

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री राकेश मिश्र, लेखा सदस्य के समक्ष  
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Rakesh Mishra, Accountant Member]

**I.T.A. Nos. 2209 & 2210/Kol/2024**  
**Assessment Years: 2012-13 & 2017-18**

ACIT, Central Circle-2(1), Kolkata	Vs.	Manish Sharma  (PAN: AQCPS 7085 H)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	23.04.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	15.05.2025
For the assessee / निर्धारिती की ओर से	Shri Akshay Ringasia, CA
For the revenue / राजस्व की ओर से	Shri Prakash Nath Barnwal, CITDR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

Both these appeals are preferred by the revenue against the separate orders of Commissioner of Income Tax (Appeal)-26, Kolkata (hereinafter referred to as the Ld. CIT(A)] dated 30.08.2024 for AY 2012-13 & 2017-18 respectively. Since issues are common in both the appeals hence taken up together for disposal. We shall take in ITA No. 2209/Kol/2024 as a lead case.

2. It appears from the report of the registry that the appeal has been filed after a delay of 6 days. The counsel of the assessee explained the reason for delay in filing the condonation petition. The Ld. A.R did not raise any objection in condoning the delay. Keeping in view, the submission made by the A.R. and the judicial pronouncement that a case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee being an individual filed return of income u/s 139 of the Act for AY 2012-13 and 2017-18 declaring total income of Rs. 7,21,150/- and Rs.22,84,710/-. The return was duly processed u/s 143(1) of the Act, a search u/s 132 of the Act was conducted in the resident premises of the assessee on 07.11.2017 and some valuable documents were found/ seized during the course of search. Accordingly, notice u/s 153A of the Act was issued on 02.05.2019 in response to the same the assessee filed return of income. The AO on verification of the available documents in the record found that the assessee has raised the unsecured loan from various entities, as a result of which, the AO has declared an amount of Rs. 30 lacs as an unexplained cash credit u/s 68 of the Act with respect to AY 2012-13 and Rs. 12 lacs for AY 2017-18.

4. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein both the appeals of the assessee have been allowed by the Ld. CIT(A) vide its same order dated 30.08.2024.

Being aggrieved and dissatisfied the revenue has preferred an appeal before us.

5. The Ld. D.R challenges the very impugned order thereby submitting that the Ld. CIT(A) has erred in law by not appreciating the fact that the lender companies could not be located at the address provided by the assessee. The Ld. CIT(A) has only appreciated PAN, Acknowledgement of IT returns, bank account statement ignoring the law that they are not sufficient to discharge the onus u/s 68 of the Act to prove genuineness, creditworthiness and identity.

6. Contrary to that the Ld. A.R supports the impugned order thereby submitting that the unsecured loan total amounting of Rs.30,00,000/- taken by the assessee from 3 nos. of private limited companies namely M/s Invorex Trading Pvt. Ltd., M/s Patal Ganga Barter Pvt. Ltd. and M/s Tiptop Traders Pvt. Ltd. and taken by the assessee during the financial year 2011-12 has been refunded during the financial year 2012-13 and those companies are also charged interest as applicable to the assessee for the financial year 2011-12 on such loans and it is also accounted in the regular Books of Accounts maintained by the assessee. The Ld. A.R further submits that all the above mentioned registered private limited company and all the loans taken and refunded through banking channel. The Ld. Counsel further submits that for FY 2016-17 the assessee took unsecured loan from the registered private limited companies namely M/s Patal Ganga Barter Pvt. Ltd. i.e. duly accounted the regular books of accounts maintained by the assessee and loan taken from aforementioned company received through banking channels only. The Ld. Counsel further submits that merely because the parties could not be traced cannot be a ground for making the addition. The Ld. CIT(A) has rightly allowed the appeal of the assessee.

7. Upon hearing the submission of the counsel of respective parties, we have perused the order of AO as well as Ld. CIT(A). The assessee is an individual and AO issued notice u/s 153A of the Act after a search was conducted. It is the case of the assessee is that the assessee took loan from various parties. We have gone through the order passed by the Ld. CIT(A) for AY 2012-13 and find that the Ld. CIT(A) has discussed this issue very elaborately and also discussed the judicial pronouncement which is as reproduced as hereinunder:

*“The appellant has primarily challenged the addition of Rs.30,00,000/- made by the AO u/s.68 of the Act in relation to the unsecured loan of Rs.10,00,000/- each received by the assessee from 3 parties:*

- 1. Rs. 10,00,000/- from M/s. Invorex Trading Pvt Ltd. It is noticed that the assessee had filed all documentary evidences which it was required to maintain in the ordinary course to substantiate the identity and creditworthiness of the lender and the genuineness of the transaction. The lender had own funds to advance a loan to the assessee. The assessee has provided the said interest in its books. The return of income filed by M/s. M/s. Invorex Trading Pvt Ltd. for the assessment year 2012-13 to 2014-15 was also furnished. The loan*

was also repaid during the FY: 2012-13. As stated by the AO, summons u/s 131 were issued to various entities.

2. *Rs. 10,00,000/- from M/s. Patal Ganga Barter Pvt Ltd. It is noticed that the assessee had filed all documentary evidences which it was required to maintain in the ordinary course to substantiate the identity and creditworthiness of the lender and the genuineness of the transaction. The assessee has provided the said interest in its books. The return of income filed by M/s. Patal Ganga Barter Pvt Ltd. for the assessment year 2012-13 to 2014-15 was also furnished. The loan was also repaid during the FY: 2012-13. As stated by the AO, summons u/s 131 were issued to various entities.*
3. *Rs. 10,00,000/- from M/s. Tip Top Traders Pvt Ltd. It is noticed that the assessee had filed all documentary evidences which it was required to maintain in the ordinary course to substantiate the identity and creditworthiness of the lender and the genuineness of the transaction. The lender had own funds to advance a loan to the assessee. The assessee has provided the said interest in its books. The return of income filed by M/s. Tip Top Traders Pvt Ltd. for the assessment year 2012-13 to 2014-15 was also furnished. The loan was also repaid during the FY: 2012-13. As stated by the AO, summons u/s 131 were issued to various entities."*

We further find that the Ld. CIT(A) has also discussed the judgment passed by the Hon'ble Gujarat High Court in the case of PCIT vs. Ambe Tradecorp Pvt. Ltd. which is reproduced herein under:

*"As stated earlier, the loan was repaid in FY: 2012-13 and therefore it cannot be said that the assessee was a beneficiary of the loan. In this connection, the judgement of the Hon'ble Gujrat High Court in the case of PCIT Vs Ambe Tradecorp Pvt. Ltd. [2022] 145 taxmann.com 27 (Gujarat) where it has been held as follows :*

*"The Tribunal rightly recorded in para 29 of the judgment. Once repayment of the loan has been established based on the documentary evidence, the credit entries cannot be looked into isolation after ignoring the debit entries despite the debit entries being carried out in the later years. Thus, in the given facts and circumstances, were hold that there is no infirmity in the order of the Ld. CIT(A)."*

8. Keeping in view the above facts as well as going over the order passed by the Ld. CIT(A), we do not find any infirmity in the impugned order of the Ld. CIT(A) accordingly the order passed by the Ld. CIT(A) is hereby affirmed and the appeal of the revenue is dismissed.

8. Issue raised in this appeal in ITA No. 2210/Kol/2024 for AY 2017-18 is similar to one as decided by us in ITA No. 2209/Kol/2024 for AY 2012-13. Therefore, our decision would, mutatis mutandis, apply to this appeal as well. Accordingly, the appeal of the revenue is dismissed.

In the result, both the appeals filed by the revenue are dismissed.

Order is pronounced in the open court on 15<sup>th</sup> May, 2025

Sd/-

Sd/-

(Rakesh Mishra / राकेश मिश्र)  
Accountant Member/लेखा सदस्य

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

Dated: 15<sup>th</sup> May, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ACIT, Central Circle-2(1), Kolkata
2. Respondent – Manish Sharma, 5E, Siddha Point, 101, Park Street, Kolkata-700016
3. Ld. CIT(A)-Kolkata-26, Kolkata
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata