Tribunal under proviso to Rule 34(4) of Income Tax Appellate Tribunal Rules 1963.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(O.P.MEENA)
ACCOUNTANT MEMBER

Surat: Dated:4th May, 2020/opm

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/
Guard file of ITAT.

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By order

Assistant Registrar, Surat