

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

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No. 193/MUM/2024
(A.Y.2013-14)

Veenapani Investments Private Limited, Flat no. 302, B-Wing, Garden Court Co-Op Society Ltd, Amrutwani Road, Bhayender (W), Mumbai-401101.	Vs.	ITO 13(3)(1), Aayakar Bhavan, Mumbai.400020.
PAN/GIR No. AACCV1684Q		
(अपीलार्थी/Applicant)		(प्रत्यर्थी/Respondent)

Assessee by	Ms.Ridhisha Jain and Shri.Karan Jain.AR
Revenue by	Ms.Rajeshwari Menon. Sr.DR

सुनवाई की तारीख/Date of Hearing	30.05.2024
घोषणा की तारीख/Date of Pronouncement	25.07.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/s 143(3) r.w.s 147 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case and in law the Hon'ble CIT(A) erred in upholding that issue of notice u/s. 148 of the IT Act 1961 by the Ld AO is valid and the

reasons assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.

2. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding addition of Rs.1,03,95,000/- made by the Ld AO to the returned income in respect of unsecured loan as unexplained cash credit u/s 68 of the IT Act 1961 and the reasons assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.

3. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in not appreciating the fact that assessee has discharged its onus u/s 68 of the Act by submitting the evidences proving the creditworthiness, identity and genuineness of the loan parties and the reasons assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.

4. Without prejudice to above, the Hon'ble CIT(A) erred in upholding the addition on the basis of statement of Vipul Vidur Bhatt without appreciating that Vipul Vidur Bhatt has retracted his statement and hence, addition u/s 68 of the Act may be deleted.

5. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the penalty initiated by the Ld. AO u/s. 271(1)(c) of the IT Act 1961 and the reason assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.

6. Your Appellant crave, leave to add, alter, amend or modify any or all grounds of appeal on or before the date of hearing.”

2. The brief facts of the case are that, the assessee company is engaged in the business and has filed the return of income for the A.Y 2013-14 on 31-03-2015 with the total income of Rs.(-)3,080/- and the assessment was completed u/sec143(3) of the Act on 07.03.2016 determining the total income of Rs.9,880/-.

Subsequently, the Assessing Officer (AO) has received information from DGIT (Inv), Mumbai that the assessee has obtained accommodation entries from Shri Vipul Vidur Bhatt group entities. Therefore the AO has reason to believe that the income has escaped assessment and issued notice u/sec 148 of the Act. In compliance to the notice, the assessee has filed a letter mentioning that the return of income filed on 31-03-2015 may be treated as a due compliance and the assessee was provided reasons for reopening of assessment and the assessee has filed the objections, which was disposed off by the A.O on 4.10.2017. Further notice u/sec 143(2) and u/sec 142(1) of the Act are issued and, in compliance the Ld. AR of the assessee appeared from time to time and submitted the details. The A.O dealt on facts of search & seizure u/sec132 of the Act of Shri Vipul Vidur Bhatt group entities. The AO found that the group is engaged in providing accommodation entries in the nature of bogus unsecured loans and the assessee has obtained aggregate unsecured loans of Rs.1,03,95,000/- from four entities (i) Santoshima Trade Links Ltd Rs.4,75,000/- (ii) Lunkad Textiles Pvt Ltd Rs.68,20,000/-(iii)P.Saji Textiles Ltd Rs.6,00,000/- and (iv) Dolex Commercial Pvt Ltd Rs25,00,000/-.The AO has called for the details/information to explain the transactions and produce the loan/ lender parties with supporting sources of funds and bank statements of lenders. Further the

notice u/sec 133(6) of the Act was issued on the unsecured loan creditors and the loan creditors have responded to the notices and filed the information with supporting details.

3. Further, the AO has provided an opportunity to the assessee to establish the identity, creditworthiness and genuineness of the loan parties/creditors. The assessee has filed the detailed submissions explaining the transactions duly supported with the bank statements, loan confirmations and ledger accounts. The AO has dealt on the details filed by the loan creditors in lieu of notice issued u/sec133(6) of the Act. Whereas the AO is of the opinion that the genuineness of the transactions could not be established and the assessee has not discharged its obligation of proving the identity, creditworthiness and genuineness of the loan creditors. Whereas the assessee has filed the details vide letter dated 23.11.2017 and reply to the show cause notice issued by the A.O dated 8.12.2017. The assessee has submitted the details i.e confirmation of lenders, bank account statements and financial statements etc to substantiate genuineness, identity and creditworthiness of the loan creditors. The assessee has repaid the unsecured loans obtained from four lenders in the subsequent years and was confirmed by the parties. But the AO was not satisfied with the information and explanations and observed that the

assessee has not satisfied the ingredients required u/sec 68 of the Act and made an addition of Rs. 1,03,95,000/- and assessed the total income of Rs.1,04,04,880/- and passed the order u/s 143(3) r.w.s. 147 of the Act dated 29.12.2017.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). The CIT(A) has considered grounds of appeal, findings of scrutiny assessment. The assessee has filed the submissions on the disputed issue of validity of reassessment proceedings and unsecured loans referred at Page 3 Para 6 of the order read as under :

Date: 13/11/2023

To,
The Hon'ble CIT(A,
NFAC, New Delhi.

Respected Sir,

Re : M/s Veenapani Investment Pvt Ltd
AY : 2013-14
PAN : AACCV1684Q
Sub : Written Submission

With reference to the above subject we have been instructed to submit as under:

The ROI declaring total taxable income of Rs.NIL was filed on 31/03/2015. The said return was processed u/s 143(1) accepting the returned income. Thereafter notices u/s 143(2)/142(1) were issued and assessment was completed u/s 143(3) of the IT Act 1961 on 07/03/2016 at Rs.9,880/-. Further the Id AO reopened the completed assessment by issuing notice u/s 148 of the IT Act 1961.

In response to notice issued u/s. 148 the appellant submitted that the income offered in Return of Income originally filed on 31/03/2015 may be treated as incompliance to notice issued. Thereafter the Ld AO issued notice u/s. 143(2)/142(1) of the IT Act 1961 and completed the assessment u/s. 143(3) r.w.s 147 of the IT Act 1961 at Rs. 1,04,04,880/- by making addition of Rs. 1,03,95,000/- to the returned income by treating the genuine loan availed from M/s Santoshima Tradelink Ltd, M/s Lunkad Textiles Pvt Ltd, M/s P Saji Textiles Ltd and M/s Dolex Commercial Pvt Ltd as unexplained cash credit u/s. 68 of the IT Act 1961. Aggrieved against the said addition we are in appeal before your honour. The issues involved in this appeal are discussed one by one as under:

First ground of appeal relates to reopening of completed assessment by issuing notice u/s. 148 of the IT Act 1961.

For reopening of the completed assessment the Ld AO has relied on the information of investigation wing Mumbai. The reason recorded for reopening is reproduced by Ld AO in para 4.1 of the assessment order.

In this regard it is vehemently submitted that the reason recorded for reopening is bad in law and the order passed pursuant thereto needs to be quashed forthwith for the following reasons:

Before proceedings further it is worthwhile to first discuss the provision of said section which reads as under:

(1)³] Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.]

(2)⁴ The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.]

We now discuss the provisions of said section alongwith our reply in support of validity of issue of notice as under:

1. "The expression "has reason to believe" used in section 147 is very significant and important. The belief formed by the AO must not be arbitrary or irrational. It must be based on reasons and cannot merely be on pretence. Circumstances in which belief

is formed for escapement of income must actually exist and must not deem to exist. Reason to believe must be honest and not based on suspicion, gossip, rumor or conjecture. It is a settled position of law that though the power conferred under section 147 of the Income-tax Act for reopening the concluded assessment is very wide, the said power cannot be exercised mechanically or arbitrarily.

Reasons recorded for re-opening of the assessment does not mention whether income has escaped assessment. It just says that Information has been received from Investigation Wing that the loan availed from M/s Santoshima Tradelink Ltd, M/s Lunkad Textiles Pvt Ltd, M/s P Saji Textiles Ltd and M/s Dolex Commercial Pvt Ltd is mere an accommodation entry. However during the course of assessment proceedings all details related to loan availed such as Loan Confirmation, Copy of Return of Income filed, Copy of profit & loss and balance sheet etc were provided to the Ld AO which he found to be genuine. In this connection support is taken from the following decisions:

2. *Supreme Court in case of ITO V/s. Lakshmani Mewal Das (1976) 03 ITR 437 (SC) held that "the powers of ITO to reopen assessments though wide are not plenary. The words of statute are "reason to believe" and not "reason to suspect".*
3. *ITAT in case of Paint Trade Linkers v/s. ACIT (2008) 171 Taxman 30 (Luck) (Mag.) held that "presumption of escapement of income on basis that accounts have not been audited is simply arbitrary,*

vague and irrational; further mere non filing of return of income could not lead to belief that income chargeable to tax had escaped assessment."

From the perusal of reasons recorded your honour will find that there are no sufficient reasons for reopening of assessment hence it is clear that the Ld AO has initiated proceeding under section 147 based on suspicion and mere pretence and not on any reasoned ground or belief.

In CIT vs. Kelvinator of India Ltd. [2010] 1 Taxmann 27 the Hon'ble Apex Court has held that "Where the Assessing Officer has reason to believe that income has escaped assessment, it confers jurisdiction to re-open the assessment. Therefore, post-1st April, 1989, power to re-open is much wider. However, one needs to give a schematic interpretation to the words "reason to believe" failing which, we are afraid, Section 147 would give arbitrary powers to the Assessing Officer to re-open assessments on the basis of "mere change of opinion", which cannot be per se reason to re-open. We must also keep in mind the conceptual difference between power to review and power to re-assess. The Assessing Officer has no power to review; he has the power to re-assess. But re-assessment has to be based on fulfillment of certain pre-condition and if the concept of "change of opinion" is removed, as contended on behalf of the Department, then, in the garb of re-opening the assessment, review would take place. One must treat the concept of "change of opinion" as an in-built test to check abuse of power by the Assessing Officer. Hence, after 1st April, 1989, Assessing Officer has power to re-open, provided

there is "tangible material" to come to the conclusion that there is escapement of income from assessment. Reasons must have a live link with the formation of the belief."

In view of the above facts and legal position the notice issued by the AO is invalid and bad at law.

"The Hon'ble Delhi High Court has held in the case of Bawa Abhay Vs. DCIT 253 ITR 83 that the crucial expression u/s 147 of the Act is "reason to belief" It contemplates existence of reasons on which the belief is founded not merely a belief in the existence of reasons inducing the belief. Such a belief may not be based merely on reasons but it must be founded on information. The Hon'ble Calcutta High Court has held in the case of Berger Paints India Ltd. v. Assistant Commissioner of Income-tax, 266 ITR 462 that there must not only exist reasons for formation of belief that income has escaped assessment, but there must be also a rational connection or relevance bearing with the material for formation of belief. The Amritsar Bench of ITAT in the case Pyramid Software and Technologies vs. DCIT 105 ITD 305 has held that the material which comes to the notice of Assessing Officer must be specifically evident, direct and not unspecific or vague. It is held that basis for initiating reassessment proceedings is to be judged solely on the basis of reasons recorded by the Assessing Officer. The Assessing Officer cannot support the reopening of the assessment by collecting the material or by making inquiry subsequently after the date of initiation to the proceedings. The Hon'ble Patna High Court has held in the case of Commissioner of Income-tax v. Agarwalla Brothers, 189 ITR 786(Pat) that it is only the recorded reasons which can indicate why the AO was made to believe that the income has escaped assessment for the relevant assessment year. It is not authorized to refer to any other reason even if it can be otherwise inferred and/or gathered from the reports. The Hon'ble Allahabad High Court has also held in the case of Dass Friends Builders Pvt.

Ltd. vs. DCIT 280 ITR 77 that u/s 147 of the Act the words "has reason to believe" and not "reason to suspect". ITAT Delhi Bench™ in the case of ACIT vs. Star Ferro Alloys Pvt. Ltd. 90 ITD 63 has held that proceedings u/s 147 of the Act could not be resorted to for making roving inquiries.

Considering the above cases and the ratio laid down therein, we hold that the Assessing Officer has failed to establish that the assessee did not disclose fully and truly all material facts at the time of making the original assessment u/s 143(3) of the Act.

Assessing Officer's belief that income chargeable to tax has escaped assessment relating to assessment year under consideration viz Assessment Year 2013-14 is based only on the statement of Shri Vipul Vidur Bhatt which is a general statement and no reference of any transaction with assessee is mentioned therein nor any material has been brought on record in the assessment order that there was any material which came to the notice of the department due to which the income chargeable to tax escaped assessment at the time of making assessment u/s 143(3) of the Act, on account of failure to disclose fully and truly all material facts by the assessee. The live link or close nexus, which should be there between the material and the belief which the AO was to form regarding the escapement of the income of the assessee from assessment because of assessee's failure or omission to disclose fully and truly all material facts is missing. Since the Ld AO has not brought on record any valid reason initiation of reassessment proceedings is not valid. Support is taken from the following judgments:

Hon'ble Delhi High Court In following cases Sarthak Securities Co (P) Ltd v ITO 195 Taxmann. 262

V S Capital Services (P) Ltd V ITO Delhi ITAT 316 Taxpundit.com

Pr CIT Vs G & G Pharma India Ltd

Further Hon'ble ITAT Agra in the case of

M/s Dheeraj Hospital (P) Ltd v/s ITO 3(5) Hathras ITA NO 41/Agra/2017 &

M/s Charan Singh Ice and Cold Storage (P) Ltd v/s ITO 3(5) Hathras ITA NO 40/Agra/2017 has held that if the reasons recorded for reopening of assessment are based on borrowed satisfaction then the notice issued u/s 147 needs to be quashed as the same is illegal and void.

In view of the aforesaid facts and reason your honour will appreciate that the reopening bad in law and the order passed in pursuance of reopening needs to be quashed forthwith.

Without prejudice to the outcome of the first ground of appeal we raise the second ground of appeal on merit as under:

Second ground of appeal relates to addition of Rs. 1,03,95,000/- to the returned income by treating genuine unsecured loan as unexplained cash credit u/s. 68 of the IT Act 1961.

For making the aforesaid addition the Ld AO has discussed the reason in para 4.1 to 4.11 of the assessment order.

The crux of the matter for making addition by the Ld AO is that the main person who was operating number of companies has deposed before the Investigation Wing of Mumbai pursuant to search action u/s 132 and stated that his companies are involved in providing accommodation entries in the form of unsecured loan, purchases/sales, share capital etc. The impugned company from which appellant company has availed loan is appearing in the list of companies provided by the main person Shri Vipul Vidur Bhatt. Hence according to the Ld AO it is merely an accommodation entry and not the genuine loan.

In this regard it is worthwhile to discuss the facts of the case as under:

Appellant company availed the loan from M/s Santoshima Tradelink Ltd, M/s Lunkad Textiles Pvt Ltd, M/s P Saji Textiles Ltd and M/s Dolex Commercial Pvt Ltd by way of a/c payee cheque in FY 2012-13 relevant to AY 2013-14 which was

deposited in appellant's bank a/c. The said loan was thereafter refunded in the FY 2014-15 relevant to AY 2015-16. In support of loan availed & to prove identity, creditworthiness & genuineness we provided all the following necessary evidences of the loan providing companies as under:

1. Copy of confirmation letter duly signed by both
2. Copy of Acknowledgment of ROI filed
3. Copy of profit & loss a/c & balance sheet
4. Copy of bank statement of both i.e. the payee & payer party

The above details were submitted to the Ld AO during the assessment proceedings which have been accepted by the Ld AO as stated in para 4.2 of the assessment order which reads as below:

4.2 In response to the notices issued, the representative of the assessee company filed written submissions on 23.11.2017. The assessee has furnished various details including copy

of ledger account of the party, confirmation of accounts, bank statement and statement accounts of the assessee company for A.Y. 2013-14. During the course of the assessment proceedings, the assessee company vide letter dtd.08.12.2017 was asked to show cause why accommodation entries from different parties totaling to Rs.1,03,95,000/- should not be treated as unexplained cash credit in books of account of assessee company u/s.68 of the Act and be added back to total income of the assessee company. The details of accommodation entries is as

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5. Further it was stated that Shri Vipul Vidur Bhatt who has stated that he has provided only accommodation entries on behalf of his company has already retracted the same, hence the genuineness of loan cannot/should not be treated as ingenuine.
6. In spite of the fact that appellant provided all the relevant evidences to prove that the loan is genuine, the Ld AO to verify the genuineness of these loans issued notices u/s 133(6) of the Act. In response to the said notice the Ld AO received reply from all the parties. *Copy of said rely letters are enclosed hereto as per Ex 'A' for Your Honours perusal and*

consideration. Despite of having all the details of the loan providing parties and replies against 133(6) of the Act, the Id AO merely relied on the information of Investigation Wing, Mumbai and treated the genuine loans as ingenuine. Since the Ld AO before making addition has not brought on record any such cogent evidence the addition is not sustainable as held in the case of :

CIT vs Orissa Corporation Pvt Ltd 158 ITR 78 (SC) and the ratio laid down in Khandelwal Construction vs CIT 227 ITR 900(Guw). The satisfaction has to be derived from the relevant facts and that too on the basis of proper enquiry by the Assessing Officer and such enquiry must be reasonable and just.

From the aforesaid facts and evidences Your Honour will appreciate and admit that to support appellant's contention the loan providing parties duly furnished the proof of identity like PAN, confirmation of accounts, bank account details from the bank, other relevant material to prove the genuineness of transaction and to prove credit worthiness the details of payment through banking channel, thereby the appellant proved all the conditions laid down u/s 68 of the Act. Before coming to adverse conclusion against the appellant, the Id AO did not provide opportunity to cross examine the party from whom the loan was availed and repaid. The Id AO even did not provide any information and allegation if any, made therein, which has been used against the appellant. The principle of natural justice, demands that without confronting the appellant of such evidences, if any, or the information, no addition can be made. In this regard reliance is placed on Hon'ble Supreme Court decision of

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SPECIAL LEAVE PETITION (CIVIL) Diary No(s).9432/2018

Based on all the above facts it was submitted that your reliance merely on the statement without considering the evidence is against the principles of natural justice and the genuine loans should not be treated as accommodation entry. We lastly submit as under:

- 2.1. Here it is pertinent to bring to your honour's notice that for making disallowance the Ld AO is heavily banking on the statement of Shri Vipul Bhatt who made the same during the course of search proceedings. The Ld AO without bringing on record any corroborative evidence to prove that these loans are mere accommodation entries, doubted the genuine loan as non-genuine. Further the Ld AO for the reason best known to her has not discussed the retraction statement made by Shri Vipul Bhatt on behalf of all the companies inspite of having in possession of the same.
- 2.2. Apart from retraction statement of Shri Vipul Bhatt on whose statement Ld AO is banking could not rebut the number of evidences provided to demonstrate that all these loans are genuine.
- 2.3. Here it is pertinent to mention that the Ld AO should not have banked upon mere statement which is not sufficient to doubt the genuine loan in the back drop of all the evidences submitted to her during the course of assessment proceedings including retraction statements. By providing all the evidences the appellant has discharged its primary onus of proving identity, creditworthiness and genuineness.
- 2.4. It is submitted that the loan providing company is genuine and the loans availed has been repaid except an amount of Rs. 6,00,000 in case of M/s Santoshima Tradelink Ltd.
- 2.5. In support of our contention we now rely on various decisions wherein it is held that once identity, creditworthiness & genuineness has been proved, addition cannot be made on suspicion & surmises.
 - *Hon'ble Supreme Court in the case of Baladin Ram v. CIT 71 ITR 427 (SC);*
 - *Allahabad High Court in the case of CIT v. Pancham Dass Jain 205 CTR (All) 444 that the provisions of section 68 apply only in the cases of cash credits.*

- *Reference in this regard may also be made to the judgments in the cases of Todar Mal v. CIT 106 ITR 619 (Pun);*
- *Sikri & Co. P. Ltd. v. CIT 106 ITR 682 (Cal);*
- *CIT v. Sahibganj Electric Cables Pvt. Ltd. 115 ITR 405 (Cal);*
- *Sundar Lal Jain v. CIT 117 ITR 316 (All);*
- *Nanak Chandra laxman Das v. CIT 140 ITR 151 (All);*
- *CIT v. Indian Textile Engineers Pvt. Ltd. & Anr. 141 ITR 69 (Bom);*
- *CIT v. Kulwant Kaur & Ors. 121 ITR 914 (Del)*
- *Oceanic Products Exporting Co. v. CIT 241 ITR 497(Ker).*
- *Sarogi Credit Corporation vs CIT 1975 CTR (Pat) 1: (1976) 103 ITR 344 (Pat).*
- *Addl. CIT vs Bahari Brothers (P) Ltd (1984) 42 CTR (pat) 66 : (1985) 154 ITR 244 (pat)*
- *Ashok Lal Daga vs CIT (1996) 136 CTR (MP) 235 : (1996) 220 ITR 425 (MP).*
- *CIT vs Real Time Marketing (P) Ltd (2008) 10 DTR (Del) 191 : (2009) 221 CTR (del) 716 : 2008 306 ITR 35 (del)*
- *CIT vs Metachem Industries (2000) 161 CTR (MP) 444 : (2000) 245 ITR 160(MP).*
- *Nemichand Kothari vs CIT & ANr (2003) 185 CTR(gau) 635 : (2003) 264 ITR 254 (gau)*
- *P K Sethi vs CIT (2006) 206 CTR (Gau) 445 : (2006) 286 ITR 318 (Gau.)*
- *CIT vs Barjatiya Children Trust (1997) 225 ITR 640 (Mp).*
- *CIT vs Laul Transport Corporation (2009) 180 Taxmann 185 (P&H)*
- *Aravalii Trading Co vs ITO (2008) 8 DTR (Raj) 199 : (2010) 187 Taxmann 338 (Raj).*

2.6. It is further brought to Your Honour's notice that Hon'ble Tribunal's have deleted the additions made by the department on identical facts wherein

department had relied on the statement of Vipul Vidhur Bhatt and made additions in case of the assessee. The assessee's case herein is covered by number of judgements of Jurisdictional and non-jurisdictional Courts as under:

a. *The Hon'ble Mumbai ITAT in the case of Shri Darshan K Vakharia Mumbai. Vs Income Tax Officer Ward2(1), Mumbai* has held as under:

9.1 However, the Assessing Officer doubted and rejected the same while relying upon the statement of Mr. Vipul Vidur Bhatt, without providing copy of the his statement to the Assessee and even without affording any opportunity of cross examination of Mr. Bhat. The Assessee in this case, has not only discharged its primary onus by establishing the identity of the parties etc. , providing confirmation of loans, acknowledgment of return of income filed by the parties who have duly shown the amount of loan in their returns of income and banks statement of loan parties and the Assessee showing the transactions held, but also shown to have deducted TDS on the interest payment made to the parties, which also strengthen the genuineness of the claim of the Assessee. Therefore, on the basis of the general statement made by any 3rd party, without demolishing the case/claim of the Assessee, making of an addition is not logical.

b. *The Hon'ble Ahmedabad ITAT in the case of ITA Ward 5(3)(1) vs M/s Iceworth Realty LLP, Mumbai [ITA No. 565 &566/Ahd/2020]* has held as under:

We have given our thoughtful consideration and perused the materials available on record. The addition made by the Assessing Officer invoking Section 68 does not hold it good, since the assessee has filed the confirmation letter from the lenders, Bank statements, Income Tax Return and statement of total income of the various lenders. Thus the assessee has discharged its initial onus namely identity of the creditors, genuineness of the transactions and creditworthiness of the creditors. Further

the Assessing Officer has disbelieved the same, but has no occasion about the repayment of loans by the assessee in subsequent assessment years. Thus the creditworthiness of the lender is proved. It is not the case of the Assessing Officer that cash was deposited prior to giving loans to the assessee by the lender companies. It is a fact both the lender companies filed their respective Income Tax Return and assessed to tax, just because of the non-compliance of the notice and u/s. 133(6) does not make with the unsecured loans given by the creditors be treated as bogus. In fact both the creditors vide the respective letters dated 15.12.2017 replied to the Assessing Officer with the details namely loan confirmation accounts, bank statements, Income Tax Returns etc. Therefore the addition made by the Assessing Officer u/s. 68 of the Act is not sustainable in law.

c. ***The Hon'ble Jaipur ITAT in the case of M/s. Noble Tradelink Private Ltd. Vs The ITO Ward 1(5), Jaipur [ITA No. 302 & 303/JP/2021] held as under:***

4.5 We have heard both the parties and perused the materials available on record. Brief facts of the case are that the AO while making the assessment in the case of the assessee observed that during the year under consideration the assessee company had taken credit entries in the form of unsecured loan from the entities which are managed by Shri Vipul Vidur Bhatt for providing accommodation entries and rotated unaccounted money of Rs.80 lacs in its bank through the these companies. Thus the AO added unaccounted money of Rs. 80 lacs to the total income of the assessee company for the year under consideration and the ld. CIT(A) has confirmed the action of the AO. The Bench noted that if any sum is found credited in the books of account of the assessee then the assessee has to prove the identity and creditworthiness of the

party from whom the amount is received and the genuineness of the transaction. From the record, it is noted that identity of the creditor is established from the company master data downloaded from MCA Portal. The genuineness of the transaction is established from the confirmation of accounts, affidavit of Director of loan creditor companies and bank statement from where it can be seen that the transaction had been carried out through banking channel and the loan amount is repaid during the year itself. It is also noted from the records that the creditworthiness of the creditor is established from the balance sheet from where it can be seen that the net worth of of M/s Lukand Textiles Pvt. Ltd. is Rs.2.08 crores (PB 49), M/s P Saji Textiles Ltd. is Rs.3.09 crores (PB 79), M/s Sampada Chemicals Ltd. is Rs.10.20 crores (PB 114) and M/s Santoshima Tradelink Ltd. is Rs.45.78 crores (PB 139-140). Further the Directors of these companies in their affidavits have stated that source of funds for loan given to assessee is out of repayment of loan given to other parties. Thus, assessee has discharged its onus to establish the identity of creditors, genuineness of the transaction and creditworthiness of the creditors. The Id. AR of the assessee further submitted that having discharged its onus, it is the duty of the AO to disprove the evidence filed by the assessee. The AO except referring to the report of Investigation Wing has not brought any material on record to rebut the evidences filed by the assessee. It is not the case of lower authorities that in search of Mr. Vipul Vidur Bhatt any evidence is found that assessee has given any cash for taking the alleged accommodation entry. Had these loans were accommodation entries, the same would not have been repaid within such short duration. The Ld. CIT(A) has incorrectly held that assessee has not demonstrated that these entities are doing genuine business ignoring that the same is verifiable from the financial statements of these creditors and

their return of income filed before him which otherwise is not the onus of the assessee. The case laws and the report relied upon by the ld. DR are with reference to the LTCG claimed exempt u/s 10(38) of the Act which are not relevant to the facts of the assessee's case where he took loan and also repaid during the same financial year. Hence, these cases are of no help to the revenue. As against this, the ratio laid down by the assessee are squarely applicable to the facts of the assessee.

.....

In view of the above deliberations, the decisions relied on above, we find that disallowance made of Rs.80 lacs u/s 68 of the Act by the lower authorities has no merit and we do not concur with the findings of the ld. CIT(A) as the assessee has proved the identity and creditworthiness of the party from whom the amount was received and genuineness of the transaction. In this view of the matter, the ground Nos. 2.1 to 2.4 of the assessee are allowed.

- d. *In the case of M/s. Noble Tradelink Pvt Ltd. v/s. ITO, Ward 1(5), Jaipur (ITA NO.302/JP/2021 for the AY 2012-13), the Hon'ble ITAT Bench of Jaipur has held that "In view of the above deliberations, the decisions relied on above, we find that disallowance made of Rs.80 lacs u/s 68 of the Act by the lower authorities has no merit and we do not concur with the findings of the ld. CIT(A) as the assessee has proved the identity and creditworthiness of the party from whom the amount was 21 received and genuineness of the transaction. In this view of the matter, the ground Nos. 2.1 to 2.4 of the assessee are allowed."*

and

Also, in the case of M/s. Noble Tradelink Pvt Ltd. v/s. ITO, Ward 1(5), Jaipur (ITA No. 303/JP/2021 for the AY 2013-14) the Hon'ble ITAT Bench of Jaipur has held that, "In view of the above deliberations, the

decisions relied on above, we find that disallowance made of Rs.80 lacs u/s 68 of the Act by the lower authorities has no merit and we do not concur with the findings of the ld. CIT(A) as the assessee has proved the identity and creditworthiness of the party from whom the amount was received and genuineness of the transaction. Thus, the decision taken by us in Ground No. 2 to 2.4 of the assessee in ITA No.302/JP/2021 for the assessment year 2012-13 shall apply mutatis mutandis in Ground No. 2 to 2.4 of the assessee for the assessment year 2013-14 also. Thus Ground No. 2 to 2.4 of the assessee is allowed."

- e. In the case of *The Income Tax Officer - 15(2)(3) V/s. M/s MJD Financial Services Pvt. Ltd. (ITA No. 6051/MUM/2018) dated 10/09/2020, the Hon'ble ITAT Mumbai held that,*

"Hence, in our considered view, the assessee has discharged his onus of establishing the identity and creditworthiness of the entities from whom, it had obtained the loans in question. The assessee has also established the genuineness of the transaction by adducing necessary evidence. On the other hand the AO has not brought any material on record to rebut the contention of the assessee. In our considered opinion, the findings of the Ld. CIT (A) are based on the established principles of law and in accordance with the decision of the coordinate Bench rendered in the case of DCIT vs. M/s Manba Finance Ltd. (group concern of the appellant) discussed above. The order passed by the Ld. CIT (A) is well reasoned and supported by the law laid down by the Hon'ble Bombay High Court and the decisions of the coordinate Benches including the decision in the case of DCIT vs. M/s Manba Finance Ltd. (supra) relied upon by the assessee. We therefore, uphold the decision of the Ld. CIT (A) and dismiss the appeal filed by the revenue. Accordingly, we direct the AO to delete the addition made by the AO on account of alleged bogus unsecured loans.

In the result, appeal filed by the revenue for assessment year 2012-2013 is dismissed."

- f. *The Hon'ble ITAT Mumbai* had also dismissed the appeal of the revenue in the case of *M/s. Celebrity Lifespace Private Limited (ITA 6301/MUM/2017)* dated 05/12/2019, wherein the Ld. AO concluded that the loans obtained by the said assessee from the entities from the Group of Vipul Vidur Bhatt were not genuine and made an addition u/s. 68 of the Income Tax Act, 1961. The CIT(A) on appeal by the assessee deleted the said addition. The ITAT dismissed the appeal made by the revenue stating *"therefore, respectfully following order of the Tribunal in case of group concern, we do not find any infirmity in the order of CIT(A) for deleting the impugned addition. In the result appeal of the revenue is dismissed."*
- g. In the case of *Moraj Realty Pvt. Ltd. V/s. DCIT CC - 5(2) (ITA No. 708/Mum/2019 & 709/Mum/2019)* dated 08/12/2020, the *Hon'ble ITAT Mumbai* held that, *"Hence, in our considered view, the assessee has discharged his onus of establishing the identity and creditworthiness of the entities from whom, it had obtained the loans in question. The assessee has also established the genuineness of the transaction by adducing necessary evidence. On the other hand the AO has not brought any material on record to rebut the contention of the assessee. In our considered opinion, the findings of the Ld. CIT (A) are based on the established principles of law and in accordance with the decision of the coordinate Bench rendered in the case of DCIT vs. M/s Manba Finance Ltd. (group concern of the appellant) discussed above. The order passed by the Ld. CIT (A) is well reasoned and supported by the law laid down by the Hon'ble Bombay High Court and the decisions of the coordinate Benches including the decision in the case of DCIT vs. M/s Manba Finance Ltd. (supra) relied upon by the assessee. We therefore, uphold the decision of the Ld. CIT (A) and dismiss the appeal filed by the revenue.*

Accordingly, we direct the AO to delete the addition made by the AO on account of alleged bogus unsecured loans."

- h. In the case of Harivardhan Steel & Alloys Private Limited Vs. ITO (ITA No. 3302/M/2019, the ITAT Mumbai has held that "*Accordingly, we hold that assessee has proved the identity, creditworthiness of the lenders/investors and genuineness of the transactions. Resultantly, the order of Ld. CIT(A) is set aside and AO is directed to delete the addition.*

13. In the result, the appeal of the assessee is allowed."

Since our case is squarely covered by the aforesaid decisions, we request your honour to direct the Ld AO to delete the unwarranted addition made to the returned income and oblige.

Thanking you,
Yours faithfully,



For MOHANLAL JAIN & CO
Chartered Accountants

5. Whereas, the CIT(A) was not satisfied with the submissions and material information has upheld the validity of assessment and affirmed the action of A.O. and sustained the addition of unsecured loans and dismissed the assessee's appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal with the Honble Tribunal.

6. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the addition u/s 68 of the

Act irrespective of the fact that the assessee has filed the details in respect of the loans and submitted the confirmation of the loan creditors along with other details. Further, the Ld. AR submitted that the assessee maintains the regular books of accounts and has obtained unsecured loan from genuine creditors and they were repaid in the subsequent assessment years. Whereas, the assessee has furnished before the CIT(A), the confirmation of loans, bank statement of both the assessee and loan creditors, audited financial statements to substantiate the genuineness, identity and creditworthiness of the loan creditors. Further the A.O relied on the statement of Shri Vipul Vidur Bhatt in the search and seizure u/sec132 of the Act conducted on his group entities which retracted subsequently and hence addition of unsecured loans is bad in law. The Ld.AR supported the submissions on the disputed issues with the material evidences in the paper book and judicial decisions and prayed for allowing the appeal. Per Contra, the Ld. DR submitted that the AO has made enquiry and issued notice u/s 133(6) of the Act and there was no proper response from the parties and the Ld.DR supported the order of the CIT(A)

7. We have heard the rival submissions and perused the material on record. The Ld. AR submitted that the CIT(A) has erred in sustaining the addition u/sec 68 of the Act of unsecured loans though the assesses has filed the

requisite details before the assessing authorities and first appellate authority. We find that before the Assessing Officer, the assessee has submitted information in respect of unsecured loan creditors and the A.O. has issued notice u/sec 133(6) of the Act and it was responded with the requisite details. On perusal of the assessment order, the assessee has submitted the documentary evidences but the A.O has over looked the vital documents in respect of the sources filed by the assessee. The assessee has submitted the written submissions before the CIT(A) and the confirmation of loan creditors, PAN, Bank account details and the Income Tax returns. We find that the assessee has to satisfy the 3 ingredients with respect to identity, creditworthiness and genuineness of the transaction. The CIT(A) has discussed on the provisions of the Act but has confirmed the action of the A.O. We are of the opinion that the assessee has discharged its burden of proof in filling the documents. Whereas the CIT(A) has taken a different view and over looked the explanations of the assessee and sustained the addition of the A.O. Further the Ld. AR submitted that the net worth of these loan creditor companies is very high in comparison to the unsecured loans provided to the assessee in the F.Y.2012-13 and were repaid in the subsequent years. The Ld.AR emphasized on the supporting evidences filed in the paper book and further in the similar cases/ judicial decisions the

Hon'ble Tribunal has accepted the facts of these unsecured loan creditors companies and has evaluated with regard to identity, genuineness and creditworthiness in decision making and granted relief. The Ld. AR has relied on the judicial decisions:

(i) The Jurisdictional High Court of Bombay in the case of Pr. CIT Vs. M/s Chawla Interbild Construction Co Pvt Ltd (2018) ITA No. 1103 of 2015 has observed as under:

“7. We find that the Assessing Officer while the assessment order has dis-allowed 40% of the total payments made on the basis of the payments made to 13 parties, who were not produced before him during the assessment proceedings. This on the ground that payments are not genuine. We are unable to understand on what basis the dis-allowance is made on the total payments, if at all it should have been restricted only to the amounts paid to the 13 persons who are not produced before the Assessing Officer. Be that as it may, we find that the respondent assessee had done everything to produce necessary evidence, which would indicate that the payments have been made to the parties concerned. The details furnished by the respondent assessee were sufficient for the Assessing Officer to take further steps if he still doubted the genuineness of the payments to examine whether or not the payment was genuine. The Assessing Officer on receipt of further information did not carry out the necessary enquiries on the basis of the PAN numbers, which were available with him to find out the genuineness of the parties. The CIT(A) as well as the Tribunal have correctly held that it is not possible for the assessee to compel the appearance of the parties before the Assessing Officer.

8. In the above circumstances, the view taken by the Tribunal is a and possible view in the facts of the present case. no substantial question of law arises for our consideration.

9. The appeal is dismissed. No order as to costs”.

(ii) The Honble Tribunal in the case of Shri Darshan K Vakharia Mumubai Vs. ITO in ITA No. 1540 & 1539/Mum/2023 dated 28.07.2023 for A.Y.2012-13 & 2013-14 has considered the provisions and facts on the submissions of the assessee on the unsecured loans and granted relief observing at Page 9 Para 9 of the order read as under:

“9. Heard the parties and perused the material available on record. As per balance sheet, as on 31st March, 2012 the Assessee has shown the amount of Rs. 20,00,000/- and Rs. 50,000/- as liability towards M/s. Santoshima and M/s. Vasudev respectively and also shown to have paid the interest amount of Rs. 2,40,000/- and Rs. 60,000/- respectively to M/s. Santoshima and M/s. Vasudev. It is not in controversy that the Assessee had taken the said loans in the financial year 2010-11 (AY: 2011-12) which continued in the assessment year under consideration as well. During the course of assessment proceedings, the Assessee also submitted the following documents in order to substantiate its claim.

(i) The confirmation of loans.

(ii) Acknowledgment of returns of income of loan parties.

(iii) Copies of relevant pages of bank statements of loan parties.

(iv) Copies of bank statements of the Assessee, in which interest payments have been debited.

9.1 However, the Assessing Officer doubted and rejected the same while relying upon the statement of Mr. Vipul Vidur Bhatt, without providing copy of the his statement to the Assessee and even without affording any opportunity of cross examination of Mr. Bhat. The Assessee in this case, has not only discharged its primary onus by establishing the identity of the parties etc., providing confirmation of loans, acknowledgment of return of income filed by the parties who

have duly shown the amount of loan in their returns of income and banks statement of loan parties and the Assessee showing the transactions held, but also shown to have deducted TDS on the interest payment made to the parties, which also strengthen the genuineness of the claim of the Assessee. Therefore, on the basis of the general statement made by any 3rd party, without demolishing the case/claim of the Assessee, making of an addition is not logical.

9.2 We also observe as noted above that the loan of Rs. 20,50,000/- was taken by the Assessee from the said entities in 2010-11 (AY:2011-12) and during the year consideration, no such amount was found credited in the books of an Assessee maintained, if any and even otherwise the Assessee has claimed the he is not maintaining any books of account. It is a settled law that mere suspicion cannot takes place for the purpose of passing an order, in fact there must be something more than suspicion in support of an assessment. The Hon'ble Apex Court in the case of CIT vs. P. Mohankala (Civil Appeal no. 2540 of 2007 decided on dated 15.05.2007) has clearly laid down the dictum "that there has to be credited amount in the books of account of the Assessee and such credit has to be sum during the previous year and the Assessee offers no explanation. In the instant case, it is a fact that neither the Assessee has received any cash nor paid any cash and there was no real cash credit during the year under consideration, therefore the amount in question as unexplained expenditure could not arise, hence on this count also, the provisions of section 68 is not applicable and therefore addition u/s. 68 of the Act is un-sustainable. Consequently, we are inclined to delete the addition of Rs. 3 Lacs in total. Resultantly the instant appeal is allowed."

(iii) The coordinate bench of Honble Tribunal in the case of ITO Vs. M/s MJD Financial Services Pvt Ltd in ITA No. 6051/Mum/2018 dated 10-09-2020 for A.Y.2012-13 has considered the provisions and facts on the submissions of the assessee and has upheld the order of the CIT(A) dismissing the

revenue appeal observing at Page 5 Para 9 &10 of the order read as under:

“8. We have heard the rival submissions of the parties and perused the material on record including the cases relied upon by the parties. The Ld. CIT (A) has deleted the addition made by the AO holding that the AO has not brought any fact on record to established that cash was introduced prior to advancing the loan to the assessee and there is no evidence on record to show that the assessee had paid cash to the loan creditors in lieu of loan received from them. It is an admitted fact that the unsecured loans under consideration have been repaid over a period of time and the appellant has paid interest and deducted TDS thereon as per the provisions of the Act.

Relying on the various decisions of the Courts and the Tribunal, the Ld. CIT (A) has held that the assessee has discharged its onus of proving genuineness of the transaction of furnishing the identity of the creditors and documents to prove the transactions. The Ld. CIT (A) has pointed out that no addition/disallowance can be made solely on the basis of statement made u/s 132 (4) of the Act without bringing any corroborative evidence on record. As pointed out by the Ld. counsel for the assessee, the "I" Bench of the Mumbai Tribunal has decided the identical issue in favour of the assessee in the case of DCIT vs. M/s Manba Finance Ltd. ITA Nos. 1448, 1449, 1467/Mum/2017 for the AY 2013-14, 2011-12 and 2010-11. In the said case, survey action u/s 133A of the Act was conducted by DGIT (Inv.) Mumbai. During the course of survey, the books of account of the assessee were examined which revealed that the assessee had received unsecured loan and share application money from the concerned companies operated and controlled by Sh. Pravin Kumar Jain to the tune of Rs. 7,75,00,000/-. A survey was also conducted in the case of Mr. Rakesh Doshi, Proprietor Rakesh Doshi Associates. As per the revenue, Shri Doshi was the broker who arranged the loans and share capital money from the concerned company controlled by Pravin Kumar Jain. During the course of survey Mr. Rakesh Doshi in his statement admitted that he was an

accommodation entry facilitator and he had arranged accommodation entry from various other companies which were not the part of company controlled Pravin Kumar Jain. The assessee had shown unsecured loans from such parties amounting to Rs. 1,25,00,000/-.

9. During the course of assessment proceedings, the assessee was asked to show cause as to why unsecured loan taken from the party should not be treated as unexplained cash credit u/s 68 of the Act. The assessee contended that it has submitted all the documents to prove the genuineness of the transaction. The assessee further requested that cross examination of Pravin Jain may be allowed. The assessee further submitted that Pravin Kumar Jain has retracted his earlier statement. So far as the loan amounting to Rs. 1,25,00,000/- from the other companies is concerned, the assessee submitted balance sheet of all the company to show that the lending companies has enough reserves and share capital. The assessee further submitted that it has furnished the confirmation from the parties. However, the AO rejecting the contention of the assessee made addition of the said amount to the income of the assessee. In the first appeal, the Ld. CIT (A) deleted the addition on legal ground as well as on merits. The revenue challenged the action of the Ld. CIT (A) before the ITAT. The coordinate Bench of the Tribunal upheld the findings of the Ld. CIT (A) holding as under:-

"33. We have carefully considered the submissions and perused the records. We find that the first issue in this case relates to the addition of unsecured loan taken from corporate entities u/s. 68 of the Act. In this regard, it is noted that it is the claim of the assessee which has been found correct by the ld. CIT(A) that the assessee has duly paid interest on these loans, deducted TDS, filed the TDS return. The Id. CIT(A) has also found that this loans have been duly repaid. 34. The addition in this case has been made on the ground that some of the corporate entities were found to have been controlled and operated by Shri Pravin Kumar Jain, who was one of the leading entry operator. For the other corporate entities, it was found that the assessee has obtained loan from these companies which was arranged by Shri Rakesh Doshi, who on

survey had admitted to be arranging bogus accommodation entries. These findings have come out as a result of survey against the assessee's premises. As regards Shri Pravin Kumar Jain, it was noted by the A.O. that in the Revenue's action against Shri Pravin Kumar Jain, he has admitted to have been arranged bogus accommodation entries. The A.O. has noted in detail his modus operandi. As regards Shri Rakesh Doshi, it was noted that survey action u/s. 133A was conducted in his case and he was found to have arranged the accommodation entries. The assessee has claimed Shri Pravin Kumar Jain has duly retracted and the assessee had requested to cross examine him that the same has been denied by the A.O.

35. As regards the statement of Shri Rakesh Doshi, the assessee's claim was that the assessee was never provided with the detail of statements given by Shri Rakesh Doshi despite request. On this issue of retraction of Shri Pravin Kumar Jain's and request by the assessee for cross examination of Shri Pravin Kumar Jain and Shri Rakesh Doshi, the ld. CIT(A) observed that there is a clear violation of natural justice. He noted that the copy of the statement of Shri Pravin Kumar Jain as well as his cross examination was not provided to the assessee during the course of assessment proceedings, although the assessee has specifically asked for the same. He noted that the copy of statement of Shri Rakesh Doshi was provided to which the assessee has submitted its rebuttal. He noted that the A.O. has not provided cross examination of Shri Rakesh Doshi. The ld. CIT(A) has placed reliance upon the several case laws in this regard for the proposition that where oral evidence of any party is sought to be used against an assessee, it is necessary that information relating to such statement or the copy of deposition should be furnished to the assessee with opportunity to cross examine the deponent, if required by the assessee. In this regard, we note the submission that these amount to gross violation of natural justice and the assessment is vitiated as the assessment is bad in law and requires to be quashed in view of the following decisions:

1. *Andaman Timber Industries v. C.C.E. (2015) 281 CTR 241 (SC) Wherein it is held:*

Not allowing the assessee to cross examine the witnesses by the Adjudicating authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullify in as much as it amounted to violation of principles of Natural Justice because of which the assessee was adversely affected. The order was vacated.

2. *Kishinchand Chellaram v. C.I.T. (1980) 1251TR 0713 (SC)*

3. *Ponkunnam Traders v. Addl. I.T.O. & Anr. (1972)83ITR508(Ker)*

4. *ACIT v. Tristar Jewellery Exports Put. Ltd. ITA/7593/MUM/2011 (Mumbai ITAT)*

36. *As regards the merits of the addition, it is noted that the assessee had supplied the following in this regard:*

(i) Confirmation of the party who gave the loan.

(ii) Copy of Return of Income filed by them alongwith PAN No. of the loanees.

(iii) Copy of Balance Sheet, P/L Account alongwith all Schedules,

(iv) Copy of Certificate of incorporation, original and the latest one.

(v) Copy of Bank Statement of the loanee from which the loan have been given to the assessee, as well as Repayment made if any by the assessee.

37. *The A.O. has disregarded the evidences submitted by the assessee on the ground of a statement of Shri Pravin Kumar Jain and Shri Rakesh Doshi and the director of the assessee company. In this regard, as already referred hereinabove, the ld. CIT(A) has already found the issues of non submissions of the details obtained from Shri Pravin Kumar Jain and Shri Rakesh Doshi to the assessee, and not given an opportunity to*

cross examine them to be gross violation of principles of natural justice. Furthermore, the A.O. has also drawn adverse inference on the statement from the Director of the assessee company obtained during survey. In this regard, the ld. CIT(A) has given a finding that the assessee had duly honored the admission on survey regarding the share capital and share premium and that as regards the unsecured loan, upon reference to the materials, the assessee has found that the same was in order and, therefore, the assessee has furnished the necessary materials to support the genuineness of the loan. In this regard, the ld. CIT(A) has rightly referred to the decision of the Hon'ble Apex Court in the case of Pullangode Rubber Produce Co. Ltd. (supra) that "an admission is an extremely important piece of evidence but it cannot be said that it is conclusive. It is open to the person who made admission to show that it is incorrect." Similar observations were made by the Hon'ble Apex Court in the case of S. Kadar Khan 352 ITR 480 (SC) that the statements obtained in the course of survey de hors corroborative evidence cannot be conclusively proof for making the additions. Furthermore, the ld. CIT(A) by referring to the statements of Shri Rakesh Doshi has given a finding that his admission was not with relation to unsecured loans obtained by the assessee from the concerned companies. In this regard, we are of the considered opinion that these circumstances can give rise to a suspicion but they are not conclusive proof for addition without any proper enquiry by the A.O. rebutting the documentary evidences submitted by the assessee.

38. The A.O. in this regard has doubted the creditworthiness of the corporate entities on the ground that they have taken loans and share capital and share premium from other corporate entities. In this regard, it is also noted that the A.O. has referred to the provision of section 68 of the Act. Section 68 and proviso thereto reads as under:

Cash credits.

68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the

Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year:

Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.]

39. In this regard, we note that by giving the confirmation, return of income, the detail of PAN, copy of balance sheet and P & L account and copy of its bank statement, the assessee has duly discharged its onus. The A.O. has not found default in these documents. It is also not the case that cash has been deposited in the bank statement before granting of loans by these companies as pointed out by the ld. CIT(A). The A.O.'s grouse is that the assessee has not produced the directors of these companies, and these corporate entities have acquired resources by getting share capital and share premium from other corporate entities. First of all, we note that this is a case of unsecured loan and not share capital and share premium. Further, we find that the above said proviso to section 68 was inserted by Finance Income Tax Act, 1961, 2012 w.e.f. 01.04.2013. The Hon'ble jurisdictional High Court in the case of CIT vs. Gagandeep Infrastructure (P.) Ltd. [2017] 394 ITR 680 has held that the said proviso is prospective and cannot be applied to assessment years preceding the same.

We may gainfully refer to the decision of Hon'ble jurisdictional High Court which is also relevant in this case:

During the previous relevant to the subject Assessment Year the assessee had increased its share capital from Rs.2,50,000/to Rs.83.75 lakhs. During the assessment proceedings, the Assessing Officer noticed that the respondent had collected share premium to the extent of Rs.6.69 crores. Consequently he called upon the respondent to justify the charging of share premium at Rs.190/per share. The respondent furnished the list of its shareholders, copy of the share application form, copy of share certificate and Form no.2 filed with the Registrar of Companies. The justification for charging share premium was on the basis of the future prospects of the business of the assessee. The Assessing Officer did not accept the explanation/justification of the respondent and invoked Section 68 of the Act to treat the amount of Rs.7.53 crores i.e. the aggregate of the issue price and the premium on the shares issued as unexplained cash credit within the meaning of Section 68 of the Act. This addition was deleted by the CIT(A) and the Tribunal. Before the High Court, the department contended that the proviso to Section 68 of the Act which was introduced with effect from 1st April, 2013 would apply in the facts of the present case even for A.Y. 2008-09. The basis of the above submission was that the de hors the proviso also the requirements as set out therein would have to be satisfied. HELD by the High Court dismissing the appeal:

(i) We find that the proviso to Section 68 of the Act has been introduced by the Finance Act 2012 with effect from 1st April, 2013. Thus it would be effective only from the Assessment Year 2013-14 onwards and not for the subject Assessment Year. In fact, before the Tribunal, it was not even the case of the Revenue that Section 68 of the Act as in force during the subject years has to be read/understood as though the proviso added subsequently effective only from 1st April, 2013 was its normal meaning. The Parliament did not introduce to proviso to Section 68 of the Act with retrospective effect nor does the proviso so introduced states that it was introduced "for removal of doubts" or that it is "declaratory". Therefore it is not

open to give it retrospective effect, by proceeding on the basis that the addition of the proviso to Section 68 of the Act is immaterial and does not change the interpretation of Section 68 of the Act both before and after the adding of the proviso. In any view of the matter the three essential tests while confirming of the Act laid down by the pre the genuineness of the transaction, identity and the namelty of the investor have all been examined by the impugned order of the Tribunal and on facts it was found satisfied.

(ii) Further it was a submission on behalf of the Revenue that such large amount of share premium gives rise suspicion on the genuineness (identity) of the shareholders i.e. they are bogus. The Apex Court in CIT v/s. Lovely Exports (P)Ltd. 317 ITR 218 in the context to the pre-amended Section 68 of the Act has held that where the Revenue urges that the amount of share application money has been received from bogus shareholders then it is for the Income Tax Officer to proceed by reopening the assessment of such shareholders and assessing them to tax in accordance with law. It does not entitle the Revenue to add the same to the assessee's income as unexplained cash credit.

As noted in the ratio emanating from the decision of Hon'ble Jurisdictional High Court above, even if the source of funds of this corporate entities who have advanced loan to the company are considered suspicious in the context of pre-amended section 68, the addition can be considered in the hands of these companies and cannot be made in the hands of the assessee.

Even otherwise (as the proviso is applicable for A.Y. 2013-14) as rightly noted by the ld. CIT(A), the said proviso provides for an adverse inference if the assessee company providing those sums does not offer any explanation about the nature and source of sums. In this regard, it is noted that the A.O. has not made any enquiry from these corporate entities who have provided the loan, not even notice u/s. 133(6) has been issued. In these circumstances, without making any enquiry, the A.O. cannot presume that the funds obtained by these corporate entities are bogus or they are assessee's own funds being circulated. In this regard, we note that in the identical

situation, this tribunal in the case of Asst. CIT vs. Shri Dilip Chimanlal Gandhi (in LT.A. No.7079/Mum/2016 vide order dated 01.08.2018) the ITAT has held as under:

"22. Upon careful consideration we note that in support of the explanation of the unsecured loans, the assessee has submitted following details before the assessing officer:

I. PAN details of creditors

II. Constitution and address of the creditors

Particulars of income-tax returns filed by the creditors.

These show that the creditors are legitimate business entities, having the ability to advance the impugned loans to the appellant,]

IV. Confirmatory letters given by the creditors

V. Audited financial accounts (including balance sheets) of the creditors [These show that the loans are duly reflected in the books of account of the creditors.]

VI. Relevant bank statements of the creditors [These show that the loan amounts were paid through legitimate banking channels. Further these bank statements do not reflect any movement of cash, essential to hawala transactions.] 23. The assessing officer has made no enquiry with reference to the above. He did not seek any further explanation or detail from the assessee. He solely relied upon the investigation wing enquiry regarding the Bhanwarilal group. The Id. Commissioner of Income Tax (Appeals) in this regard has correctly made the observation that the assessee having given all the necessary details and has discharged its onus, it was incumbent upon the assessing officer to make further enquiry if he was not convinced by the submissions of the assessee. We find that assessing officer has displayed total lack of application of mind by not even issuing a notice to the loan creditors.

24. We find that it is settled law that while making any disallowance/addition, the Assessing Officer needs to make

due enquiry. In this case, the Assessing Officer has not made any enquiry whatsoever. As noted hereinabove, the assessee has given all the documentary evidences including confirmatory letters, bank statements and financial statements of the creditors. The Assessing Officer has not found any error therein. It has been held in number of cases that when the assessee has given all the necessary details of the loan creditors, including the creditworthiness and genuineness of the identification, the onus upon the assessee is discharged. In these circumstances, in our considered opinion, the assessee has discharged its onus. The Assessing Officer has not rebutted any of the submission of the assessee and the not rebutary evidence in this regard. Hence, in our considered opinion, there is no infirmity in the order of the ld. Commissioner of Income Tax (Appeals). The various case laws referred by the ld. Commissioner of Income Tax (Appeals) are germane and duly supports the case of the assessee. In the background of the aforesaid discussion and precedent, we uphold the order of the ld. Commissioner of Income Tax (Appeals)."

40. The above case law duly supports the proposition that no adverse inference can be drawn by the A.O. without making any enquiry in this regard. Even the ld. DR has tacitly acknowledged this proposition when he submits that the ld. Counsel of the assessee has mentioned that the A.O. has not issued notice u/s. 133(6) and summons u/s. 131 and has quoted the Hon'ble Delhi High Court decision in the case of CIT v/s Gangeshwari Metal Pvt. Ltd. (2013) 96 DTR (Del) 200 and other decisions. In this connection, the ld. DR has relied upon the decision of the Hon'ble Karnataka High Court in the case of Fidelity Business Services India Pvt. Ltd. (in ITA No. 512/2017 dated 23/07/2018) for the proposition that if there is some lack of investigation, the ITAT is competent to set aside the matters.

41. We have carefully considered this proposition. We note that the ld. Counsel of the assessee has referred to several case laws in this regard that when the assessee has supplied all the documents the onus is discharged. In this regard, the ld. Counsel of the assessee has placed reliance upon the

several case laws including that from Hon'ble Delhi High Court in the case of Gangeshwari Metal Pvt. Ltd. (supra), CIT v. Varinder Rawley (2014) 366 ITR 232 (P&H), Hon'ble Gujarat High Court decision in the case of CIT v. Sachitel Communications P. Ltd. (2014) 227 Taxman 219 (Mag) and others.

42. In our considered opinion, these case laws duly support the proposition canvassed by the assessee. In our considered opinion, the A.O. has not brought on record any cogent, adverse material to rebut the credibility of the corporate entity from whom loan has been taken. As already pointed out by us as above, that these corporate entities were found by the A.O. to have acquired funds by borrowals and acceptance of share capital and share premium. This by itself cannot lead to presumption that these sources are bogus without any enquiry. In these circumstances, in our considered opinion, the ld. DR's request that this issue be again remitted to the file of the A.O. to make further necessary enquiries cannot be entertained. The decision of the Hon'ble Karnataka High Court referred by the ld. DR was on a different set of facts, wherein, the Hon'ble Karnataka High Court on the facts and circumstances of the case had upheld the certain direction of the ITAT. In the present case, as pointed out hereinabove, in our considered opinion, the assessee has discharged its onus. As noted above, the A.O. has not brought on required cogent material to rebut the documentary evidence submitted by the assessee nor made any enquiry. As noted above, the assessee has given all the necessary evidence including the confirmation letters, bank statement, financial statements of the corporate entities. Hence, in our considered opinion, the identity, creditworthiness, genuineness of the transaction has been proved by the assessee and the onus cast upon the assessee has been discharged. In the background of the aforesaid discussion and precedent, we find that the ld. CIT(A) has passed well reasoned order supported by a appropriate case laws duly rebutting all the findings of the A.O. Hence we uphold the order of the ld. CIT(A)."

10. As pointed out by the Ld. counsel for the assessee, the issue involved in the present case is fully covered in favour of

the assessee by the decision of the "I" Bench of the Tribunal in the case of Dy. CIT vs. Manba Finance Ltd. (supra), for the AYs 2010-11, 2011-12 and 2013-14. In this case, the assessee has furnished documentary evidence including confirmation letters, bank statements, financial statements of the entities from whom, the assessee had obtained loans in question etc. Hence, in our considered view, the assessee has discharged his onus of establishing the identity and the entities from whom loans were obtained in question. The assessee has also established the genuineness of the question. The assessee has adduced necessary evidence. On the other hand the assessee has not brought any material on record to rebut the contention of the assessee. In our considered opinion, the findings of the Ld. CIT (A) are based on the established principles of law and in accordance with the decision of the coordinate Bench rendered in the case of DCIT vs. M/s Manba Finance Ltd. (group concern of the assessee company) discussed above. The order passed by the Ld. CIT (A) is well reasoned and supported by the law laid down by the Hon'ble Bombay High Court and the decisions of the coordinate Benches including the decision in the case of DCIT vs. M/s Manba Finance Ltd. (supra) relied upon by the assessee. We therefore, uphold the decision of the Ld. CIT (A) and dismiss the appeal filed by the revenue. Accordingly, we direct the AO to delete the addition made by the AO on account of alleged bogus unsecured loans.

In the result, appeal filed by the revenue for assessment year 2012- 2013 is dismissed”

(iv). The Honble Tribunal Jaipur Bench in the case of M/s. Noble Tradelink Pvt Ltd Vs. ITO. In ITA No.302 & 303/JP/2021 A.Y.2012-13 & A.Y.2013-14 order dated 10.10.2022 has considered the provisions and facts on the submissions of the assessee on the unsecured loans and granted relief observing at Page 25 Para 7.3 of the order read as under:

“7.3 We have heard both the parties and perused the materials available on record. In this case, the AO made an addition of Rs.54.50 lacs holding it as unaccounted money relating to Shri Vipul Vidur Bhatt for providing accommodation entries and rotating it in its bank account through these companies during the year. In first appeal, the ld. CIT(A) has confirmed the action of the AO. It is not imperative repeat the facts of the case as similar issue had been raised by the assessee in ITA No. 302/JP/2013 for the assessment year 2012-13 wherein the Ground No. 2 to 2.4 of the assessee has been allowed. Since the similar points are involved in the appeal of the assessee for the assessment year 2013-14, therefore, applying the same analogy, we feel that the ld. CIT(A) is not justified in confirming the action of the AO as to the addition of Rs.54.50 lacs in the case of the assessee company. Hence, the decision taken by us in Ground No. 2 to 2.4 of the assessee for the assessment year 2012-13, allowing the grounds of the assessee are reproduced as under:- ‘

’4.5 We have heard both the parties and perused the materials available on record. Brief facts of the case are that the AO while making the assessment in the case of the assessee observed that during the year under consideration the assessee company had taken credit entries in the form of unsecured loan from the entities which are 27 ITA NO.302/JP/2021 M/S. NOBLE TRADELINK PVT LTD. VS ITO, WARD 1(5), JAIPUR managed by Shri Vipul Vidur Bhatt for providing accommodation entries and rotated unaccounted money of Rs.80 lacs in its bank through these companies. Thus the AO added unaccounted money of Rs. 80 lacs to the total income of the assessee company for the year under consideration and the ld. CIT(A) has confirmed the action of the AO. The Bench noted that if any sum is found credited in the books of account of the assessee then the assessee has to prove the identity and creditworthiness of the party from whom the amount is received and the genuineness of the transaction. From the record, it is noted that identity of the creditor is established from the company master data downloaded from MCA Portal. The genuineness of the

transaction is established from the confirmation of accounts, affidavit of Director of loan creditor companies and bank statement from where it can be seen that the transaction had been carried out through banking channel and the loan amount is repaid during the year itself. It is also noted from the records that the creditworthiness of the creditor is established from the balance sheet from where it can be seen that the net worth of of M/s Lukand Textiles Pvt. Ltd. is Rs.2.08 crores (PB 49), M/s P Saji Textiles Ltd. is Rs.3.09 crores (PB 79), M/s Sampada Chemicals Ltd. is Rs.10.20 crores (PB 114) and M/s Santoshima Tradelink Ltd. is Rs.45.78 crores (PB 139-140). Further the Directors of these companies in their affidavits have stated that source of funds for loan given to assessee is out of repayment of loan given to other parties. Thus, assessee has discharged its onus to establish the identity of creditors, genuineness of the transaction and creditworthiness of the creditors. The ld. AR of the assessee further submitted that having discharged its onus, it is the duty of the AO to disprove the evidence filed by the assessee. The AO except referring to the report of Investigation Wing has not brought any material on record to rebut the evidences filed by the assessee. It is not the case of lower authorities that in search of Mr. Vipul Vidur Bhatt any evidence is found that assessee has given any cash for taking the alleged accommodation entry. Had these loans were accommodation entries, the same would not have been repaid within such short duration. The Ld. CIT(A) has incorrectly held that assessee has not demonstrated that these entities are doing genuine business ignoring that the same is verifiable from the financial statements of these creditors and their return of income filed before him which otherwise is not the onus of the assessee. The case laws and the report relied upon by the ld. DR are with reference 28 ITA NO.302/JP/2021 M/S. NOBLE TRADELINK PVT LTD. VS ITO, WARD 1(5), JAIPUR to the LTCG claimed exempt u/s 10(38) of the Act which are not relevant to the facts of the assessee's case where he took loan and also repaid during the same financial year. Hence, these case are of no help to the revenue. As against this, the ratio laid down by the assessee are squarely applicable to the facts of the assessee.

ITO vs Om Shanti Realtors (ITA No. 5615/Mum/2017 dated 01-03-2019 wherein the Bench observed as under:-

“7. After having gone through the facts of the present case and perusal of the documents and after hearing both parties at length we find that the assessee had already placed on record all the documentary evidence in order to show the identity and creditworthiness of the lender and genuineness of the transactions. We have perused the confirmation filed by the parties, copies of acknowledgement of return of income filed by the lenders for the year under consideration, copies of bank statement of lenders, which establish that the payment towards loans were received during the year under consideration. Therefore, the identity of the lender was not in dispute. We have also considered all the documents placed on record by the assessee in the shape of statement of accounts and documents to show that the transactions were carried out through banking channels and the confirmations which were filed in the form of ledger accounts which reflect that the assessee had received the amount through RTGS. All those documents prove the genuineness of the transactions. Now as far as creditworthiness of the lenders are concerned, we have perused the audited accounts of the lenders which shows the creditworthiness of the lenders to grant loans and advances. Further, we also noticed upon the records that ld. CIT(A) had rightly pointed out in its order that the AO made the additions by holding that as the declared income by the respective loan creditors was less, therefore, they were not capable of lending. However, the AO ignored the fact that the lenders had substantial 29 ITA NO.302/JP/2021 M/S. NOBLE TRADELINK PVT LTD. VS ITO, WARD 1(5), JAIPUR turnover and had a very large basis of assets as is reflected in the respective balance sheet.”

2. Pr. CIT, Udaipur vs Shubh Mines Pvt. Ltd. (DBITA No. 96/15 order dated 03-05-2016 (Raj. H.C.) wherein the Hon'ble Court observed at para 7.

“7. A bare perusal of the assessment order reveals that the AO has made the addition on suspicion which is based on the

statements of third party Shri Aseem Kumar Gupta, admittedly, recorded in the back of the assessee. It has come on record that the share application money of Rs.50,00,000/- was received from Moderate Credit Corporation Ltd., a listed company. It is not disputed before this court that the investment made was received by account payee cheque and the same was refunded by an account payee cheque when the company dropped its project. In the considered opinion of this court, in absence of any cogent evidence on record establishing that the money shown to have received as share application money, was as a matter of fact, unaccounted money belonging to the assessee company, the finding arrived at by the AO, which is based on suspicion, has rightly been held not sustainable in the eyes of law. Suffice it to say that the finding arrived at by the CIT (A), affirmed by the ITAT, which remains a finding of fact, cannot be said to be capricious or perverse.”

3. Aravali Trading Co. vs ITO (2008) 8 DTR 199 (Raj) wherein the Hon'ble Court observed that ...Once the existence of the creditors is proved and such persons own the credits which are found in the books of the assessee, the assessee's onus stands discharged and the latter is not further required to prove the source from which the creditors could have acquired the money deposited with him either in terms of sec. 68 or on general principle. Merely because the depositors explanation about the sources of money was not acceptable to the AO, it cannot be presumed that the deposit made by the creditors is money belonging to assessee itself. If the creditors explanation about the source of deposits is not found to be acceptable, the investment owned by such persons may be subjected to proceedings for inclusion of the amounts as their income from undisclosed sources or if they are found benami the real owner can be brought to tax. In the absence of anything to establish that the sources of the creditors deposits flew from the assessee, the cash credits cannot be treated as unexplained income of the assessee.” 30 ITA NO.302/JP/2021 M/S. NOBLE TRADELINK PVT LTD. VS ITO, WARD 1(5), JAIPUR

4. *Kanhaialal Jangid vs ACIT (2008) 8 DTR 38 (Raj)* wherein the Hon'ble Court observed that –“ While it is the assessee's burden to furnish the explanation relating to cash credits, the assessee's burden does not extend beyond proving the existence of the creditor and further proving that such creditor owns to have advanced the amount credited in the account of assessee. However, the burden does not go beyond to put the assessee under an obligation to further prove as to wherefrom the creditor has got or procured the money to be deposited or advanced to the assessee. The explanation furnished by the creditor about the source from where he procured the money to be deposited or advanced to the assessee is not relevant for the purpose of rejecting the explanation furnished by the assessee and making additions of such deposits as income of the assessee from undisclosed sources by invoking section 68 unless it can be shown by the department that the source of such moneys come from the assessee himself or such source could be traced to the assessee itself. In the present case, while the existence of the creditor is not in doubt & he has admitted to have advance the loan to the assessee, the fact that the explanation furnished by the creditor about his source of such advancement has not been accepted by the revenue authority cannot lead to any presumption that the source of such advancement by creditor emanated from the assessee. Therefore, the addition in the income of the assessee as cash credit cannot be sustained.”

5. *Labchand Bohra vs ITO (2008) 219 CYR 571 (Raj)* wherein the Hon'ble Court observed that - Identity of the creditors having been established who have confirmed the credits by making statements on oath and the amounts having been advanced by account payee cheques, impugned addition in respect of the entries in the names of said creditors cannot be sustained. Capacity of the lender to advance money to the assessee is not a matter which could be required to be established by the assessee, as that would amount to calling upon him to establish source of the source”

In view of the above deliberations, the decisions relied on above, we find that disallowance made of Rs.80 lacs u/s 68 of the Act by the lower authorities has no merit and we do not concur with the findings of the ld. CIT(A) as the assessee has proved the identity and creditworthiness of the party from whom the amount was received and genuineness of the transaction. Thus, the decision taken by us in 31 ITA NO.302/JP/2021 M/S. NOBLE TRADELINK PVT LTD. VS ITO, WARD 1(5), JAIPUR Ground No. 2 to 2.4 of the assessee in ITA No.302/JP/2021 for the assessment year 2012-13 shall apply mutatis mutandis in Ground No. 2 to 2.4 of the assessee for the assessment year 2013-14 also. Thus Ground No. 2 to 2.4 of the assessee is allowed

8. In the result, both the appeals of the assessee are partly allowed.”

8. The Ld.AR mentioned that the assessee has cooperated in submitting the information in the assessment proceedings, whereas the A.O has ignored the information, evidences and audited financial statements and unilaterally made addition u/sec68 of the Act. The Ld. AR emphasized that the assessee has discharged its burden by submitting the financial statements of the lenders where the payment is made through banking channel and identity, creditworthiness and genuineness of the lender company was proved in the assessment proceedings. Further the Ld.AR demonstrated the details submitted by the assessee before the Assessing Officer i.e the audited financial statements, confirmations, Bank statements, copy of the income tax returns and the repayment details to substantiate the genuineness and credit worthiness of loan creditors, which are placed at

page 4 to 34 of paper book. The Ld.AR demonstrated the copy of bank statements reflecting the repayment of unsecured loans in the paper book which is not disputed by the revenue. Further, the A.O has failed to make further enquiries and relied on the statement recorded, overlooking the factual aspects that the assessee has discharged the initial burden placed by furnishing the details. The Ld. AR referred to the copy of details of unsecured loans provided by the lenders and subsequent repayment of loans along with the financial statements, confirmations and bank statements filed by the four unsecured loans creditors directly with the assessing officer in lieu of notice issued u/sec 133(6) of the Act in the assessment proceedings placed at page 35 to 166 of the paper book.. Whereas the A.O has ignored the information, evidences and audited financial statements and unilaterally made addition u/sec68 of the Act only on the basis of statement provided by third party without any iota of evidences discrediting the evidence furnished by the assessee and the statement of Shri Vipul Vidur Bhatt has been retreated which cannot use as reliable evidence. The information submitted by the assessee satisfied the three ingredients of provisions of Sec. 68 of the Act. Further the loan transactions are not believed and alleged as non genuine and treated as unexplained cash credit U/sec68 of the Act and these unsecured loans were repaid through account payee / banking channels in the subsequent

years which is not disputed. The Ld.AR submitted that the assessee has substantiated the stand by submitting the details before the A.O. and CIT(A) and discharged the burden. We considering the facts, circumstances and ratio of judicial decisions referred above, set-aside the order of the CIT(A) and direct the Assessing officer to delete the addition of unsecured loans and allow these grounds of appeal in favour of the assessee.

9. Since we have decided on the merits of the case, the grounds of appeal with respect to validity of re-assessment proceedings raised by the assessee becomes academic and are left open.

Order pronounced in the open court on 25.07.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated:25/07/2024

KRK

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//