

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

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
MISS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.57/Mum/2021  
(Assessment year: 2012-13)**

<b>M/s Green Valley Homes Developers Pvt Ltd,</b> Royal Palace, shop No.6,7,8, Plot No.11, Sector-2, Kharghar, Navi Mumbai-400 210 <b>PAN: AAACA4509R</b>	<b>vs</b>	<b>Dy. Commissioner of Income Tax,</b> <b>Central Range-3(3),</b> <b>Mumbai R.No.1101, 10<sup>th</sup> Floor,</b> Pratishtha Bhawan, Old CGO Bldg, M.K.Road, Mumbai-400 020
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Rushabh Mehta a/w  
Shri Niraj Soni  
Respondent by : Shri Rajesh Sakhardande – Sr.AR  
Date of hearing : 06/05/2025  
Date of pronouncement : 22/05/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

Instant appeal of the assessee was filed against the order of the Learned Commissioner of Income-tax (Appeals)-48, Mumbai [in short, 'Ld.CIT(A)] passed under section 250 of the Income Tax Act, 1961 (in short, 'the Act') date of order 22/09/2020 for A.Y. 2012-13. The impugned order emanated from the order of the Learned Deputy Commissioner of Income-tax, Central Circle 2(3), Mumbai (for

brevity the “Ld. AO”), passed under section 143(3) of the Act, date of order 31/03/2015.

2. The assessee has taken the following grounds of appeal:-

*“1. (a) The Id. CIT (A) erred in facts and law in confirming the addition of Rs.5,99,00,000/-on account of loan received u/s. 68 made by the Id. Assessing Officer following peak theory as unexplained cash credit and confirming the disallowance of interest paid of Rs.1,25,43,806/- on his surmises and conjectures that loans taken were sham transactions.*

*(b) The Id. CIT (A) erred in facts and law in not appreciating the fact that the identity of the payer, genuineness of the transaction and capacity of the payer were duly established.*

*(c) The Id. CIT (A) and Id. Assessing Officer erred in facts and law in making the addition solely relying on the statement of a third party and not granting any opportunity of cross examination.*

*(d) The Id. CIT(A) erred in facts and law in not appreciating that name of the appellant company is not appearing in the statement on oath recorded of the third party, which is the basis on which addition made.*

2. Your appellant prays that-

*(a) Addition of Rs.5,99,00,000- u/s.68 as unexplained cash credit, be deleted,*

*(b) Disallowance of Rs. 1,25,43,806/- of interest paid on alleged loans taken; be deleted,*

*(c) Such other relief, as may be deemed fit in the matter, be granted.*

3. Each of the above Grounds of Appeals an independent and without prejudice to one another.

4. Your appellant craves leave to add, amend, alter or drop all or any of the above grounds of appeal.”

3. The brief facts of the case are that the assessee is engaged in construction and development of complexes including malls. A return of income filed was filed under section 139(1) of the Act by declaring loss of Rs.5,63,16,308/-. The return was processed under section 143(1) of the Act. Subsequently, the assessee's case was taken for scrutiny and notices under section 143(2) / 142(1) of the Act were served upon the assessee. During the assessment proceedings, the Ld.AO issued show cause notice related to receiving of loan from bogus entities by observing that the assessee has taken loan from 15 companies, which are related to Shri Praveen Kumar Jain and his group. In case of following companies, the assessee has taken loan as has been mentioned in the notice issued under section 142(1) of the Act:-

Sr.No.	Naame of the Party	Amount of loan during the year (Rs.)
1	Anchal Properties (P) Ltd	-
2	Ansh Merchandise (P) Ltd	50,00,000/-
3	Atharv Business (P) Ltd	47,00,000/-
4	Casper Enterprises (P) Ltd	-
5	Duke Business (P) Ltd	11,00,000/-
6	Josh Trading (P) Ltd	4,43,00,000/-
7	Nakshtra Business (P) Ltd	54,00,000/-
8	RaghunandanReyons Ltd	-
9	Triangular Infocom Ltd	-
10	Vanguard Jewels Ltd	-
11	Alka Diamond Industries Ltd	50,00,000/-
12	Viraj Mercantile (P) Ltd	50,00,000/-
13	Taj Impex P. Ltd	-
14	Olive Overseas P. Ltd	15,00,000/-
15	Sumukh Commercial P. Ltd	70,00,000/-
	<b>Total</b>	<b>790,00,000/-</b>

In reply, the assessee submitted that in case of the following six companies, the assessee has not made any transaction:-

Sr.No.	Name of the Party
1	Anchal Properties (P) Ltd
2	Casper Enterprises (P) Ltd
3	Raghunandan Reyons Ltd
4	Triangular Infocom Ltd
5	Vanguard Jewels Ltd
6	Taj impex P Ltd

Finally, the assessee submitted all relevant documents, but without any issuance of notice under section 131 or 133(6) of the Act, the Ld.AO added back the loan transaction on peak credit basis amount to Rs.5,99,00,000/- and also the interest amount of Rs.1,25,43,806/- to the total income of the assessee. Considering this, the assessee filed an appeal before the Ld. CIT(A). But the Ld.CIT(A) upheld the impugned assessment order. Being aggrieved on the impugned appellate order, the assessee filed this appeal before us.

4. The Ld.AR argued and filed a paper book spanning pages 1 to 743, which is kept on the record. The Ld.AR argued that the assessee has taken loan of Rs.7,90,00,000/- during the impugned assessment year. The Ld.AO has considered the repayment of loan and accordingly, the addition is worked out amount to Rs.5,99,00,000/-. The assessment was completed on the basis of the report of DGIT(Inv), Mumbai and on the statement of "Shri Praveen Kumar Jain" which was taken on 06/10/2013.

5. The Ld.AR invited our attention to relevant part of the oath recorded of “Shri Praveen Kumar Jain”, which is as under:-

“Q.72 Please provide the detailed list of the accommodation entries in the nature of unsecured loan / advance arranged by you through brokers as explained in response to the question above.

Sir, I am furnishing the detailed list as follows:-

1	2	3	4	5
Date	Party	Company	Amount	through
15.09.2010	VISHESH INFO	ANUSHKA	10000000	bhagwanji
15.09.2010	VISHESH INFO	ANUSHKA	13800000	bhagwanji
05.10.2010	ALLIED	GREEN VELLY DEVE	10000000	bhagwanji
05.10.2010	ALLIED	GREEN VELLY DEVE	10500000	bhagwanji
04.06.2012	ADITYA	BROOKS	-2500000	HS
30.08.2012	arrow	KHYATI JAIN	6000000	PARIKH
30.08.2012	EVERSHINE	MANSI JAIN	6000000	PARIKH
06.09.2012	PRINTAGE	METRO INFRA	9200000	MULUND
07.09.2012	MANSARE	BUILD WAY CORP	2350000	MULUND
07.09.2012	MANSARE	BUILD WAY CORP	2500000	J SETH
12.09.2012	EVERSHINE	NEERJA PRIKH	2500000	J SETH
28.09.2012	ASTONISH STAR	PREMIER	2000000	ARUN
28.09.2012	ARM STAR	PREMIER	2000000	ARUN
22.10.2012	EVERSHINE	DIKSHIT REALTORS	2500000	HS
17.04.2012	KOMAL	BHARAT ASSUDANI	2000000	JS
26.04.2012	KOMAL	BHARAT ASSUDANI	1840000	JS
29.01.2013	KOMAL	DEVANSH CORP	1600000	PARIKH
08.02.2013	KOMAL	DEVANSH CORP	1550000	PARIKH
08.01.2013	KOMAL	JAGDAMBA CONST	500000	MT

It is mentioned that the name of party is showing ‘Green Valley Deve’ where there is no matching with the assessee’s name. Further, no cross verification was allowed by the Ld.AO during the assessment proceedings. It is further noted that the said “Shri Praveen Kumar Jain” has retracted the recorded statement dated 06/10/2010 by an affidavit dated 15/05/2014, which is enclosed in **paper book**

**pages 334(a) to 334(d)**. So, the Ld.AO entirely relied on the recorded statement of “Shri Praveen Kumar Jain”, which was retracted later. The Ld.AR further stated that during the assessment proceedings, the assessee submitted all the relevant documents by a letter dated 25/03/2015 which is annexed in **APB pages 329 to 334**. The said documents are also annexed in the paper book filed before the ITAT. All the relevant documents in compliance of section 68 were duly submitted which are also annexed in paper book filed before the ITAT. The list of the documents are as follows: -

S.No.	Name of the parties	Documents	APB Page Nos
1	Ansh Merchandise	i) Ledger Confirmation	60-61
		ii) Bank Statement	62
		iii) Copy of ITR Acknowledgement	63
		iv) Copy of PAN Card	64
		v) Copy of Audited Financial Statement	65-84
2	Atharv Business Pvt Ltd	i) Ledger Confirmation	85-86
		ii) Bank Statement	87-92
		iii) Copy of ITR Acknowledgement	93
		iv) Copy of PAN Card	94
		v) Copy of Audited Financial Statement	115
3	Duke Business Pvt Ld	i) Ledger Confirmation	
		ii) Bank Statement	116-118
		iii) Copy of ITR Acknowledgement	119
		iv) Copy of PAN Card	120
		v) Copy of Audited Financial Statement	121-140
4	Josh Trading Pvt Ltd	i) Ledger Confirmation	141
		ii) Bank Statement	141-154
		iii) Copy of ITR Acknowledgement	155
		iv) Copy of PAN Card	156
		v) Copy of Audited Financial Statement	157-174

5	Nakshtra Business Pvt Ltd	i) Ledger Confirmation	175-176
		ii) Bank Statement	177-180
		iii) Copy of ITR Acknowledgement	181
		iv) Copy of PAN Card	182
		v) Copy of Audited Financial Statement	183-202
6	Alka Diamond Industries Ltd	i) Ledger Confirmation	203
		ii) Bank Statement	204-205;236
		iii) Copy of ITR Acknowledgement	206-234
		iv) Copy of PAN Card	235
		v) Copy of Audited Financial Statement	237-238

6. In argument, he further mentioned that all the loans are duly paid in later years and the TDS are deducted related to payment of interest to the parties and all the companies are active in the MCA portal. The confirmations of repayment of loan and interest with supporting bank statements are duly submitted before the ITAT which are annexed in **APB page nos. 337 – 374**. The details of repayment of loan & interest and deduction of tax on interest are enclosed in APB page 337 to 374 which is reproduced as below: -

M/s Green Valley Homes Developers Pvt Ltd  
Details of Repayment of Unsecured loans along-with interest thereon

AY 2012-13

Sr. No.	Name of the Lender	AY 2012-13						Remarks on repayment of Unsecured loan received during the year and interest thereon	Documentary Evidences	Page Nos of Paper Book (continued)
		Op. Bal	Unsecured loan	Amount repaid	Interest	TDS	Cl.Bal			
1	Ansh Merchandise Pvt. Ltd.	3,90,62,635	50,00,000	50,00,000	36,23,425	3,62,343	4,23,23,717	Unsecured loan of 50 lac received during the year was repaid in AY 2012-13 (Refer page no. 62 of paper book) and interest amount was repaid in AY 2014-15	Ledger of AY 2013-14 and AY 2014-15 along-with relevant pages of bank statement	338-348
2	Atharv Business Pvt. Ltd.	62,03,054	47,00,000	77,03,054	3,94,127	39,413	35,54,714	Out of Rs.47 lacs received during the year, Rs.15 lac was repaid in AY 2012-13 (Refer page no. 85 and 90 of paper book) and balance amount along-with interest is repaid in AY 2014-15	Ledger of AY 2014-15 along with relevant pages of bank statement	349-350
3	Duke Business Pvt. Ltd.	83,04,027	11,00,000	94,04,027	4,10,820	41,082	3,69,738	Unsecured loan of 11 lac received during the year was repaid in AY 2012-13 (Refer page no. 115 and 118 of paper book) and interest amount was repaid in AY 2013-14	Ledger of AY 2013-14 along with relevant pages of bank statement	351-352
4	Josh Trading Pvt. Ltd.	30,12,650	4,43,00,000		20,05,275	2,00,528	4,91,17,397	Unsecured loan of Rs.4.43 cr along-with interest is repaid in AY 2014-15	Ledger of AY 2014-15 along with relevant pages of bank statement	353-360
5	Nakshatra Business Pvt. Ltd.	77,25,802	54,00,000		4,32,690	43,269	1,35,15,223	Unsecured loan of Rs.54 lacs along with interest is repaid in AY 2014-15	Ledger of AY 2014-15 along with relevant pages of bank statement	361-364
6	Alka Diamonds Industries Ltd.		50,00,000	50,00,000	1,25,753	12,575	1,13,178	Unsecured loan of 50 lac received during the year was repaid in AY 2012-13 (Refer page no. 205 of paper book) and interest amount was repaid in AY 2013-14	Ledger of AY 2013-14 along with relevant pages of bank statement	365-366
7	Viraj Mercantile Pvt. Ltd.		50,00,000	50,00,000	1,08,493	10,849	97,644	Unsecured loan of 50 lac received during the year was repaid in AY 2012-13 (Refer page no. 241 of paper book) and interest amount was repaid in AY 2013-14	Ledger of AY 2013-14 along with relevant pages of bank statement	367-368
8	Olive Overseas Pvt. Ltd.		15,00,000	15,00,000	55,110	5,511	49,599	Unsecured loan of 15 lac received during the year was repaid in AY 2012-13 (Refer page no. 266 of paper book) and interest amount was repaid in AY 2013-14	Ledger of AY 2013-14 along with relevant pages of bank statement	369-371
9	Sumkh Commercial Pvt. Ltd.		70,00,000		44,877	4,488	70,40,389	Unsecured loan of Rs.70 lacs along-with interest is repaid in AY 2014-15	Ledger of AY 2014-15 along with relevant pages of bank statement	372-374
	<b>Total</b>	<b>13,09,68,000</b>	<b>7,90,00,000</b>	<b>4,64,59,975</b>	<b>1,25,43,806</b>	<b>12,54,381</b>	<b>17,47,97,450</b>			

7. The Ld.DR vehemently argued and relied on the orders of the revenue authorities. The relevant para of the assessment order, para 5 is reproduced as below:-

"5. I have considered the facts, material and submission made by the assessee. The submission of the assessee that its loans from aforesaid parties are genuine is not acceptable for the following reasons:-

(i) It is categorically stated by Shri Praveen Kumar Jain in his statement recorded on oath by explaining whole modus operandi with flowchart that he has been indulged in providing accommodation entries through its various concerns. Filing of affidavit about his retraction is merely an afterthought after a long gap of period and has no evidentiary value in eyes of law.

(ii) Mere filing of certain documents cannot rescue the assessee from the rigours of addition, as the genuineness of the loan transactions from the above parties itself is unproved considering the overall circumstances of the case.

*(iii) The assessee has failed to discharge its onus to establish the genuineness of the loans taken from concerns of Shri Praveen Kumar Jain and that the same is not in the form of accommodation entries.*

*(iv) The statement of Praveen Jain was recorded during the course of search and has evidentiary value.*

*(v) All the paper submitted by the party are paper work to prove the non-genuine loan as genuine. It is clear cut finding of investigation wing that Shri Praveen Jain is indulged in providing accommodation entries in various form and the same fact is accepted by Shri Praveen Jain also. The retraction filed by Shri Praveen Jain merely to save the parties.*

*(vi) As the loan amount received from these companies are non-genuine and are accommodation entry, therefore interest paid of Rs. 1,25,43,806/- on the said loan also treated as non-genuine as the same is paid to reduce the profit of the company.*

*In view of the above discussion, the loans taken during the year under consideration amounting to Rs.7,90,00,000/- remains unproved and are held of accommodative in nature. Therefore, considering the peak theory on the loans accepted and repaid amongst the aforesaid parties during the year, the addition worked out in this regard amounts to Rs. 5,99,00,000/- which is accordingly made to the total income of the assessee."*

8. We have heard the rival submissions and perused the material available on record. The addition made by the Ld. AO comprises a principal sum of Rs.5,99,00,000/- and interest thereon amounting to Rs.1,25,43,806/-. It is an undisputed fact that all the loans were availed through banking channels. The assessee duly submitted loan confirmations, copies of PAN cards, income tax returns, and audited financial statements before both the revenue authorities and this

Tribunal. The loans were obtained from nine companies, and the assessment was framed solely on the basis of a report from the Investigation Wing of the Income-tax Department, wherein the assessee was alleged to be a beneficiary of accommodation entries purportedly provided by “Shri Praveen Kumar Jain” and his group. However, we find that the assessee had furnished all requisite documentary evidence in compliance with Section 68 of the Act, including Form 16, quarterly TDS statements on interest, profit and loss account, balance sheet, ledger accounts of creditors, and income tax returns. Despite the availability of such documentation, the Ld. AO did not undertake any independent verification or issue notices to the loan creditors to ascertain the genuineness of the transactions. The Ld. AR placed reliance on the judgment of the Hon’ble Bombay High Court in **PCIT-27 v. Parth Enterprises, ITA No. 786 of 2016**, dated **11.12.2018**. The relevant portion of paragraph 7 of the said judgment reads as under:

*“7. We find that there are concurrent finding on facts rendered by the CIT(A) and the Tribunal holding that only Rs.36 lakhs can be added to the declared income and the balance amount of Rs.2.99 crores was not hit by section 68 of the Act. This finding is premised on the fact that no enquiry was made in respect of 76 creditors out of 77 creditors and the respondent had provided required documentary evidence in respect of the 76 creditors. Thus, these are essentially finding of fact and the view taken by the Tribunal is a possible view on these facts. In view of the above, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.*

*8. Accordingly, appeal is dismissed. No order as to costs.”*

We observe that the Hon'ble jurisdictional High Court has clearly held that in the absence of any verification undertaken by the Assessing Officer, such an addition under Section 68 is unsustainable in law.

Further reliance was placed on the decision of the Co-ordinate Bench of the ITAT, Chennai Bench-D, in **ITO v. Central Finance Co [1982] 13 TTJ 248 (Mad)**, which held that mere general statements by hundi bankers regarding their engagement in hawala transactions, without any specific statement linking the assessee's transactions to such hawala activities, cannot justify the reopening of assessments. In the present case, the assessee's name was not even correctly mentioned in the recorded statement, appearing merely as "Green Valley Deve."

The assessee had obtained loans from nine companies, which were subsequently repaid along with interest in the succeeding years. It is also pertinent to note that these very companies have been adjudicated upon in other matters before the Tribunal, and the transactions involving them have been held to be genuine. The Ld. AR placed reliance on several orders of the Co-ordinate Benches of the ITAT, Mumbai, where the genuineness of transactions with these companies has been upheld. A summary is as follows:

S.No.	Name of Company	Order of ITAT in
1	Ansh Mercantile Pvt Ltd Duke Business Pvt Ltd Viraj Mercantile Olive Overseas Pvt Ltd	ACIT vs Abani Sarbeshwardas <b>ITA No.193/Mum/2018 &amp; 232/Mum/2018, dt of order 15/05/2019</b>
2	Atharv Business Pvt Ltd Sumukh Commercial Nakshatra Business Pvt Ltd	ITO Vs M/s Manav Finance Ltd <b>ITAs 1448, 1449 &amp; 1449 &amp; 1467/Mum/2017, date of order 05/10/2018</b>
3	Josh Trading	DCIT vs M/s Trinity Infra Tech Pvt Ltd <b>ITA No.2721/Mum/2017, dt of order 06/02/2019</b>

4	Alka Diamond Industries Ltd	Diwali Capital & Finance Pvt Ltd vs DCIT <b>ITA No.2091/Mum/2018, dt of order 10/01/2019</b>
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In our considered opinion, the assessee has duly discharged the onus cast upon him under Section 68 of the Act by submitting all relevant documentary evidence, which has neither been discredited nor rejected by the revenue. The Ld. AO, instead of conducting any independent enquiry or verification, merely relied upon the report of the DGIT (Investigation), Mumbai, and the statement of “Shri Praveen Kumar Jain”, which was subsequently retracted. No opportunity for cross-examination was granted to the assessee, and such adverse material was used without adhering to the principles of natural justice.

The Ld. DR has also not brought any material on record to controvert the submissions made by the Ld. AR.

In view of the above, we find no merit in the impugned appellate order. Accordingly, the addition made by the Ld. AO towards the loan amount of Rs.5,99,00,000/- and interest of rs.1,25,43,806/- stands deleted.

9. In the result, appeal of the assessee bearing **ITA No.57/Mum/2021** is allowed.

Order pronounced in the open court on 22<sup>nd</sup> day of May, 2025.

Sd/-

(MS. PADMAVATHY S)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 22/05/2025

Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

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