

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

I.T.A. No. 2357/Mum/2025
Assessment Year: 2014-15

Micron Materials Ground Floor, Kasturi Building Popat Wadi, Near Indian Art Studio Kalbadevi Road Mumbai - 400002 [PAN: AAUFM6560H]	Vs	Dy. Commissioner of Income Tax, Central Circle - 1(4), Mumbai
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Ajay R. Singh & Shri Akshay Pawar , A/Rs
Revenue by :	Shri Aditya M. Rai, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 01/07/2025
घोषणा की तारीख /Date of Pronouncement: 02/07/2025

आदेश/O R D E R

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the ld. CIT(A)-47, Mumbai [hereinafter "the ld. CIT(A)"] dated 16/10/2024 pertaining to AY 2014-15.

2. The sum and substance of the grievance of the assessee is that the ld. CIT(A) erred in confirming the addition of Rs. 1,26,00,000/- on account of deposits/unsecured loan received from M/s. Tabassum Dealers Pvt. Ltd., u/s 68 of the Act.

3. The appeal is barred by limitation. The assessee has explained the reasons for delay in filing the appeal supported by an affidavit. We have carefully considered the contents of the application for condonation of delay along with affidavit and are of the considered

view that the assessee was prevented by reasonable and sufficient cause for not filing the appeal on time. Therefore, the delay is condoned.

4. Briefly stated the facts of the case are that the assessee filed its return of income on 28/11/2014 declaring total income at Rs. 2,71,227/-. The assessment was framed vide order dated 18/11/2016 u/s 143(3) of the Act at Rs. 3,38,170/-.

5. Subsequently a survey u/s 133A of the Act was conducted in the case of assessee firm along with survey on M/s. Ashtech (India) Pvt. Ltd., its group concern and some of the entities which had provided bills to M/s. Ashtech (India) Pvt. Ltd.. In consequence to the survey action and the materials found therefrom, the case of the assessee was reopened and accordingly statutory notice were issued were issued and served upon the assessee. On perusal of the survey report, the AO found that the assessee has received loan of Rs. 1,26,00,000/- from M/s. Tabassum Dealers Pvt. Ltd., alleged to be an accommodation entry. The assessee was asked to produce details with regard to the unsecured loans in the light of Section 68 of the Act. The assessee furnished details along with the confirmations and pointed out to the AO that the loan taken during the year was also repaid during the year itself. The assessee also furnished ITR, financial statements and bank statements to prove the loan transactions. The explanation and the documents submitted by the assessee were dismissed by the AO who proceeded by making addition of Rs. 1,26,00,000/- u/s 68 of the Act.

The assessee carried the matter before the ld. CIT(A) but without any success.

6. Before us, the ld. Counsel for the assessee reiterated the claim that the assessee has successfully discharged the onus cast upon it by the provisions of Section 68 of the Act inasmuch as, pursuant to the notice issued u/s 133(6) of the Act, M/s. Tabassum Dealers Pvt. Ltd. has not only confirmed the transactions but has also confirmed by the repayment of the loan. It is the say of the ld. Counsel for the assessee that both the AO and the ld. CIT(A) have completely ignored the documentary evidence filed by the assessee.

Per contra, the ld. D/R strongly supported the findings of the AO and read the operative part of the assessment order and the order of the ld. CIT(A).

7. We have carefully considered the orders of the authorities below. It is an undisputed fact that the assessee has furnished complete details along with the supporting evidence justifying the loan taken from M/s. Tabassum Dealers Pvt. Ltd.. Most importantly, the loan has been repaid during the year itself as evidence from the following statement of account confirmed by M/s. Tabassum Dealers Pvt. Ltd.:-

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STATEMENT OF ACCOUNT

FROM :
MICRON MATERIALS (MUMBAI)
30, KASTURI BUILDING,
POPATWADI KALBA DEVI ROAD
MUMBAI-400 002

TO :
TABASSUM DEALERS PVT.LTD.
26/1/1A, STRAND ROAD, 2ND FLOOR,
KOLKATA-700 001

Dear Sirs,

We give below a statement of your account from 01/04/2013-31/03/2014 which please confirm stating your Income-Tax File No:, Kindly return three copies of this statement. My Income-Tax Permanent A/C No. AAUFM6560H

DATE	PARTICULAR	DEBIT	CREDIT
01/04/2013	OPENING BALANCE		0.00
22/07/2013	BY BANK		5500000.00
22/07/2013	BY BANK		5300000.00
31/07/2013	BY BANK		1800000.00
24/02/2014	TO BANK	4300000.00	
25/02/2014	TO BANK	4500000.00	
25/02/2014	TO BANK	3700000.00	
03/03/2014	TO BANK	100000.00	
TOTAL :		12600000.00	12600000.00

I/We confirm and certify that the above statement of A/C received from you is true and correct. My/Our Income Tax P.A/C NO. is AABCT7258F

Yours faithfully,



8. On similar facts, the Hon'ble High Court of Gujarat in the case of *PCIT vs. Ambe Tradecorp (P.) Ltd.* [2013] 290 Taxman 471 (Gujarat) has held that where assessee took loan from two parties and assessee had furnished requisite material showing identity of loan givers and assessee was not beneficiary as loan was repaid in subsequent year, no addition u/s 68 of the Act can be made on account of such loans. And in the case in hand, the assessee has repaid the loan within few months of borrowing as is evident from the extract of the statement of account elsewhere.

9. Similarly, the Hon'ble Bombay High Court in the case of *Pr. CIT vs. M/s. Skylark Build IT Appeal No. 616 of 2016 dated 24/10/2018*, has deleted the similar addition. The most relevant findings of the Hon'ble Court read as under:-

"In addition, there is a subsequent development and namely that each of these creditors from whom the assessee borrowed moneys or who advanced it the moneys, were repaid the sums borrowed. This would establish that there were indeed real creditors; that they had indeed the funds available with them and that the transactions were genuine."

9.1. Similar view was taken by the Hon'ble Bombay High Court in the case of *Pr. CIT vs. Bairagra Builders (P.) Ltd. [2024] 299 Taxman 460 (Bombay)*.

10. Considering the facts of the case in totality in the light of the decisions of the Hon'ble High Courts (*supra*), we do not find any merit in the impugned addition and the AO is directed to delete the impugned addition of Rs. 1,26,00,000/-.

11. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 2nd July, 2025 at Mumbai.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 02/07/2025

SC S.P.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai