

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT**  
**MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA No.778/Ind/2024 (AY: 2014-15)**

Laxmi Land Developers Pvt. Ltd, 401-A President Tower, 6/2 South Tukoganj, Indore  <b>(PAN: AABCL3165H)</b>	<b>बनाम/</b> Vs.	Income Tax Officer 1(3), Indore
(Appellant)		(Respondent)
Assessee by	Shri S.S. Solanki, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	09.06.2025	
Date of Pronouncement	11.06.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the “**Act**” for sake of **brevity**) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1069257902(1) dated 30.09.2024 passed by Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the “**Impugned**

**order**". The relevant Assessment Year is 2014-15 and the corresponding previous year period is from 01.04.2013 to 31.03.2014.

2.

**FACTUAL MATRIX**

2.1 That as and by way of **an assessment order dated 21.12.2016** which was passed u/s 143(3) of the Act, the assessee's total income **exigible to tax** was computed and assessed at **Rs. 1,71,77,664/-** [ (Rs. 4 lakhs as per Return of Income) plus **Rs.1,67,26,884/-** (additions of unsecured loans u/s 68) + **Rs.50,000/-** (disallowance of various expenses)]. The aforesaid assessment order is hereinafter referred to as the **"impugned assessment order"**.

2.2 That the assessee is a private limited company incorporated in the year 2007. The assessee company is engaged in the business of civil contract and also does business of property development. The company has authorized, issued, subscribed and paid up capital of Rs.25,00,000/-. **The assessee has long term borrowings of Rs.4.74 crores.**

2.3 In the year under consideration the assessee **claims to have received unsecured loans from (i) M/s Jay Jyoti India P.**

**Ltd.** (New name:- Jai Ganga Exim India Pvt. Ltd.) of Rs. 1,20,23,711/- (Principle amount of Rs.1,20, 17,416/-+ Interest capitalized of Rs.6295/-including TDS). (ii) M/s Jayant Securities P. Ltd. of Rs47,09,468/-(Principle amount of Rs.45,00,000/- +Interest capitalized of Rs.2,09,468/- including TDS). **This is the first year when loan is claimed to have taken from M/s Jay Jyoti India P. Ltd. and M/s Jayant Securities and Finance Ltd.**

2.4 While adjudging and adjudicating the aforesaid **"impugned assessment order"** the Ld.A.O has observed and held as under:-

*"5. It is pertinent to mention that as per proviso to section 68 effective from 01.04.2013 it is the responsibility of the assessee to get an explanation filed from the lender and such explanation should be satisfactory in the opinion of Assessing Officer. The relevant provisions of section 68 are reproduced:-*

*"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:*

*As stated in above para that during the course of enquiry the lender Jay Jyoti India Pvt. Ltd. was not found at the*

*registered office therefore the identity of the lender is not established. The creditworthiness of lender is either not proved in view of enquiry report mentioned above. The genuineness of transactions is not beyond doubt as the identity is itself not established and the assessee has neither produced the lender nor offered any explanation as required vide proviso to section 68.*

*6. In view of above facts discussed in preceding paras, the claimed loan amount taken during the year of Rs.12017416/- (inclusive of interest) from M/s Jay Jyoti India P. Ltd. and Rs 4709468/- from Jayant Security and Finance Ltd, total Rs 1,67,26,884/- is added to the total income of the assessee u/s 68 of the IT Act. I am satisfied that the assessee has concealed particular of his income therefore, penalty proceedings u/s 271(1)(c) of the I.T. Act is being initiated separately on this point.*

*Addition:- Rs.1,67,26,884/-*

2.5 That the assessee being aggrieved by the “**impugned assessment order**” prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the “**impugned order**” has dismissed the 1<sup>st</sup> appeal of the assessee.

2.6 That the assessee being aggrieved by the “**impugned order**” has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal against the “**impugned order**” which are as under:-

*“1. That the learned CIT(A) erred in passing an order u/s 250 almost two years after the date of submission The order so passed being illegal and wrong, the same, therefore require to be quashed.*

*2. That the learned CIT(A) erred in not considering the submission made by the appellant while passing the order.*

*The order so passed without considering the submissions made is against principles of natural justice. The order so passed being illegal and wrong, the same, therefore, require to be quashed.*

*3. That the learned CIT(A) erred in not considering the decisions of various tribunals decisions. The order so passed ignoring the direct decisions of Hon'ble Tribunals including jurisdictional Tribunal is illegal and wrong, the same therefore, require to be quashed.*

*4. That the learned CIT(A) erred in sending notices on wrong mail id. That in form no 35 email id of laxmiland@gmail.com was given. However the notices were sent to some other mail id i.e. the order was passed without service of a proper notice is illegal and wrong, the same therefore, require to be quashed.*

**5. WITHOUT PREJUDICE TO THE ABOVE**

*That the learned CIT(A) erred in confirming the addition of Rs.1,67,26,884/- u/s 68 without considering facts of the case. The order so passed by learned CIT(A) by applying his own theory is illegal and wrong. The addition so made therefore may very kindly be deleted.*

*6. That the learned CIT(A) erred in not considering direct case laws of jurisdictional ITAT mentioned in the submission. Making an addition without considering direct case laws cited is illegal and bad in law. The addition so made, may very kindly be deleted”.*

3.

**Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 09.06.2025 when the Ld. AR for and on behalf of assessee appeared before us and interalia contended that the “**impugned order**” is erroneous, illegal, bad in law and not proper. The “**impugned order**” deserves to be set aside. The Ld. AR has

placed on record of this Tribunal a brief synopsis of three pages narrating therein a brief summary of entire proceedings held so far which are as under:-

### **SYNOPSIS**

***“1.1 Assessee Company is engaged in business of Property development and Civil Contractorship. That assessee Company has filed its income tax return declaring all incomes earned by it during A.Y.2014-15, the due taxes were also paid by it before filing its Income Tax Return.***

***1.2 Assessee Company maintains books of accounts on mercantile basis and the same are audited by qualified Chartered Accountant as required under statute.***

***1.3 During the year under consideration assessee Company has taken unsecured loans from various lenders including M/s Jayant Securities & Finance Ltd and M/s Jay-Jyoti India Pvt. Ltd.***

***1.4 The said loans were taken to meet the short term requirements of business and were repaid along with the interest by the assessee Company through proper banking channel.***

***1.5 During the course of assessment proceedings assessee Company had submitted proof of identity, creditworthiness and genuineness of the above stated lenders, which includes their confirmation, bank statements, Audited Balance Sheet, copy of Income Tax Returns and source of amount advanced to the assessee Company.***

***1.6 Learned AO relying on the finding of various income tax officials came to the conclusion that the loans are not genuine. The AO, however himself not conducted any specific enquiry/investigation in this regard. He simply relied on other IT Officials observations/ findings.***

***1.7 Aggrieved the assessee filed an appeal before learned CIT(A) and written submission dt 06.10.2022 was also filed before learned CIT(A). In the submissions various decisions were cited including decisions of Hon'ble Jurisdictional Bench.***

**1.8 The learned CIT(A) relying on general case laws cited by him dismissed the ground of appeal of the assessee relating to addition of Rs. 1,67,26,884/-. While doing so he brushed aside the submissions made by the assessee & conveniently ignored to take into notice direct decisions on the issue rendered by Hon'ble jurisdictional bench.**

**1.9 That when the assessee has filed all the details required to prove all the conditions envisaged in Section 68, filed confirmations, audited accounts of the lenders, copy of bank statement, proof of TDS on interest etc, the onus of assessee stands discharged.**

**1.10 The AO did not do any independent enquiry. He simply relied on other IT Officials verdict.**

**1.11 That Hon'ble ITAT Indore Bench is time and again taking the view that the companies :- i) Jay Jyoti India Pvt. Ltd & ii) Jayant Security & Finance Ltd are genuine companies and not paper companies.**

**1.12 Hon'ble ITAT Indore Bench in the case of ITO 2(1) vs. M/s Hi Link City Homes P. Ltd held that loan taken by the assessee from M/s Jayant Securities and Finance Ltd and M/s Jay Jyoti India Pvt. Ltd do not warrant any addition u/s 68.**

**1.13 Same view was taken by Hon'ble ITAT Indore Bench in the case of Sanjay Shukla vs. ACIT and ACIT Central-1 vs. M/s Shri Krishna Devcon Pvt Ltd.**

**1.14 That in view of the fact that the assessee furnished all the documents required to prove the loan taken as genuine and that the Hon'ble ITAT Indore Bench is consistently taking the view that M/s Jayant Securities & Finance Ltd & M/s Jay Jyoti India Pvt Ltd are not paper companies, the addition of Rs. 1,67,26,884/- may please be deleted".**

It is categorically asserted in the synopsis filed today that core addition of Rs.1,67,26,884/- is totally unjustified by both the lower authorities i.e Ld. A.O & CIT(A). That unsecured loans

taken from M/s Jayant Securities & Finance Ltd and M/s Jay-Jyoti India Pvt. Ltd the lenders aggregating to Rs.1,67,26,884/-are not accommodation entries. It is asserted that necessary proof of identity, creditworthiness and genuineness of above stated lenders which includes their confirmation, bank statements, audited balance sheets, copy of Income Tax Returns, sources of amount advanced to assessee company's were are disclosed and given to lower authorities but still lower authorities have ignored these evidences and have gone by observations, findings of other Income Tax Authorities. There is no independent application of mind by lower authorities. It was emphasized that ITAT, Indore Bench time and again has taken a view in following cases that Jay-Jyoti India P. Ltd and Jayant Security & Finance Ltd are genuine companies and not paper companies they are not accommodation entry providers:-

1. *M/s Hi Link City Homes Pvt. Ltd V/s ITO 21), Indore. ITA No.2/Ind/2021 order dated 19.09.2022.*
2. *ACIT, Central-2, Indore V/s Shri Sanjay Shukla. ITA No.333/Ind/2020 order dated 15.03.2022.*

3. *ACIT, Central-1, Indore V/s Shri Krishna Devcon Ltd.*  
*ITA No. 8 to 10/Ind/2022, IT(SS)A No.11&3/Ind/2022,*  
*C.O. No.03/Ind/2022 order dated 21.08.2023.*
4. *Joint CIT (OSD)-CC-7(4) V/s M/s. Shalimar Housing &*  
*Finance Ltd. ITA No.4079/Mum/2019 order dated*  
*01.06.2021.*
5. *ACIT,3(1), Indore V/s Shri Pramod Kumar Sethi. ITA*  
*No.382 & 383/Ind/2014 order dated 06.11.2018.*

Copy of above referred orders of ITAT were placed on record.

It was pleaded that lender in the above cases (mostly) are **Jay Jyoti India P. Ltd and Jayant Security & Finance Ltd** who have been held not to be paper company's. Their identity, creditworthiness and genuineness are all established and contention of the revenue that they are paper company's and entry provider's are negated. Basis this Ld. AR pleaded and submitted before us that facts and circumstances of the present case are almost similar and identical to the facts of above cited cases and that this Tribunal should follow above cited cases and should finally set aside the "**impugned order**". Per contra Ld. DR appearing for and on behalf of the Revenue fairly submitted

that issues in the present appeal **are covered by above cited orders.**

4. **Observations, findings & conclusions.**

4.1 We now have to adjudge and adjudicate the present appeal filed by the assessee company on the basis of the records of the case and contentions canvassed before us during the course of hearing. In brief we have to decide the legality, validity and the propriety of the **"impugned order"**.

4.2 We have carefully perused the records of the case as presented to this tribunal by both Ld. AR and Ld. DR to determine the legality, validity of the **"Impugned Order"** basis law and by following due process of law.

4.3 We basis records of the case, after hearing and upon examining the contentions are of the considered opinion that **"impugned order"** is not sustainable in law wherein addition of Rs.1,67,26,884/- i.e. **addition on account of unsecured loan from two lenders M/s Jayant Securities & Finance Ltd and M/s Jay-Jyoti India Pvt. Ltd** have been upheld, for the simple reason that these parties (lenders) in case cited above of ITAT, Indore Benches have been found to be **not paper company's and**

**there is no accommodation entry given by them.** Hence following the decision of Co-ordinate Bench where too similar question of giving accommodation entry by M/s Jayant Securities & Finance Ltd and M/s Jay-Jyoti India Pvt. Ltd arose it has been held that these entities are not paper company's and no accommodation entry's have been given to assessee's mentioned therein. The findings of Co-ordinate Benches of this Tribunal in cases cited supra are on merits. Hence following the principles of **consistency, continuity and credibility we set aside the "impugned order"** and allow the appeal of assessee.

5.

**Order**

5.1 In the result appeal of the assessee is allowed and **"impugned order"** is set aside.

Order pronounced in open court on 11.06.2025.

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 11/06/2025

Dev/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore