

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAJ KUMAR CHAUHAN (JUDICIAL MEMBER)**

**ITA No. 1113/MUM/2025
Assessment Year: 2013-14**

DCIT 42(1)(1),
Room No. 732, 7th floor,
Kautilya Bhavan, BKC
Mumbai-400051.

Appellant

Vs.

Satyendra Kumar Triloknath Goyal,
I 702, Pranay Nagar Society, Ram
Mandir Extn Road, Vazira Naka,
Borivali West,
Mumbai-400091.
PAN NO. AAEPG 3578 R
Respondent

Assessee by : Mr. Ajay R. Singh &
Mr. Akshay Pawar
Revenue by : Mr. Virabhadra S. Mahajan, Sr. DR

Date of Hearing : 12/06/2025
Date of pronouncement : 31/07/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue is directed against order dated 09.07.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2013-14, raising following grounds:

1. On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition made of Rs.



1,75,00,000/- as unexplained cash credit u/s.68 of the I.T.Act, 1961 by the AO in respect of unsecured loans taken by the assessee from Bhanwarlal Jain who is an accommodation entry provider.

2. On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition made of Rs.5,25,000/- as unexplained expenditure u/s.69C of the I.T.Act, 1961 by AO in respect of commission paid on the said loans.

3. On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition made of Rs.48,48,355/- (Rs. 38,86,191/- + Rs. 9,62,164/-) by the AO on account of interest expenses on the said loans.

2. Briefly stated, facts of the case are that the assessee is an individual and proprietor of M/s Peerless Construction, engaged in business of constructing buildings. The assessee filed his return of income on 28.09.2013 declaring total income of Rs.67,11,530/-. The return of income filed by the assessee was selected for scrutiny and statutory notices under the Income-tax Act, 1961 (in short 'the Act') were issued and complied with. The assessment u/s 143(3) of the Act was completed on 26.02.2016 determining total income at Rs.2,96,94,882/- by way of making three additions, firstly, addition for unsecured loan of Rs.1,75,00,000/- held as unexplained cash credit u/s 68 of the Act, secondly, the loans were held as accommodation entry and therefore, commission paid of Rs.5,25,000/- for obtaining such accommodation entry was held as unexplained expenditure u/s 69C of the Act, thirdly, the interest of Rs.48,48,355/- in respect of current year loan held as unexplained



as well as brought forward loans which were held as unexplained, was treated as unexplained expenditure u/s 69C of the Act.

3. On further appeal, the Ld. CIT(A) deleted the additions relying on the decision of the Co-ordinate Bench of the Tribunal in the case of the assessee for assessment year 2012-13. Aggrieved, the Revenue is in appeal before us, by way of raising grounds as reproduced above.

4. We have heard rival submissions of the parties and perused the relevant materials on record. In the case of the assessee allegation are that assessee had received accommodation entry of the unsecured loans from the entities controlled and operated by Shri Bhawarlal Jain, i.e. an accommodation entry provider. During the course of assessment proceedings, the Assessing Officer issued notice u/s 133(6) of the Act to all such parties from whom, the assessee received loans. In response, those parties confirmed loan given to the assessee and also filed copy of their bank statements. The assessee also filed his bank statement and further explained that loans were repaid through account payee cheques and tax was deducted on the interest payment regularly. The Ld. CIT(A) observed that in the additions were made in earlier year by the Assessing Officer on similar allegation of the receipt of unsecured loan by way of accommodation entry from the Bhawarlal Jain but the Co-ordinate Bench of the Tribunal after verification of documents of



identity, confirmation, bank statements etc held that assessee discharged his onus of burden u/s 68 of the Act. The relevant finding of the Co-ordinate Bench of the Tribunal in ITA No. 5562/Mum/2017 for assessment year 2012-13 is reproduced as under:

“7. We have heard the rival submissions and perused the relevant material on record. The reasons for our decisions are given below.

In the case of Bikram Singh (supra), relied on by the Ld. DR, it is held that "where the AO made addition to assessee's income u/s 68 in respect of loan taken from various parties, since the assessee failed to prove that any of those creditors had financial strength to lend such huge sums of money to assessee, that too without any collateral security, without interest and without a loan agreement, impugned addition deserves to be confirmed".

In the case of NRA Iron & Steel Pvt. Ltd. (supra), relied on by the Ld. DR, the AO had issued summons to the representatives of the investor companies. Despite the summons having been served, nobody appeared on behalf of any of the investor companies. The Department only received submissions through dak, which created a doubt about the identity of the investor companies. Thereafter, the AO independently got field enquiries conducted with respect to the identity and creditworthiness of the investor companies and to examine the genuineness of the transaction. Enquiries were made at Mumbai, Kolkata and Guwahati, where these Companies were stated to be situated. On the basis of the detailed enquiries conducted, the AO held Assessment Year: 2012-13 that the assessee had failed to prove the existence of the identity of the investor companies and genuineness of the transaction.

As mentioned earlier, in the instant case the entire focus of the AO was on the modus operandi adopted by



Bhanwarlal Jain Group of cases to provide bogus accommodation entries of loan. The main reason of the AO for making addition u/s 68 was on the basis of information provided by the Investigation Wing of the Department. No independent enquiry has been conducted by the AO as was done in NRA Iron & Steel Pvt. Ltd. (supra). In the case of Bikram Singh (supra), the assessee was unable to establish the identity, creditworthiness and genuineness of the said persons and transactions.

As recorded by the Ld. CIT (A), during the course of assessment proceedings, the assessee filed before the AO (i) loan confirmations from lenders, (ii) PAN of the lenders, (iii) copy of the return of income of lenders, who advanced the loan, (iv) copy of bank account of lenders (v) copy of bank account of the assessee and (vi) copy of balance sheet and P & L account of the lenders.

Therefore, the instant case is distinguishable from the above case laws relied on by the Ld. DR.

7.1 It is well settled that in order to discharge the onus u/s 68, the assessee must prove the following:

- (i) the identity of the creditor,*
- (ii) the capacity of the creditor to advance money; and*
Assessment Year: 2012-13
- (iii) the genuineness of the transaction.*

After the assessee has adduced evidence to establish prima facie the aforesaid, the onus shifts to the department. In the instant case, though the onus shifted to the department, the AO has failed to make necessary enquiry to reject the contentions of the assessee.

In view of the above factual matrix and position of law, we uphold the order of the Ld. CIT (A).

8. In the result, appeal filed by the revenue is dismissed.”



4.1 We find that the Co-ordinate Bench(supra) while deciding relied on the following decision of the Co-ordinate Bench :

1	ITANo. 6099/Mum/2016 DCIT (CC)-I(3)vs. M/s Jainam Investments
2.	ITANo. 1414/Mum/2017 DCIT 25(1) vs. M/s YRV International
3.	ITA No. 2100/Mum/2016 and ITANo. 1645/Mum/2017 Shri Ashok Nagraj Mehta vs. ACIT Circle 19(1)
4.	ITANo. 7049/Mum/2016 Asst CIT-19(1) vs. Shri Dilip Chimanlal Gandhi
5.	ITA No. 7049 & 7050/Mum/2016 Jitendra M Kitawat vs. ITO 18(1X5)
6.	ITANo. 7047/Mum/2016 Jitendra M Kitawat (HUF) vs. ITO 18(1)(5)
7.	ITA No. 3017/Mum/2018 Smt. Ritu Kamal Singal vs. ITO 21(3114)

4.2 Before documents identical to which had been filed in earlier year had been filed. Out of the list of parties from whom loans have been taken , the unsecured loan giver parties namely 'Naukar Diamonds' and 'Naukar India' are also appearing in the list of the parties for assessment year 2012-13 which has been allowed in favour of the assessee by the Co-ordinate Bench (supra). Since identical documents have been filed in respect of parties to justify the discharging of onus u/s 68 of the Act, we uphold the finding of the Ld. CIT(A) on the issue in dispute in respect of addition of the



unsecured loan. The ground No. 1 of the appeal of Revenue is dismissed.

4.2 As far as addition of the commission expenses is concerned same is in respect of unsecured loans considered as unexplained cash credits, which have already deleted by the Id CIT(A) and we have upheld said deletion while adjudicating ground no. 1 of appeal, therefore, consequent addition for the commission in respect of those entries is also deleted. The ground No. 2 of the appeal is dismissed.

4.3 In respect of ground No. 3, the Ld. Counsel for the assessee has given list of the interest in respect of parties for the current year as well as the brought forward and in remark column given where the loan has been allowed by the ITAT or the Ld. CIT(A) against which no appeal is pending. The relevant detail of the interest payment is reproduced as under:

SR. NO.	NAME, ADDRESS AND PAN OF THE LOAN CREDITORS	INTEREST (Incl. TDS)	TDS	Remarks
1	Navkar India	Rs. 218,137	Rs. 21,819	Loan allowed in appeal AY 12-13 by ITAT
2	Rajan Diamonds	1,344,000	134,400	Loan allowed by CIT(A) in AY 2009-10 and ITAT in AY 12-13
3	Mohit Enterprises	120,000	12,000	Loan allowed in Appeal AY 12-13 by ITAT



4	Mukti Exports	120,000	12,000	Loan allowed in Appeal AY 12-13 by ITAT
5.	Pushpak Gems	360,000	36,000	Loan allowed in Appeal AY 12-13 by ITAT
6	Navkar Diamond	380,054	38,005	Loan allowed in Appeal AY 12-13 by ITAT
7	Mehul Gems Pvt Ltd	120,000	12,000	Loan allowed in Appeal AY 12-13 by ITAT
8	Daksh Diamonds	324,000	32,400	Loan allowed by CIT (A) in AY 2009-10 and ITAT in AY 12-13
9	Jewel Diam	120,000	12,000	Loan allowed by CIT (A) in AY 2009-10 and ITAT
10	Kothari & Co.	120,000	12,000	Loan allowed by CIT (A) in AY 2009-10 and ITAT
11	Minal Gems	360,000	36,000	Loan allowed by CIT (A) in AY 2009-10 and ITAT in AY 12-13
12	Rose Impex	300,000	30,000	Loan allowed by CIT (A) in AY 2009-10 and ITAT in AY 12-13
	Total interest disallowed	3,886,191	388,624	

4.3 Since the loans corresponding to the interest paid has already been allowed either by the Co-ordinate Bench of the ITAT or the Ld. CIT(A) and no appeal has been preferred against said finding of CIT(A), therefore, the interest paid in respect of those loans also stands allowed. We uphold the finding of ld CIT(A) on the issue in dispute. The ground No. 3 of the appeal of the Revenue is accordingly dismissed.



5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 31/07/2025.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;
Dated: 31/07/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai