

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.1434/Mum/2024  
(Assessment Year :2018-19)**

DCIT, Central Circle-7(1), Mumbai	Vs.	M/s. A.P. Trading Co. 1, Pearl Mansion, N-91 Maharashi Karve Road Marine Lines Mumbai - 400 020
<b>PAN/GIR No. AAFA1869P</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

**CO No.67/Mum/2024  
(Arising out of ITA No.1434/Mum/2024)  
(Assessment Year :2018-19)**

M/s. A.P. Trading Co. 1, Pearl Mansion, N-91 Maharashi Karve Road Marine Lines Mumbai - 400 020	Vs.	DCIT, Central Circle-7(1), Mumbai
<b>PAN/GIR No. AAFA1869P</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Snehal Shah
Revenue by	Shri Ajay Chandra
<b>Date of Hearing</b>	<b>03/09/2024 &amp; 20/12/2024</b>
<b>Date of Pronouncement</b>	<b>23/12/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the Revenue and Cross Objection by the assessee against order dated 30/01/2024 passed by CIT (A)-49, Mumbai for the quantum of assessment passed u/s.153A r.w.s. 143(3) for the A.Y.2018-19.

2. The Revenue has challenged the deletion of loans aggregating to Rs.90,43,00,000/- added by the ld. AO that assessee could not provide entire chain of flow of funds, whereas in the cross objection, the assessee has challenged the validity of search and proceedings u/s.153A on the ground that there is no incriminating documents found during the course of search qua, the addition made.

3. The brief facts are that assessee has filed its return of income on 08/10/2018 u/s. 139(1) declaring 'Nil' income and current loss was shown at Rs. (-)4,75,457/-. The said return of income was accepted vide intimation u/s. 143(1). A search and seizure action was conducted on assessee on 17/04/2018 and accordingly, notice u/s.153A dated 15/11/2019 was issued and in response to which assessee filed return of income on 27/11/2019 declaring same income i.e. 'Nil' and current year loss of Rs. (-) 4,75,457/-. During the course of assessment proceedings ld. AO noted that assessee had shown unsecured loans from the following parties:-

<b>Name of the party</b>	<b>PAN</b>	<b>Amount (Rs.)</b>
Prarthna Pvt. Ltd	AABCP5029J	30,18,00,000

Kyora Mettaliks Pvt. Ltd.	AAGCK6497G		34,45,00,000
Pakhul Traders Pvt. Ltd.	AAJCP2581K		25,80,00,000
	<b>Total</b>		<b>90,43,00,000</b>

4. In order to verify the genuineness of the claim of the assessee regarding the aforesaid loans, ld. AO issued notices u/s. 133(6) to the above parties. In response, all the parties have furnished copy of acknowledgment of return of income, audited accounts and financial statements, ledger confirmation, copy of ledger account. Ld. AO noted that as per audited financial statements of Kyora Metaliks Pvt. Ltd. and Pakhul Traders Pvt. Ltd both the companies had been incorporated on the same date (i.e., on 22/06/2017) from the same address and the Director of both the companies was also same. Further in the first year itself the turnover had crossed Rs 100 Cr but the net profit margin was only 0.03% and in the Balance Sheet on the liabilities side, there was share capital of Rs 1,00,000/- and huge trade payable was shown as outstanding, and on assets side there were sundry debtors and short-term loans and advances. The companies were claimed to have advanced such huge interest-free loans to the assessee in their first year of incorporation. The AO noticed that these companies had not furnished copies of bank statements reflecting payment entries and any explanation regarding sources of the funds out of which the loans were claimed to have

been advanced to the assessee. Accordingly, the AO issued another notice u/s 133(6) of the Act to both the above-mentioned parties requiring them to furnish copy of the loan agreement, copy of bank statement reflecting the payments made to the assessee and explanation regarding the sources of the funds. However, both the parties did not respond to such notice.

5. Further, while analyzing the audited financial statements of Prarthna Pvt. Ltd, AO noted that the company had negative net worth and had claimed a loss of Rs.29.38 Cr in its return of income filed for the A.Y 2018-19. The company had also not furnished copy of bank statement reflecting the relevant payment entries and explanation regarding the sources of the funds out of which the loans were claimed to have been advanced to the assessee. The ld. AO again required the assessee to explain the genuineness and creditworthiness of all the three parties, the assessee filed its reply and explanation vide letter dated 01/06/2021 which has been reproduced by the ld. AO in the impugned assessment order. The assessee had also intimated that some of the companies had filed insolvency petition before the NCLT at the time when further details were asked. The ld. AO accordingly held that since documentary evidences have not been filed to prove the genuineness of the loan given by the assessee and also could not explain the purpose of taking the loans. After analyzing the credentials and financials of one of the parties Prarthna Pvt. Ltd. AO observed that it has a negative net worth. He then issued summons to Prarthna Pvt. Ltd for production of books of accounts and furnishing of explanation as

to the source of funds for advancing the loan to the assessee before the ld. AO. The assessee's representative furnished the explanation regarding the source of funds in the amounts received from Prarthna Pvt. Ltd., however, AO noted that complete details have not been provided. Their loans have been advanced are partly from the funds borrowed from the other parties and entire chain of flow of funds have not been provided. He observed that funds have been transferred directly from one Group Company to other group company and there is funds transfer from one entity to other to prove the source of the loan. He further observed that assessee has failed to establish the creditworthiness and genuineness of the parties by not furnishing any correspondence, emails, copy of agreements, fund messages exchanged before the loan was received. Further, there are very frequent debit and credit transactions involving these amounts between the assessee group and Prarthna Pvt. Ltd within a short span of time. Ld. AO further inferred that there could be an instance of the first layer source company receiving the funds from other company which may be involved bogus sale purchase transaction and substantial funds have been claimed to have been received by Prarthna Pvt. Ltd. from another private limited company M/s. Jalpac Traders and this company was involved in bogus sales / purchase transaction with many companies, summary of which has given in the assessment order from pages 12-14. Thus, Ld. AO held that source of funds in the hands of Prarthna Pvt. Ltd. might be linked to bogus purchase and a sale which in turn is linked to mis-use of bank funds.

6. Similarly, with regard to other two companies, ld. AO noted that both these companies are incorporated in the same year having same address and these companies had filed insolvency petition within three years of incorporation, thus, he inferred that these are paper / shell companies to route the funds and the loan be still outstanding in the subsequent assessment years. Similar observation and finding have been given by him for these two companies. Accordingly, the ld. AO held that assessee has not been able to prove the creditworthiness of lenders and the genuineness of the transaction and no satisfactory explanation has been given. Accordingly, he treated the amount of Rs.90,43,00,000/- credited in the bank account as unexplained cash credit which has been added u/s.68.

7. Before the ld. CIT (A) all the documents and evidences were filed alongwith additional grounds challenging the validity of proceedings u/s.153A. On this, ld. CIT (A) called for the remand report of the ld. AO. In so far as legal issue raised before him, ld. CIT (A) after considering the remand report has dismissed the assessee's grounds on which assessee has filed cross objections.

8. In so far as merits are concerned, ld. CIT (A) analysed all the documents and explanation furnished by the assessee, inquiry conducted by the ld. AO and observations and finding of the ld. AO qua each of the parties in the assessment order. On each and every detail he has given his finding. The relevant discussions and finding with regard to each of three parties vis-a-vis the material placed on record are as under:-

**24. Prarthna Private Limited:-**

24.1 The Assessing officer has added loan received from this company of Rs 30,18,00,000/- u/s 68 of the IT Act. The appellant has submitted that this company is assessed to tax with Income tax Officer Ward-8(3) Kolkata Hence, the identity of the party is proved. Regarding creditworthiness, the appellant has submitted that the assessment in case of M/s Prarthna Pvt. Ltd for AY 2017-18 has been completed u/s 143(3) of the IT Act by ITO Ward-8(3), Kolkata on 23.12.2019 wherein no addition has been made This order is passed after the date of search action on the appellant, that is 17.04.2018, and hence, it clearly proves creditworthiness of the party, as no adverse inference has been drawn by the A.O Regarding genuineness of the transactions, the appellant has submitted that there are regular transactions between the appellant and Prarthna Pvt. Ltd and the entire loan has been repaid in the financial year 2020-21

24.2 Before me, in support of its claim, the appellant has submitted following documents

i.Ledger account of M/s Prarthna Pvt. Ltd in the books of the appellant.

ii.Loan confirmation letters from M/s Prarthna Pvt. Ltd.

iii. Bank statement of appellant reflecting loan transactions

iv Bank statement of M/S Prarthna Pvt. Ltd

v.Copy of Income tax returns filed by M/S Prarthna Pvt. Ltd along with the copy of audit report.

vi Copy of Assessment order passed u/s 143(3) in case of M/S Prarthna Pvt. Ltd for A.Y 2017-18.

24.3 From the perusal of ledger account, it is seen that there are regular transactions of loan between the appellant firm and M/s Prarthna Pvt. Ltd. The details are as under:

A.Y,	Opening Balance	Loan taken during the year	Loan Repaid during the year	Closing balance
2018-19	NIL	30,18,00,000	12,69,00,000	17,49,00,000
2019-20	17,49,00,000	6,41,85,000	15,90,00,000	8,00,85,000
2020-21	8,00,85,000	1,02,00,000	1,08,00,000	7,94,85,000
2021-22	7,94,85,000	1,02,77,000	8,97,62,000	NIL

The above facts show that the appellant has taken loan of Rs. 30,18,00,000/- and repaid Rs.12,69,00,000/- in the assessment year under consideration itself. The outstanding closing balance as on 31.03.2018 was of Rs. 17,49,00,000/-, Thereafter in the subsequent years there are entries of receipt and repayment of loan. In the F.Y. 2020-21, the appellant has repaid the entire loan to the company.

24.4 Further, it is seen that "during the assessment proceedings for A.Y 2017-18 in case of M/s Prarthna Pvt. Ltd, the ledger accounts and financial statements were provided to the A.O, Thereafter, the A.O passed the assessment u/s 143(3) on 23.03.2019 making addition of Rs.30,32,771/- on account of ad-hoc disallowance of expenses. No addition on account of sources of funds has been made.

24.5 From the facts of the case discussed above, it is clear that that the appellant has discharged Its onus of proving the identity and creditworthiness of the lender and genuineness of the transaction, as required u/s 68 of the I.T. Act.

## **25. Kyora Mettaliks Pvt. Ltd :-**

25.1 The Assessing officer has added loan received from this party of Rs. 34.45 crores. Regarding the identity, the appellant has submitted that the company is assessed with National E-Assessment Center, Delhi. Hence the identity is proved. Regarding

creditworthiness, it is submitted that the assessment order in this case for A.Y 2018-19 has been passed u/s.143(3) of the I.T. Act on 17/05/2021 by the National E- 'Assessment Center accepting the returned income. Regarding genuineness, it is submitted that there' are 'regular transactions of loan with this company and the entire loan has been repaid in the F.Y. 2019-20.

25.2 Before me, the appellant has submitted following documents in support of its claim:

- i. Ledger account of M/s Kyora Mettaliks Pvt. Ltd the books of the appellant.
- ii. Loan confirmation letters from M/ s Kyora Mettaliks Pvt Ltd.
- iii. Bank statement of appellant reflecting loan transactions.
- iv. Bank statement of M/s Kyora Mettaliks Pvt ltd.
- v. Copy of income tax returns filed by M/s Kyora Mettaliks Pvt ltd along with the copy of audit report.
- vi. Copy of Assessment order passed u/s 143(3) in case of M/s Kyora Mettaliks Pvt ltd for A.Y 2018-19

25.3 From the perusal of ledger account, it is that there are regular transactions of loan between the appellant firm and M/s Kyora Mettaliks Pvt. Ltd. The details of the same are as under:

A.Y.	Opening Balance	Loan taken during the year	Loan Repaid during the year	Closing balance
2018-19	NIL	34,45,00,000	7,67,00,000	26,78,00,000
2019-20	26,78,00,000	NIL	13,20,15,000	13,57,85,000
2020-21	13,57,85,000	NIL	13,57,85,000	NIL

It can be seen from the above that the appellant has repaid loan of Rs.7.67 crores in the FY. 2017-18 itself and thereafter repaid Rs. 13,20,15,000/- in the FY 2018-19 and the remaining amount of Rs. 13,57,85,000/- has been repaid in the FY 2019-20 Thus, the entire loan has been repaid in the FY 2019-20.

**25.4 It is also a fact that the assessment in case of KyoraMettaliks Pvt. Ltd for A.Y 2018-19 has been completed u/s 143(3) of the I.T. Act on 17.05.2021 accepting the returned income. The source of funds have not been doubled by the AO**

**25.5 In view of the above, I hold that the appellant has discharged its onus or proving the identity and creditworthiness of the party and genuineness of transaction.**

**26. Pakhul Traders Pvt. Ltd :-**

26.1 The A.O has made addition of Rs. 25.80 crores u/s 68 of the IT Act During the appeal proceedings, the appellant has submitted that Pakhul Traders Pvt. Ltd is assessed to tax at National E-Assessment Centre, Delhi, and hence the identity is proved. Regarding creditworthiness, it is submitted that the assessment for A.Y 2018- 19 has been completed in this case u/s 143(3) of the IT Act on 25 02 2021 by National E-Assessment Centre which is after the date of search on the appellant. Regarding genuineness, it is submitted itted that the loan has been repaid in the FY 2020-21

26.2 Before me, in support of its claim, the appellant has submitted following documents.

i Ledger account of M/s Pakhul Traders Pvt. Ltd in the books of the appellant.

ii.Loan confirmation letters from M/s Pakhui Traders Pvt. Ltd.

iii. Bank statement of appellant reflecting loan transactions.

iv.Bank statement of M/s Pakhul Traders Pvt. Ltd

v Copy of Income tax returns filed by M/s Pakhul Traders Pvt. Ltd along with the copy of audit report.

vii. Copy of Assessment order passed u/s 143(3) in case of M/s Pakhul Traders Pvt. Ltd. for A.Y 2018-19.

26.3 In the ledger account of M/s Pakhul Traders Pvt. Ltd., following loan transactions are reflected.

A.Y.	Opening Balance	Loan taken during the year	Loan Repaid during the year	Closing balance
2018-19	NIL	25,80,00,000	NIL	25,80,00,000
2019-20	25,80,00,000	NIL	3,20,00,000	22,60,00,000
2020-21	22,60,00,000	NIL	11,30,15,000	11,29,85,000
2021-22	11,29,85,000	NIL	11,29,85,000	NIL

From the above, it is seen that the appellant has taken loan of Rs, 25.8 crores in the F.Y 2017-18, thereafter Rs. 3.2 crores was repaid in the F.Y 2018-19, Rs. 11,30,15,000/- was repaid in F.Y 2019-20 and the remaining amount of Rs. 11,29,85,000/- has been repaid in the F.Y 2020-21. Thus, the entire loan has been repaid in the F.Y. 2020-21.

**26.4 It is also a fact that the assessment in case of M/s Pakhul Traders Pvt. Ltd., for A.Y 2018-19 has been completed u/s 143(3) of the I.T. Act on 25.02.2021 accepting the returned income. The source of funds has not been doubted by the A.O.**

**26.5 In view of the above, I hold that the appellant has discharged its onus of proving the identity and creditworthiness of the lender and genuineness of transaction.**

**27. From the above discussion, it can be seen that in the present case, the loans have been accepted through banking channels and have also been repaid through the banking channels. There are several judicial decisions**

**wherein it is held that in case of repayment of loan through the banks, addition cannot be made /u/s. 68 of the I.T Act.**

9. We have heard both the parties and also perused the relevant finding given in the impugned orders as well as voluminous details furnished before us in three volumes of paper book. Before us, ld. Counsel stated that all the three parties have responded to the notices issued by the ld. AO u/s.133(6) furnishing all the relevant documents and the date of submissions and the nature of documents furnished by these parties directly to the ld. AO are as under:-

DATE OF NOTICE	DATE OF SUBMISSION	NATURE OF SUBMISSION
A]		<b>PRARTHNA PRIVATE LIMITED</b>
22-04-2021	26-04-2021	Notice u/s 133(6) received from The Learned AO Central Circle 7(1) Mumbai
		Submitted reply to above notice of following:-
		a) Copy of Income Tax Return Acknowledgement, Annual Report and Tax Audit report for the AY 2018-19.
		b) Copy of Balance Confirmation for the AY 2018-19
		c) Copy of ledger accounts for the F.Y. 2017-18
18-06-2021	22-06-2021	Notice received u/s 131 of the Act, the detailed reply submitted by Mittal Agarwal & Co Chartered

		Accountant as following
	24-06-2021	a) Copy of Letter Authority.
		b) Bank Statement highlighted transaction with M/s A. P Trading Co
		c) Ledger Account
		d) Confirmation of Accounts, Copy of ITR Ack. And Balance Sheet
B.		<b><u>Kyora Metalliks Pvt. Ltd :-</u></b>
22-04-2024	26-04-2024	Reply letter Submitted with following documents
31-05-2021		a) Copy of ITR Acknowledgment, Audited Accounts and Tax Audit Report
		b) Balance confirmation
		c) Ledger accounts
C.		<b><u>Pakhul Traders Pvt. Ltd :-</u></b>
22-04-2024	26-04-2024	Reply letter Submitted with following documents
31-05-2021		d) Copy of ITR Acknowledgment, Audited Accounts and Tax Audit Report
		e) Balance confirmation
		f) Ledger accounts

10. One very important fact Ld. Counsel stressed that **in the case of all the three parties, assessment order has been completed u/s. 143(3) for the same assessment year and that to be after the date of search wherein no such adverse inference or addition has been made with regard to the source of the funds.** This fact has also been noted by the ld. CIT (A) for each of the parties. Thus, assessee has not only discharged the burden for proving the source of loan but also source of the source.

11. On the other hand ld. DR after referring to the various observations of the ld. AO submitted that the source of funds in the hands of the parties where inter-transfer of funds from other group companies and there are layering of companies and the source of funds are strange in providing bogus purchase and sales. Notices given by the AO for each of the party have neither been rebutted nor have been satisfactorily explained by the assessee. Thus, the order of the ld. AO should be confirmed.

12 We have perused various documents and annexures including income tax returns, copy of balance confirmations and bank statements of the three parties highlighting the transaction of loan received by the assessee from the said three parties, provided in the paper book before us from pages 1 to 163, which also contains relevant bank statement of the lender companies and the source of funds for each company shown in their audited financial statement and balance sheet. It is not the case of the ld.

AO that in any of the case the some kind of cash has been deposited, albeit, the allegation is that there are transfers of funds from the group companies. From the perusal of the balance sheet of Prarthna Pvt. Ltd., it is seen that it has declared Revenue from Iron & Steel Products of Rs.214,11,35,742/- during the year and other income of Rs.6,88,08,516/-. Apart from that there are inter-corporate loans and unsecured loans for more than Rs.31.92 Crores. Similarly, from the perusal of the bank statement, it is seen that there are huge credit entries and regular debits / withdrawals for the purpose of business and also entries of loan given to the assessee. These loans have been repaid mostly in the subsequent years which have also been noted by the ld. CIT (A) in the order as incorporated above. Thus, in most of the cases all the loans have been repaid back up till A.Y. 2020-21 and there was no closing balance.

13. Once the ld. AO himself has carried out enquiry u/s. 133(6) and u/s.131 and all these parties have directly given to the AO their bank statement, confirmation letters, copy of ledger account, copy of income tax returns and audited accounts and most importantly they have also given their assessment orders passed u/s. 143(3) for the same assessment year, wherein, no adverse inference has been drawn and neither the source of funds in the balance sheet have been doubted. If ld. AO is alleging that source of funds in these companies are doubtful, then how in the scrutiny assessment proceedings for each of the companies after the search, the same has been accepted and there is no reference of any material or information discussed

either in the assessment orders of the respective companies or any tangible material had been brought on record that the source of these funds are some accommodation entries. It is not a case that some entry provider has provided entry of loan for couple of years and the amounts have been repaid. Even if the source of funds in the hands of the company are from the group companies, but in so far as these companies are concerned, they have given proof of direct source of the funds reflected in their bank statements. Even otherwise also prior to A.Y.2023-24 there was no requirement in the law to prove the source of the source. In so far as assessee is concerned, the entire onus stands discharged. The aforesaid finding of the Id. CIT (A) has neither been rebutted nor has any tangible material been brought on record to dislodge any of his findings.

14. The Revenue has mainly harped on the creditworthiness of these companies, however, from their audited accounts and the bank statements it is clearly seen that they have proven the source of the funds and also availability of these funds in their audited accounts and also explained the source of the source, i.e., funds are either coming from their business operation or from the group companies. If Id.AO had any doubt about all these evidences, then he should have carried out further inquiry about the trail and the layering of the funds to find out whether there has been routing of some unaccounted money of the assessee or there is any clandestine transaction. All his findings are based on certain presumption and surmise and guess work to reach to his conclusion to dislodge all the documentary

evidences. Even before us nothing has been brought on record to rebut the findings of the Ld. CIT (A) or to show before us that all material and evidences filed before the AO and CIT (A) are liable to be rejected. We are unable to reverse the finding of the Ld. CIT (A) based on proper appreciation of fact and also Department itself has accepted the source of funds in the hands of the lender parties in scrutiny proceedings u/s 143(3). Accordingly, the order of the ld. CIT (A) in deleting the additions for the reasons given by him is upheld and the grounds raised by the Revenue are dismissed.

11. Since we have deleted the addition on merits before the validity of search and proceedings u/s.153A are treated as academic and accordingly, Cross Objection of the assessee is treated as infructuous.

**12. In the result, appeal of the Revenue and Cross Objection of the assessee are dismissed.**

Order pronounced on 23<sup>rd</sup> December, 2024.

**Sd/-**  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**  
Mumbai; Dated 23/12/2024  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**