

**THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER &
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA Nos.1682, 1708 & 1709/Del/2024
(Assessment Years: 2013-14 to 2015-16)**

Mahayana Theravada Vajrayana Buddhist Religious and Charitable Trust, Delhi Roorkee Road, Bye Pass Shubhartipuram, Meerut – 250005 Uttar Pradesh	Vs.	ACIT, Central Circle Aaykar Bhawan, Meerut, Uttar Pradesh – 250001
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AADTS2638D		
Appellant	..	Respondent

Appellant by :	Sh. Kalrav Mehrotra, Adv
Respondent by :	Sh. Manoj Tiwari, Sr. DR

Date of Hearing	29.07.2025
Date of Pronouncement	27.08.2025

ORDER

PER MADHUMITA ROY, JM:

These bunch of appeals filed by the assessee are directed against the different orders passed by the Ld. CIT(A)-3, Noida of different dates arising out of the different Assessment Orders passed by the ACIT,

Central Circle, Meerut under Section 143(3)/147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Years 2013-14 to 2015-16.

ITA No. 1708/Del/2024 (AY: 2013-14)

2. The brief facts leading to the case is this that the original assessment for the year under consideration was completed under Section 143(3) of the Act. Subsequently, the assessment was reopened under Section 147 of the Act by issuing a notice dated 08.01.2021 upon recording reasons that the assessee company has taken accommodation entries/unsecured loan of Rs.6 lakhs from one Shri Hans Kumar who is an accommodation entry provider. Relevant to mention that such reopening was done on the basis of an information received from Investigation Wing. The assessee duly filed return of income on 27.01.2021 against the said notice dated 08.01.2021 disclosing loss at Rs.40,54,83,624/-. Questionnaire dated 25.03.2021 under Section 142(1) followed by further questionnaire dated 18.11.2021 and 17.12.2021 were issued upon the assessee directing certain details to be filed. It is the case of the Revenue that Shri Hans Kumar and his relative have been used to provide accommodation entries; either cash has been introduced in the bank account of these persons or funds transferred from somewhere and on the same date or on the next date accommodation entries have been provided. The said Shri Hans Kumar was also charging interest from some of these entities but the same has been done just to deceive department as all these persons are showing minimum income without paying either no tax or very little tax. Show cause was issued to the assessee as to why the impugned amount of

Rs.6 lakhs should not be treated as unexplained cash credit against which the assessee duly filed its reply which was found to be not acceptable and the disputed amount of Rs.6 lakhs was added in the hands of the assessee which was in turn confirmed by the First Appellate Authority. Hence, the instant appeal before us.

3. At the time of hearing of the instant appeal the Ld. Counsel appearing for the assessee submitted before us that the assessee successfully discharged its primary onus under Section 68 by providing the identity of the said Shri Hans Kumar, the genuineness of the transaction by showing loan receipts through banking channel rather cheque transfer and interest was also paid thereon. As the assessee's payment of interest establishes the genuineness of the transaction as no assessee would pay interest on its own unaccounted funds the same could not be doubted. Further that Shri Hans Kumar already declared income of Rs.8,40,600/- for AY: 2013-14 which was higher than the loan amount of Rs.6 lakhs; the creditworthiness therefore, could not be questioned. In support of the above submissions he has drawn our attention particularly to pages 26, 34 & 36 of the paper book filed before us wherein the Assessing Officer has not made any addition for AY: 2014-15 on the unsecured loans taken from Shri Hans Kumar. It was the further case made out by the assessee that the Revenue cannot claim that once the unsecured loan taken in one year is genuine whereas the unsecured loan taken from the said party in another year is accommodation entry. Such submissions made by the Ld. AR has not been able to be controverted by the Ld. DR.

4. We have perused the entire set of documents as relied upon by the Ld. AR particularly the notice under Section 142(1) of the Act dated 07.10.2021 in respect of assessment year 2014-15 clause 24 whereof speaks of loan taken from Shri Hans Kumar and Hans Kumar HUF though being part of the queries ultimately no addition has been made on this count and therefore, the submission made by the Ld. AR supported with documents with the prayer for deletion of addition is found to be acceptable.

5. Thus, having regard to the entire aspect of the matter we do not find any merit in making addition in the hands of the assessee of the impugned amount of Rs.6 lakhs for the reason cited above. The addition is, therefore, not sustainable and deleted.

ITA No. 1682/Del/2024 (AY: 2014-15)

6. In this particular case the assessee has filed its return of income for the year under consideration the assessment whereof was completed under Section 143(3) of the Act dated 12.10.2015 at income of Rs.29,43,610/-. Subsequently, notice under Section 148 of the Act was issued on 08.01.2021 reopening the assessment on the basis of information from Investigation Wing on the ground that assessee company has taken accommodation entry of Rs.82 lakhs by transferring unaccounted money from various layers of accounts to the account of the assessee. The assessee duly filed its return of income in reply to the notice under Section 148 of the Act on 30.01.2021 declaring nil income.

Notice under Section 143(2) was issued on 28.06.2021. Questionnaire was issued under Section 142(1) on 07.10.2021 followed by the questionnaire dated 18.11.2021 and 17.12.2021 whereupon the assessee duly filed its reply. It is the case of the Revenue that upon detailed investigation carried out by Investigation Wing, Kolkata, it revealed that unaccounted money was routed through the intermediary accounts on different entities which was transferred finally to the beneficiary account, the assessee is one of them. In fact, the appellant received an amount of Rs.81 lakhs from one M/s Kherapati Vinimay Private Limited linked to M/s Salasar Enterprises. Finally the addition was made in the hands of the assessee treating the same as undisclosed and unexplained money under Section 69 of the Act which was further upheld by the First Appellate Authority. Hence, the instant appeal before us.

7. We have heard the respective parties and perused the records. It appears that the assessee has duly filed its income and expenditure account before the Ld. AO during the course of assessment proceedings and even before the First Appellate Authority wherein donation received from M/s Kherapati Vinimay Pvt. Ltd. was duly recorded. As this particular alleged unexplained amount forms part of the books of account and shown as donations received from M/s Kherapati Vinimay Pvt. Ltd. thus, we do not find any reason to find the same unsatisfactory or unacceptable to the Ld. AO or CIT(A) and addition thereof under Section 69A of the Act, in our considered opinion is not found to be sustainable. Furthermore, in this particular case show cause was issued to the assessee appearing page 34 of the paper book filed before us which does not speak of donation received by the assessee from M/s Kherapati Vinimay Pvt. Ltd.

8. On the contrary, the addition is made by the Ld. AO without seeking any response from the assessee in this regard. Though, this particular aspect of the matter was raised before the Ld. CIT(A) no deliberation is being forthcoming from the First Appellate Authority. We find substance in such argument advanced by the Ld. Counsel appearing for the assessee and we find that when no show cause has been issued to the assessee in regard to the donation received by the assessee and addition made thereon without asking for any explanation from the assessee the same is nothing but a violation of principle of natural justice. In fact, addition cannot be made on the items which is not part of the show cause. Ld. DR has not been able to justify such addition made by the Ld. AO confirmed by the First Appellate Authority. Having regard to the entire aspect of the matter the addition is not found to be acceptable and thus, deleted.

ITA No. 1709/Del/2024 (AY: 2015-16)

9. The addition was made on the basis of information from search and seizure operation of one Shri Joginder Pal, an alleged entry operator. Upon reopening of assessment under Section 147/148 of the Act an amount of Rs.2,30,00,000/- was added in the hands of the assessee treating it as bogus donation from shell company controlled by Shri J.P. Gupta which was further confirmed by the First Appellate Authority.

10. Additional ground of appeal has been raised by the assessee on the ground that the sanction under Section 151 of the Act granted by the Additional Commissioner of Income Tax is bad in law due to lack of jurisdiction as notice under Section 148 of the Act for AY: 2015-16 was

admittedly issued on 30.03.2021 i.e. after elapse of more than 4 years. The sanction ought to have been granted by PCCIT/CCIT/PCIT/CIT as per law. In that view of the matter the sanction granted by the Addl.CIT is invalid as submitted by the Ld. Counsel appearing for the assessee and therefore, prays for quashing of the entire proceeding. Such submissions made by the Ld. AR has not been able to be controverted by the Ld. DR.

11. We have heard the rival submissions made by the respective parties and we have also perused the relevant materials available on record. It appears that instead of sanction been granted by the PCCIT/CCIT/PCIT/CIT as the notice admittedly issued on 30.03.2021 i.e. after elapse of more than 4 years the same has been issued by the ACIT which is a jurisdictional error and cannot be cured subsequently and thus, bad in law. Once the sanction is found to be void and the entire proceeding is vitiated and thus, quashed.

12. The appeals preferred by the assessee are allowed.

Order pronounced in the open court on 27.08.2025

Sd/-
(Amitabh Shukla)
ACCOUNTANT MEMBER

Sd/-
(Madhumita Roy)
JUDICIAL MEMBER

Dated 27.08.2025
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI