

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

**BEFORESHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.2006/Mum/2024  
(Assessment Year: 2013-14)**

<b>ITO 5(2)(1), Mumbai</b> R No.567, Aayakar Bhavan M.K. Road, Mumbai-400 020	<b>vs</b>	<b>Mokxa Diamond Private Limited</b> 6/2084, Off No. 101/c, 1 <sup>st</sup> Floor Matruchaya Building, Rampura Main Road, Mahidharpura Surat Gujarat – 395 003 <b>PAN : AAGCM1959H</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Bharat Kumar  
Respondent by : Shri Annavaram Kosuri SR.AR.  
  
Date of hearing : 11/06/2025  
Date of pronouncement : 18/06/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

The instant appeal of the revenue was filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2013-14, date of order 19/02/2024. The impugned order emanated from the order of the Assessment Unit, Income-tax Department (in short, 'Ld.AO')

passed under section 147 read with section 144B of the Act, date of order 29/05/2023.

2. The brief facts of the case are that the assessee is a private limited company and filed its return of income by declaring total income of Rs.2,60,780/-. The assessee's case was reopened under section 148 on 08/04/2021 and subsequently the return under section 148 was filed by declaring same income on 31/05/2021. On verification of the documents of the assessee, the Ld.AO noted that the assessee has debited and credited certain amounts through banking channel with a party named M/s Anjani Diam Pvt Ltd, amount to Rs.56,40,475/- each which comes to total amount of Rs. 1,12,80,950/-, being one of the concerns controlled by Shri Shripal Vora during the impugned financial year. The Ld. AO treated this transaction as bogus transaction and the said amount of Rs. 1,12,80,950/-, was added back to the total income of the assessee. The aggrieved assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A), considering the submission of the assessee, deleted the addition and allowed the grounds of the assessee. Being aggrieved on the appeal order, the revenue filed an appeal before us and in the case, the assessee raised a legal ground under rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963 before the Bench.

3. The Ld.AR filed two sets of paper books containing pages **1 to 157 (PB-I)** and containing pages **1 to 161 (PB-II)** which are kept in record. The Ld.AR in argument stated that the assessee has taken advances and paid advance amount to Rs.56,40,475/- each from the party, M/s Anjani Diam Pvt Ltd. For receiving the advance, the Ld. Assessing Officer made the addition under section 69C of the Act. The Ld.AR stated that the transaction with this party was done during the regular course of business. Further, the Ld.AO, in the order specifically mentioned

that the notice under section 133(6) of the Act was issued to the party, but it was un-complied. In this respect, the Ld.AR submitted that the notice was issued beyond six years, so the party was unable to appear because the documents were not available on the point of limitation. The Ld.AR respectfully relied on the observations of Ld.CIT(A), which is extracted below:-

*“Ground Nos.5 to 8:- These grounds of appeal are interrelated and are in respect of addition u/s 68 for an amount of Rs. 56,40,475/- received as advance against goods from M/s Anjani Diam Pvt. Ltd. and an addition of Rs.56,40,475/- u/s 69C on account of unexplained expenditure in respect of amount re-paid to M/s Anjani Diam Pvt. Ltd.*

*On the facts of the case, an addition of Rs. 1,12,80,950/- was made in the case of the appellant on account of bogus purchases and advance of similar amounts of Rs.56,40,475/- from M/s Anjani Diam Pvt. Ltd. by the Ld. AO vide his order u/s 147 r.w.s. 144B dated 29.05.2023. In the assessment order, the Ld. AO has stated that the assessee company is a beneficiary of accommodation entries received from M/s Anjani Diam Pvt. Ltd., one of the concerns controlled by Sh. Shripal Vora. The said company which provided the accommodation entries had no genuine business and is a shell entity. It was further revealed that during F.Y. 2012-13, the appellant was one of the beneficial entities.*

*During the course of assessment proceedings before the Ld. A.O., the appellant filed ledger of the party, bank statements evidencing the payments received and paid from/to suppliers by account payee cheques/RTGS, the copy of certificate of incorporation, confirmation of accounts, copy of ITR V and Balance Sheet of M/s Anjani Diam Pvt. Ltd. to support its claim of advance payment against purchase of goods and advance receipts against sales of goods in the normal course of business and to prove genuineness of the transactions and identity of the purchaser/supplier.*

*Since, the appellant had submitted the ITR acknowledgment for A.Y. 2013-14 and all the requisite documents pertaining to M/s Anjani Diam Pvt. Ltd. before the Ld. AO, he had discharged the initial onus of proving the transactions as being genuine. The Ld. AO has not controverted any of the documents hence submitted before him. Further, the bank statements show the entire transactions are through banking channel.*

*From the perusal of assessment order as well as the documents submitted during appellate proceedings, the following points seek to establish the identity of the party and genuineness of the transactions: -*

- 1. Advance payment against purchase of goods and advance receipt for sale of goods to and from M/s Anjani Diam Pvt. Ltd. have been made through banking channels.*
- 2. The Bank statement submitted by the Appellant evidencing the receipt and payment of advances against goods.*
- 3. The audited financial statements and ITR of M/s Anjani Diam Pvt. Ltd.*
- 4. Ledger confirmation from M/s Anjani Diam Pvt. Ltd.*
- 5. Certificate of Incorporation of M/s Anjani Diam Pvt. Ltd.*
- 6. Regular income tax returns are being filed by the appellant as well as M/s Anjani Diam Pvt. Ltd.*
- 7. The accounts of the appellant have been duly audited by the Auditor.*
- 8. Creditworthiness, genuineness and identification of M/s Anjani Diam Pvt. Ltd. cannot be doubted as a sham entity.*

*It is pertinent to mention that the appellant had submitted the necessary confirmations before the Ld. A.O. and hence discharged the onus cast upon him to prove the identity of the supplier party. In CIT vs. Precision Finance Pvt. Ltd. 208 ITR 465 (Cal), the Hon'ble Calcutta High Court has observed that it is for the assessee to prove the identity of the creditor/his creditworthiness and the genuineness of the transactions*

*It is also pertinent to note that even after submitting the necessary confirmations the Ld. A.O. failed to establish the underlying transactions of advance payment made against purchase of goods and advance receipt for sale of goods and has made addition by considering to be bogus purchases under section 690 and unexplained cash credit under section 68 of the Income Tax Act, 1961. The appellant has explained that the appellant had made transaction of advances in the normal course of business as both entities belong to same industry (diamond industry) and the transaction has been squared off in the same year and there is no effect of any revenue loss. The assumption made by Ld. AO in respect of transactions amounting to Rs.56,40,475 to be in the nature of sale is not justified as the transaction is the nature of advance received for goods which could not materialise and therefore the sum was duly repaid in the same assessment year. Hence the addition u/s 68 made by Ld. AD is not justified.*

*Also, section 69C applies when the appellant had incurred any expenses and failed to prove source but when no expenses was made and nothing is claimed, then the question of addition u/s 69C will not arise at all. The appellant has not entered into transaction of purchase with the alleged party but had made advance payment for purchases or repaid the advance received for goods, which could not be materialised and therefore squared off and hence no question of expenditure arises. Hence, the addition made by Ld. AO of Rs.56,40,475 u/s 69C is not justified.*

*The balance of disproving the documentary evidence hence shifted on the A.O. for conducting further inquiries. The entire facts and discussion centre around the discharge of onus by the Assessing Officer's in these cases. It is evident that Ld. AO had not discharged his onus of disproving the transactions between the Mis Moxa Diamond Pvt. Ltd. and Mis Anjani Diam Pvt.*

*Ltd. as a sham arrangement from the documentary evidence at hand. The entire case of the Ld. A.O. rests on the information received from the Investigation Wing. The Ld. A.O. has neither reproduced the statement of the directors of M/s Anjani Diam Pvt. Ltd. nor has he highlighted the part wherein it has been stated that the appellant is a beneficiary of bogus purchases. Further, no explanation is forthcoming as to how the documents submitted by the assessee stood countered or disproved. Hence, the addition made by the AO cannot be sustained.*

*In the above terms, the grounds of appeal nos.5 to 8 are hereby allowed.”*

4. The Ld.AR further stated that the assessee had made a regular transaction with this party and the said ledger is duly placed at page 53 which is extracted as below:-

**M/S MOXA DIAMOND PVT. LTD.**

**M/S. ANJNI DIAM PVT. LTD**

LEDGER FOR THE PERIOD 01/04/2012 TO 31/03/2013

DATE	PARTICULARS	CREDIT AMOUNT	DATE	PARTICULARS	DEBIT AMOUNT
09/02/2013	CHQ.NO.	4604000.00	01/04/2012	OPENING BALANCE	0.00
30/03/2013	CHQ.NO.608190	1036475.00	11/02/2013	CHQ.NO.775197	2450000.00
			25/02/2013	CHQ.NO.689159	2593000.00
			25/02/2013	CHQ.NO.689162	50000.00
			26/02/2013	CHQ.NO.689166	367475.00
			27/02/2013	CHQ.NO.689167	180000.00
31/03/2013	CLOSING BALANCE	0.00			
		5640475.00			5640475.00

In further argument, he stated that the assessee submitted all the relevant documents, like bills, ledger folios and all the payments were made through banking channel. So in any case, the Ld.AO had not rejected any of the documents submitted by the assessee and the veracity was not duly challenged; so it is against the proposition of the law that when the evidences are accepted, the transaction should not be denied.

5. The Ld.DR argued and respectfully relied on the order of the Hon'ble Punjab & Haryana High Court in case of **Jaspal Singh vs ITO 290 ITR306 (P&H)** and he further stated that the said company is a bogus entry provider, so in any case, the observation taken by the Ld.CIT(A) is unjustified. The Ld.DR relied on the order of the Ld.AO and the relevant paragraphs are extracted below:-

*“ The transactions made by the assessee with M/s Anjani Diam Pvt Ltd are discussed separately as below:-*

**1). Transaction of Rs.56,40,475/- claimed by the assessee as payment made against Purchase of Goods.**

*The assessee has provided the copy of acknowledgement of ITR for A.Y. 2013-14, ledger account of M/s Anjani Diam Pvt Ltd for AY 2013-14 and statement of accounts of M/s Moxa Diamond Pvt Ltd. The assessee has also accepted that the company has made purchases from M/s Anjani Diam Pvt Ltd and made payment towards such purchases.*

*Further, notice u/s 133(6) of the Act was issued to M/s Anjani Diam Pvt Ltd on 20.04.2023 to confirm the transactions made with the assessee during the period under consideration. In response to the same no reply has been received till date. Therefore, the transaction made by the assessee could not be verified.*

*Further to verify the business of supplier and transaction with the assessee a reference was made to Verification Unit to physically verify the existence of business of supplier and veracity of the transaction made with assessee in response to the same, the Verification unit has submitted its reply to this Unit. On perusal of report of Verification Unit, it is observed from report of inspector, that there is no office or business premises or business activities carried on from the address of the supplier available with this Unit Therefore, the transaction is question remains unexplained.*

*Also the assessee has merely submitted ITR, Acknowledgement and ledger account. The assessee has not submitted any clinching evidence of purchase such as invoices, movement of goods through stock register, delivery challans etc.*

*In view of the above and the credible information available with the department the transactions of Rs.56,40,475 by which the assessee made payment to Mis Anjani Diam Pvt. Ltd during the year under consideration on account of purchase remains unexplained as assessee failed to offer any source of such expenditure on its part. Therefore, the same are to be treated as unexplained expenditure and added to income of the assessee in accordance with the provisions of section 69C of the Act, 1961. Penalty u/s 271(1)(c) is initiated separately.*

***(Addition of Rs. 5640475/-)***

*(ii) Transactions of Rs.56,40,475/- claimed by the assessee as advance receipt made against sale of goods.*

*The assessee has provided the copy of acknowledgement of ITR for AY. 2013-14, ledger account of Mis Anjani Diam Pvt Ltd for AY 2013-14 and statement of accounts of Mis Moxa Diamond Pvt Ltd. The assessee has also accepted that the company has advance receipts against sales of goods from M/s Anjani Diam Pvt Ltd.*

*However, the credible information is available with the department collected by the Investigation Wing of the Department that the Mis Anjani Diam Pvt. Ltd. having no real business and was engaged in providing accommodation entry in the lieu of commission. Therefore, the ledger, statement of accounts of the alleged party provided by the assessee cannot be accepted as conclusive evidence in support of the claim made by the assessee regarding the above transactions.*

*Further, notice u/s 133(6) of the Act was issued to Mis Anjani Diam Pvt Ltd on 20.04.2023 to confirm the transactions made with the assessee during the period under consideration. In response to the same no reply has been received till date. Therefore, the transaction made by the assessee could not be verified.*

*Further to verify the business of supplier and transaction with the assessee a reference was made to Verification Unit to physically verify the existence of business of supplier and veracity of the transaction made with assessee. In response to the same, the Verification unit has submitted its reply to this Unit. On perusal of report of Verification Unit, it is observed from report of Inspector, that there is no office or business premises on business activities carried on from the address of the supplier available with this Unit, Therefore, the transaction is question couldn't be verified.*

*Also, the assessee has merely submitted ITR Acknowledgements and ledger A/c The assessee has not submitted any clinching evidence of sales such as invoices, movements of goods through Stock Register. Delivery challans etc.*

*In view of the above and the credible information available with the department, the transactions of Rs. 56.40.475/- by which the assessee account is credited by Mis Anjani Diam Pvt. Ltd. during the year under consideration on account of advance receipt against any good remains unexplained as assessee failed to offer about the nature and source of this amount which is credited in its books of account. Therefore, the same are to be treated as unexplained cash credit and added to the income of the assessee in accordance with the provisions of section 68 of the Act, 1961. Penalty u/s 271(1)(c) is initiated separately.*

***(Addition of Rs.56,40,475/-)"***

6. We have heard the rival submissions and perused the material available on record. In support of the transaction in question, we observe that the assessee

has engaged in regular dealings with the said party, and all transactions have been conducted through the banking channel. The assessee has duly furnished relevant documentary evidence including bills, invoices, confirmations, ledger accounts, and bank statements before the Ld. Assessing Officer. Notably, the authenticity of these documents has not been disputed by the revenue.

Furthermore, a notice under section 133(6) of the Act was issued to the said party; however, since the notice pertains to a period beyond six years, the said party was under no statutory obligation to respond due to the bar of limitation. It is evident from the records that the assessee had regular business transactions with M/s Anjani Diam Pvt. Ltd., and the same were duly settled during the impugned assessment year.

The Ld. DR has placed reliance on the judgment of the Hon'ble Punjab & Haryana High Court in the case of Jaspal Singh (supra). However, we find that the facts of the present case are clearly distinguishable from those in the said judgment. Moreover, the Ld. DR has not brought on record any material fact to rebut the submissions made by the Ld. AR.

In light of the above, we are of the considered view that the findings of the Ld. CIT(A) are well-reasoned and do not warrant any interference.

Accordingly, the ground raised by the revenue stands dismissed.

7. Since the ground raised by the revenue has been dismissed, the application filed by the assessee under Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963, becomes merely academic in nature and is accordingly kept open without adjudication.

8. In the result, the appeal filed by the revenue bearing **ITA No. 2006/Mum/2024** is dismissed.

Order pronounced in the open court on 18<sup>th</sup> day of June, 2025.

Sd/-

sd/-

(VIKRAM SINGH YADAV)

ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 18/06/2025

Pavanan

**Copy of the Order forwarded to:**

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

(ANIKESH BANERJEE)

JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, Mumbai