

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "B", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA Nos.2912 & 2909/M/2024
Assessment Years: 2013-14 & 2015-15**

M/s. Shraddha Realtors, Sai Shraddha Realtors, G-2, Akshat, Ram Mandir Extn Road, Vazira Naka, Borivali (W), Mumbai, Maharashtra – 400 092 PAN: ACEFS2817B	Vs.	Income Tax Officer- 32(3)(3), Mumbai Maharashtra – 400092
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Ajay R Singh, Ld. A.R. &
Shri Akshay Pawar, Ld. A.R.

Revenue by : Shri Nayanjyoti Nath, Ld. Sr. D.R.

Date of Hearing : 05 . 11 .2024

Date of Pronouncement : 22 . 01 .2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the Assessee against the orders even dated 26.03.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2013-14 & 2015-15.

2. Both the appeals are based on the almost identical facts except variation in amounts and having involved identical issues therefore for the sake of brevity, the same were heard together and are being disposed of by this composite order by taking into consideration the facts and circumstances and issues involved in ITA No.2912/M/2024 as a lead case and result of the same would be applicable *mutatis mutandis* to both the appeals under consideration.

3. Brief facts relevant for adjudication of the ITA No.2912/M/2024 are as under:

The Assessee, during the AY under consideration, being a partnership firm engaged in the business of developers by filing its return of income offered "nil" income. Meanwhile, information was received from the Director General of Income Tax (Investigation), Mumbai , which reads as under:

"4. Meanwhile, information was received from the Director General of Income Tax (Investigation), Mumbai that the assessee is one of the beneficiaries of obtaining accommodation entries purchase from Bhanwarlal Jain group. A search & seizure action u/s.132 of the I.T. Act 1961 was carried out by the Investigation Wing, Mumbai on Bhanwarlal Jain and Rajesh Bhanwarlal Jain and also covered certain namesake/ dummy directors/partners/proprietors of various concerns that were managed, controlled and operated by Bhanwarlal Jain, Rajesh Bhanwarlal Jain and Manish Bhanwarlal Jain. During the course of search, statement u/s 132(4) of the IT Act, 1961 of the above person has been recorded and all of them categorical admitted the fact that Shri Bhanwarlal Jain & family controls and manages the affairs of approximately 70 benami concerns in the names of dummy directors, partners and proprietors, through which, he provides accommodation entries of bogus unsecured

loans, wherein cheque is issued and received against the payment of cash by various beneficiaries. During the course of search an estimate sheets' and pen drive were also found and seized, and it was admitted by Shri Bhanwarlal Jain group in their statement before the Income Tax Authorities that the estimate sheets are angaria's accounts containing cash transaction which are not recorded in the regular books of accounts of any of the benami concerned managed and controlled by the group. Further, parallel accounts maintained in pen drive consists of the details of movement of cash against issue of cheque and vice-versa, wherein the cheque entries get reflected in the regular books of accounts of such benami concerns, the details of the corresponding cash component was maintained on the pen drive and the same cash transaction were shown in the estimate sheets. From the above documents found during the search and the admission of Bhanwarlal Jain, it was proved beyond doubt that Bhanwarlal Jain and Family through the 70 Benmai concerns provided accommodation entry of bogus unsecured loans and advances to various beneficiaries wherein cheques are issued in the name of 70 bogus/benami concerns against the cash received in their Angadia account from the respective beneficiaries. According to the information received, the assessee is one of the beneficiaries and has obtained accommodation entries in the form of unsecured loans M/s. Suman Exports and M/s. Meenaxi Diamonds Pvt. Ltd. which are the entity managed, operated and controlled by Shri Bhanwarlal Jain group."

4. Accordingly, on the said information, the case of the Assessee was selected for scrutiny and statutory notice u/s 143(2) of the Act was issued to the Assessee, in response to which the Assessee filed the relevant details. On verification of the details filed by the Assessee, it was noticed by the Assessing Officer (AO) that the Assessee has secured fresh unsecured loans from M/s. Suman Exports and M/s. Meenaxi Diamonds Pvt. Ltd. and therefore, in order to ascertain genuineness unsecured loans, the AO issued notice u/s 133(6) of the Act to the said parties, in response to which the confirmation and copy of bank statements were received

through courier/post. However, the AO finding the details filed as insufficient to establish the identity, creditworthiness and genuineness of the transactions, issued a questionnaire along with show cause notice to the Assessee, for furnishing details or documents qua the following transactions carried out by the Assessee:

S. No.	Name of the party	Amount received during the year consideration	Interest claimed
1.	Suman Export	1,32,28,483	8,09,425/-
2.	Suman Export	1,75,00,000	
3.	Meenaxi Diamond	30,48,822	54247/-
4.	Meenaxi Diamond	50,00,000	
	Total	4,07,77,305/-	8,63,672/-

5. The Assessee in response to the notice and questionnaire, filed its explanation vide letter dated "Nil", which was received by the AO in its office on 24.02.2016. The relevant portion of the reply reads as under:

"5.5 In response to the same, the AR of the assessee filed its explanation vide letter dated NIL received in this office on 24.02.2016 the relevant portion of the same is reproduce as under;

"Vide the above notice, your honour has provided an opportunity to furnish necessary evidence which can establish the identity, creditworthiness and genuine of the cash credit of Rs.4,07,77,305/- introduced during the year under consideration, before treating the said cash credit as unexplained u/s.68.

In this regard, we wish to state that the assessee has filed its return of income for A.Y.2013-14 on 26.07.2013 declaring total income of Rs.NL.. Subsequently the case of the assessee is selected for scrutiny, wherein the details as required by your honour are furnished from time to time. Further on the basis of search an seizure action conducted on 03.10.2013 in case of Bhanwarlal Jain Group and as a result of investigation carried out by DGIT(Inv.) Mumbai, it

is established that the Bhanwarlal Jain Group is indulged in providing accommodation entries and has also provided accommodation entries to the tune of Rs.4,07,77,305/- to the above assessee. On the basis of this information received, your honour is of the view that the above assessee has taken cash credit amounting to Rs.4,07,77,305/- in the year under consideration which is required to be added u/s.68 as unexplained cash credit and has also claimed interest expenditure of Rs.8,63,672/ on these cash credit which needs to be disallowed as bogus.

In this regard, we wish to state that the amount of unsecured loans of Rs.4,07,77,305/- mentioned in the above notice is incorrect. In fact, during the year under consideration the assessee has introduced unsecured loans amounting to Rs. 1,75,00,000/-, details of which are as under :-

Sl. No.	Name of the Lender	Receipt date	Bank Name	Cheque Number	Amount	Interest
1	Suman Exports	04.09.2012	Indusi nd Bank	844248	90,00,000/-	8,09,425/-
2	Suman Exports	17.10.2012	--do--	844249	35,00,000/-	
3	Meenaxi Diamonds Pot. Ltd	27.02.2013	-do-	224146	50,00,000/-	54,247/-
				Total	1,75,00,000/-	

5. The Assessee in support of its claim qua receiving of unsecured loans from M/s. Meenaxi Diamonds Pvt. Ltd. and M/s. Suman Exports also submitted the relevant document such as:

- (i) *Bank statement highlighting the transactions;*
- (ii) *Return filed, acknowledgment by the said parties;*
- (iii) *Computation of income;*
- (iv) *Statement of accounts and annual report etc.*

Further, the Assessee also demonstrated that the aforesaid companies had sufficient bank balance during the period, when the loans of Rs.1,25,00000/- and Rs.50,00,000/- respectively by the

M/s. Suman Exports and M/s. Meenaxi Diamonds Pvt. Ltd., were given to the Assessee. The Assessee also demonstrated the turnover of M/s. Suman Exports and M/s. Meenaxi Diamonds Pvt. Ltd. respectively to the tune of Rs.211.24 crore and Rs.166.16 crore. The Assessee by submitting the ledger copies also claimed and established that it has repaid the unsecured loan amounts during the F.Y. 2014-15. The Assessee also claimed that it has also paid the interest on the aforesaid cash credits and the interest expenditure claimed by the Assessee has also been offered as income by the lenders in their return of income.

6. The AO by considering the claim of the Assessee though accepted that the Assessee has taken unsecured loans of Rs.1,25,00,000/- from M/s. Suman Exports and Rs.50,00,000/- from M/s. Meenaxi Diamonds Pvt. Ltd. totaling to Rs.1,75,00,000/- as against alleged amount of Rs.4,07,77,305/- which was mentioned in the show cause notice along with questionnaire. The AO also acknowledged that the Assessee has also claimed interest expenses amounting to Rs.8,63,672/- on the unsecured loans. However, regarding the genuineness of the loan transactions, the AO did not find the submissions of the Assessee as correct picture of the case. The AO by considering the modus operandi adopted by Bhanwarlal Jain & Family and statement of Bhanwarlal Jain and of the Assessee, ultimately made the addition of Rs.1,75,00,000/- by observing and holding as under:

“4.13 The facts revealed on the combined reading of the statement of the assessee the conclusion drawn by the Investigation Wing is again established as the assessee does not know anybody from whom he has taken unsecured loan and he has not been able to establish creditworthiness of the concerned party. The assessee has failed to produce the person who has introduced him to the above concerns and has also not produced the persons from whom he has claimed loan received.”

4.14 The facts mentioned above conclusively prove that the benami concerns of Bhanwarlal Jain and family have given accommodation entry of loans and advances/purchases to various beneficiaries whose names are appearing as loan parties/purchase parties in the regular books of accounts of the benami concerns managed and operated by Bhanwarlal Jain and family. This fact has also been accepted by Bhanwarlal Jain and by various beneficiaries on whom action under sec 132 of the income tax act, 1961 was conducted. In view of the above it is an established fact that the assessee has obtained accommodation entries in the form of unsecured loans from the aforementioned parties which have no creditworthiness so as to give such huge loans to the assessee and also there is no genuineness which can be inferred from the relationship of the aforementioned parties with the assessee. In view of the detailed discussion the aforementioned accommodation entries in the form of unsecured loans are held to be unexplained cash credit within the meaning of provisions of sec. 68 of the Act. Accordingly, a sum of Rs.1,75,00,000/- is added to the total income of the assessee as unexplained cash credit. Penalty proceedings u/s 271(1)(c) of the act are separately initiated for furnishing inaccurate particulars and concealment of income.”

6. The AO also disallowed the interest expenditure of Rs.8,63,672/- as claimed by the Assessee and added to the total income of the Assessee, by holding as under:

“5. **Claim of interest expenses on bogus unsecured loans:** In view of the discussion in preceding para it is proved that the assessee has introduced his unaccounted money by way of loan from the above parties mentioned, it is further noticed and has claimed interest expenses on the above unexplained loans amounting to Rs.8,63,672/- as discussed. As the original cash credit is found to be bogus therefore the claim of interest on the bogus cash credit is not the actual expenditure but an accommodation entry as such the aforementioned interest expenditure of Rs.8,63,672/- is disallowed and added to the total income of the assessee. Penalty proceedings u/s 271(1)(c) of the act are separately initiated for furnishing inaccurate particulars and concealment of income.”

7. The Assessee, being aggrieved, challenged the said additions before the Ld. Commissioner, who more or less on the same reasoning as given by the AO, affirmed the aforesaid additions of

Rs.1,75,00,000/- and Rs.8,63,672/-, by reiterating and holding mainly as under:

*“That Bhanwarlal Jain was “an accommodation entry operator” and engaged in the money laundering operations through a number of dummy concerns including M/s. Suman Exports (Proprietary concern of Shri Ramniwas Choyel) and M/s. Meenaxi Diamonds Pvt. Ltd. which are shown as a creditors in the present case. The statement of Bhanwarlal Jain u/s 132(4) of the Act clearly identifying M/s. Suman Exports as one of the dummy concerns. Proprietor of M/s. Suman Exports Shri Ramniwas Choyel admitted u/s 132(4) of the Act that M/s. Suman Exports was a paper concern also and he was actually only an employee of Bhanwarlal Jain Group. Director of M/s. Meenaxi Diamonds Pvt. Ltd. **Shri Bansil Jain** also admitted that he was an employee, wherein the actual affairs of business decision were taken by Bhanwarlal Jain, Rajesh B Jain and Group. The evidences collected by the investigation wing and presented in the assessment order clearly prove that the alleged creditors in this case are merely name lenders. This has been affirmed by the so called proprietor of concern M/s. Suman Exports and the Director of the concern M/s. Meenaxi Diamonds Pvt. Ltd.. In the face of such overwhelming evidence, the claims of the Assessee are worthless”.*

7.1 The Ld. Commissioner also sidelined the contention of the Assessee to the effect *“that amount was accepted through banking channel and the balance was confirmed by the so called creditor and TDS has also been deducted by the Assessee on the interest paid to the creditor”*, by holding that just because the transactions are made through bank does not absorb the transaction of guilt.

8. The Assessee, being aggrieved with the aforesaid additions, is in appeal before us. The Assessee contradicted the findings of the authorities below by raising various issues and demonstrated various relevant documents and the judgments on the issue involved which we will deal, in later part of the order. On the contrary, the Ld. DR refuted the claim of the Assessee and vehemently supported the orders passed by the Authorities below.

9. Heard the parties and perused the material available on record. Admittedly, in response to the notices issued u/s 133(6) of the Act dated 14.10.2015, the AO has received confirmations and copy of bank statements from the parties from whom the Assessee during the AY under consideration had taken the unsecured loans of Rs.1,75,00,000/- in total. However, the AO not being satisfied with the confirmation of copy of bank statement received through courier/post issued the show cause notice to the Assessee for furnishing the details. In response to the same, the Assessee vide letter dated "Nil" received by the AO on 24.02.2016 as noted in the assessment order, filed the following relevant documents, which were neither controverted and nor in denial by either of the authorities below:

1. Suman Export:

- A. Ledger A/c for the period of 01/04/2012 to 31/03/2013.*
- B. Confirmation of Accounts for A.Y. 2013-14.*
- C. Copy of Pan Card of proprietor Mr. Ramniwas Jairam Choyal.*
- D. ITR Acknowledgement of proprietor Mr. Ramniwas Jairam Choyal.*
- E. Tax Audit report for the year ending 31/03/2013.*
- F. Copy of Bank Statement of Suman Export.*

II. Meenaxi Diamonds Pvt. Ltd.:

- A. Ledger A/c for the period of 01/04/2012 to 31/03/2013.*
- B. Confirmation of Accounts for A.Y. 2013-14.*
- C. Copy of Pan Card.*
- D. ITR Acknowledgement for A.Y. 2013-14.*
- G. Annual Tax Audit report for the year ending 31/03/2013.*
- E. Copy of Bank Statement of Meenaxi Diamonds P Ltd.*
- III. Copy of Assessee's Bank Statement.*
- IV. Details of TDS paid on interest.*
- V. Ledger confirmation for period 1/4/2014 to 31/3/2015*
- VI. Copy of Retraction letter along with affidavit filed before DY CIT central circle on 30/9/2014. [pg. 76-79]*

9.1 But still the AO not being satisfied with the aforesaid documents, recorded the statement of the Assessee on oath, wherein the Assessee tried to justify the genuineness of the loan

transactions by providing satisfactory explanations. Both the Authorities below sidelined the relevant documents which were produced by the Assessee to prove the identity, creditworthiness and genuineness of the transactions as mentioned above and without contradicting the same and while relying upon the statements of the third parties and modus operandi adopted by Bhanwarlal Jain Group and without providing any opportunity of cross examination of the parties whose statements were relied upon, made and confirmed the addition.

9.2 It is also not in controversy that the lenders' parties have duly responded to the notices issued u/s 133(6) of the Act dated 14.10.2015 by submitting loan confirmation along with copy of bank statements, through courier/post. The Assessee by filing relevant documents such as ledger account, confirmation of accounts, copy of PAN card of proprietors/lenders, ITR acknowledgement of the lenders, tax audit report of the lenders, copy of bank statement of the lenders, details of TDS deducted on the interest amount paid to the lenders ledger confirmation of the Assessee, has discharged its onus cast u/s 68 of the Act. It is also admitted fact that the transactions of loan amounts and payment of the interest thereon and repayment of loan amounts have been routed through banking channels. Even otherwise as per details downloaded on 04.11.20124 from the website of Ministry of Commerce & Affairs, MCA Services as demonstrated by the Assessee, one of the lenders i.e. M/s. Meenaxi Diamonds Pvt. Ltd. still subsists, which strengthens the genuineness of the transactions.

9.3 The Hon'ble High Court in the case of Pr. CIT vs. M/s. Skylark Build (ITA No.616 of 2016) has also dealt with the situation, where each of the creditors from whom the Assessee has borrowed money or who advanced it the monies, were repaid the sums borrowed.

The Hon'ble High Court has held that this would establish that there were indeed real creditors; that they have indeed the funds available with them; that the transactions were genuine.

9.4 The Jurisdictional High Court in the case of HR Mehta vs. Assistant Commissioner of Income Tax, Mumbai (2016) 72 taxmann.com 110 (Bom.) as well, has also taken into consideration the peculiar facts, where the loan was advanced and repaid through account payee cheques, then the AO should have provided the Assessee the material used against him apart from providing him an opportunity to cross-examine the witnesses whose statements were relied upon. The opportunity to the Assessee to meet the case against the Assessee by providing the material sought to be used against the Assessee before passing the order of reassessment if not having been done so, then the denial of such opportunity goes to the root of the matter and strikes at very foundation of the reassessment, therefore renders the orders passed by the CIT(A) and Tribunal vulnerable.

9.5 The Hon'ble Gujarat High Court in the case of Pr.CIT vs. Ambe Trade Corp (P) Ltd. (2022) 145 taxmann.com 27 (Guj.) has also dealt with the situation wherein the Assessee has furnished the relevant details to establish the identity, creditworthiness and genuineness of the transactions and the notice issued u/s 133(6) of the Act to the loan givers, were duly responded by them and the repayment of the loan has been established and therefore the Hon'ble High Court has affirmed the decision of the Tribunal in affirming the deletion of the addition by the Ld. CIT(A).

9.6 We further observe that the Hon'ble Co-ordinate Bench of the Tribunal in ITA Nos.787-790/M/2023 & ors. decided on 23.08.2023 also considered the identical addition, made on account of

unsecured loans on the basis of alleged modus operandi adopted by Bhanwarlal Jain Group. The Hon'ble Co-ordinate Bench of the Tribunal ultimately held the identical addition of Rs.1,85,00,000/- made by the AO u/s 68 of the Act, as unsustainable and deleted the same by observing and holding as under:

15. *During the assessment proceedings, the Assessing Officer noticed that the Appellant had taken unsecured loans from entities forming part of Bhanwarlal Jain Group and made an addition of INR 1,85,00,000/- under Section 68 of the Act holding the same to be unexplained cash credit. The CIT(A) also confirmed the addition. Therefore, the Appellant is now in appeal before us.*

15.1. *We have heard the rival submission and perused the material on record. A perusal of documents including ledger account and bank statement placed on record shows that the unsecured loans were taken and repaid on the following dates:*

Party Name	Loan Received				Paper-book Page No.
	Date	Amount	Date	Amount	Bank Statement
Impex Gems	24.06.2011	115,00,000	27.06.2011	35,00,000	144
Mahalaxmi Gems Private Limited	24.02.2012	20,00,000	27.02.2012	20,00,000	156
Mukti Exports	24.06.2011	50,00,000	27.06.2011	50,00,000	164
	Total	185,00,000	Total	185,00,000	

“15.2. *During the course of hearing the Learned Authorized Representative for Appellant had contended that the loans were genuine taken were normal business loans and taken to meet the temporary requirement of funds. On perusal of the material on record, we find that account confirmations, ledger account and the relevant extract of the bank statement of the lenders corroborating the aforesaid averments made by the Ld.*

Authorized Representative for the Appellant were placed before the Assessing Officer during the assessment proceedings. A perusal of the extract of bank statement of the lenders furnished by the Appellant shows that there were no cash deposit/withdrawal during that limited period. Since the Appellant had placed the aforesaid information/documents along with the financial statements of the lenders before the Assessing Officer, the Appellant had, in our view, discharged the primary onus cast upon the Appellant under Section 68 of the Act. The Assessing Officer brushed aside the documents/details furnished by the Appellant by merely stating that the lenders-concerns giving loan to the Appellant were part of the Bhanwarlal Jain Group and that the Appellant had failed to provide any evidence of identity & creditworthiness of the lender and the genuineness of the transaction. We note that the assessment order as well as the order passed by the CIT(A) are silent as to inquiry, if any, conducted by the Assessing Officer. There is no reference to any material on the basis of which additions under Section 68 of the Act were made by the Assessing Officer. From the facts and circumstances of the case and the material on record, it cannot be inferred that the Appellant had introduced its own unaccounted cash income in books as unsecured loans. To the contrary, the material on record supports the stand of the Appellant that the unsecured loans were taken to meet the temporary business requirement and repaid by the Appellant, generally during the relevant previous year. Thus, the funds stayed with the Appellant for a period of less than a year. In view of the aforesaid, addition of INR 1,85,00,000/- made by the Assessing Officer under Section 68 of the Act cannot be sustained and is therefore, deleted. Thus, Ground No. 2 raised by the Appellant is allowed.”

9.7 The Co-ordinate Bench of the Tribunal in the aforesaid cases also taken into consideration one of the lenders i.e. M/s. Suman Exports and ultimately deleted the addition made u/s 68 of the Act on account of unsecured loan, which was subsequently repaid by the Assessee. For clarity and better understanding, the conclusion drawn by the Co-ordinate Bench of the Tribunal is reproduced herein below:

“22. During the assessment proceedings, the Assessing Officer noticed that the Appellant had taken unsecured loans from entities forming part of Bhanwarlal Jain Group and made an addition of INR 6,30,00,000/- under Section 68 of the Act holding the same to be unexplained cash credit. The CIT(A) also confirmed the addition. Therefore, the Appellant in now in appeal before us.

22.1. Ground No. 2 raised in the present appeal is identical to Ground No. 2 raised in appeal for the Assessment Year 2012-13. We note that addition of INR 6,30,00,000/- was made by the Assessing Officer under Section 68 of the Act in respect of unsecured loans taken from various parties during the relevant previous year. We note that all the relevant details/documents were filed by the Appellant before the Assessing Officer. No further enquiry/verification was carried out by the Assessing Officer. Further, the unsecured loans were also repaid by the Appellant. A perusal of documents including ledger account and bank statement placed on record shows that the unsecured loans were taken and repaid on the following dates:

Party Name	Loan Received		Loan Repaid		Paperbook Page No.
	Date	Amount	Date	Amount	Bank Statement
Kothari & Co.	03.12.2012	60,00,000	23.01.2013	60,00,000	111
Laxmi Diamods	29.11.2012	50,00,000	26.12.2012	50,00,000	120
Malhar Exports	26.07.2012 16.08.2012	30,00,000 5,00,000	21.01.2013	35,00,000	130
Meenakshi Exports	28.05.2012	60,00,000	31.03.2013	60,00,000	138
Navkar Diamond	23.11.2012	55,00,000	12.01.2013	55,00,000	148
Parvati Exports	25.09.2012	160,00,000	02.01.2013 28.01.2013	56,00,000 104,00,000	157 158
Prime Star	26.07.2012	110,00,000	07.11.2012 09.02.2013 22.02.2013 27.02.2013 (part)	20,00,000 50,00,000 20,00,000 20,00,000	98 100 101 102
Suman Exports	04.10.2012	100,00,000	14.06.2013	100,00,000	
	Total	630,00,000	Total	630,00,000	

22.2. The facts and circumstances being identical to Assessment Year 2012-13, adopting the reasoning given in paragraph 15 to

15.2 above while allowing Ground No. 2 raised in appeal for the Assessment Year 2012-13, we allow Ground No. 2 raised in the present appeal and delete the addition of INR 6,30,00,000/- made by Assessing Officer under Section 68 of the Act. Thus, Ground No. 2 raised by the Appellant is allowed.”

9.8 Summing up the case , we are of the considered view that on the aforesaid analyzations and the peculiar facts and circumstances as demonstrated above specifically to the effects that the Assessee by providing the relevant documents referred to above, has established the identity and creditworthiness of the lenders and genuineness of the transactions and also established that the Assessee has paid the interest on the unsecured loans and also repaid the loan amounts in the subsequent assessment year and transacted through banking channels. And thus, the Assessee has prima-facie discharged its onus cast u/s 68 of the Ac. It is also admitted fact that the AO, even instead of asking specifically by the Assessee that in case he is still inclined to take a contrary view of the matter, then kindly let the Assessee know the grounds, on which contrary view is to be taken, so as to enable the Assessee to controvert the same **{kindly refer to para 5.6 at page 8 of the order}**, however the AO at the back of the Assessee used the statement of the third parties and the material ; without giving any opportunity for explaining and/or cross examination of the witnesses on whose statements the AO has relied on and to contradict the material which the AO has taken into consideration. It is also admitted fact, as appears from the letter dated 29.09.2014 along with duly sworn affidavit dated 17.10.2013 of the proprietor of M/s. Suman Exports namely Shri Ramniwas Choyel that he retracted his statement made during the search and seizure operation carried out u/s 132 of the Act on 03.10.2013 by the DDIT (Inv.) Unit 9-1, Mumbai at his office/residential premises.

9.9 Thus, on the aforesaid deliberations and analyzations, the addition in any case is un-sustainable. Hence, the same is deleted.

10. Consequently, the appeal i.e. ITA No.2912/M/2024 filed by the Assessee is allowed.

11. Thus, in the result, in view of our decision in ITA No.2912/M/2024, both the appeals under consideration stand allowed.

Order pronounced in the open court on 22.01.2025.

**Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar,
ITAT, Mumbai.