

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA**  
**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**  
आयकर अपील सं/ITA No.958/KOL/2025  
(निर्धारण वर्ष / Assessment Year : 2017-2018)

<b>Sonthalia Capital Pvt. Ltd.,</b> Unit No.3, 3 <sup>rd</sup> Floor, Ideal Centre, 9, AJC Bose Road, Circus Aenue, SO Kolkata-17	Vs	DCIT, Circle-7(2), Kolkata
<b>PAN No. :AABCK 4477 F</b>		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri Siddharth Agarwal, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.B.Chakraborty, Sr. DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	11/08/2025
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	03/09/2025

**आदेश / ORDER**

**Per Pradip Kumar Choubey, JM :**

The assessee has filed the instant appeal against the order dated 06.03.2025, passed by the Id.CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2017-2018.

2. The assessee company filed its original return of income for the 2017-18 and declaring total income of Rs. Rs. 10,14,610/-. Notices under section 143(2) and 142(1) of the Act were issued and served on the appellant Company and duly complied with. Subsequently assessment order under section 143(3) of the Act was passed on 24.12.2019 determining total income at Rs.59,14,610/-. While framing the assessment order, the Assessing Officer has made additions under section 68 of the Act amounting to Rs.25,00,000/- and 24,00,000/- with respect to loan received from Linkwise Dealtrade Private Limited (in short 'LDPL') and Ambala Trafin Private Limited (in short 'ATPL'), respectively.

3. Aggrieved by the said order, the assessee preferred an appeal before the Id.CIT(A) wherein the appeal of the assessee has been dismissed. Being aggrieved and dissatisfied with the order of the Id. CIT(A), the assessee preferred further appeal before the Tribunal.

4. Ld.AR challenged the impugned order thereby submitting that the Id. Assessing Officer as well as Id. CIT(A) have erred in making addition of Rs.25 lakhs received from LDPL and Rs.24 lakhs received from ATPL u/s.68 of the Act ignoring the documentary evidence filed by the assessee that the assessee company took unsecured loan and the same has been repaid in the subsequent year. It has been argued by the Id.counsel that a summon u/s.131 of the Act was served on one Shri Mukesh Banka and said Mukesh Banka has replied thereby saying that he had no knowledge of any company with the name of LDPL and he was neither a shareholder nor a director in the said company even through the Assessing Officer has assessed the income by saying that the assessee company has received Rs.25 lakhs from LDPL. Ld. counsel submits that merely because the LDPL had an equitable profit in the instant year that cannot be a ground of drawing adverse inference. His further submission with regard to unsecured loan taken from ATPL that assessee company took loan and the same has been repaid in the subsequent year and assessee company had also provided interest on the unsecured loan and deducted TDS thereon. The Id.AR further submitted that the Assessing Officer has ignored the documentary evidence filed by the assessee with regard to the ATPL and LDPL. Ld. Counsel further submits that in the present case the assessee had filed copy of the ledger account, copy of the balance

sheet, profit & loss account, copy of ITR in respect of the parties and in this way the assessee company had satisfied all the three ingredients of Section 68 of the Act. He has relied on a decision of the Hon'ble Kolkata High Court in the case of DCIT Vs. Sreeleathers, reported in [2022] 143 taxmann.com 435 (Calcutta High Court) and also placed a decision of the Tribunal passed in IT(SS)A Nos.81,82,86&87/Kol/2024, in the case of Goan Recreation Clubs Private Limited, order dated 31.01.2025.

5. On the other hand, Id. Sr.DR vehemently supported the orders of the lower authorities.

6. Upon hearing the submissions of counsel for the respective parties and perusing the impugned order as well as the material available on record, we find that there is no denial to this fact that while passing the assessment order the Assessing Officer has made addition of Rs.49 lakhs by treating the same as loan taken from LDPL and ATPL for an amount of Rs.25 lakhs and Rs.24 lakhs respectively.

7. Coming to the documentary evidence filed by the assessee, we find that the following documents have been filed by the assessee, which are relates to LDPL :-

<i>Sl.No.</i>	<i>Particulars</i>
<i>I</i>	<i>Copy of confirmation of Accounts of LDPL for FY 2016-17(Refer Page 63 of Paper Book)</i>
<i>II</i>	<i>Copy of Ledger Accounts for FY 2017-18 in the books of appellant company (Refer Page 64 of Paper Book)</i>
<i>III</i>	<i>Copy of ITR Acknowledgement of LDPL (Refer page 65 of Paper Book)</i>
<i>IV</i>	<i>Copy of Audited Accounts of LDPL(Refer Page 66 to 77 of Paper Book)</i>
<i>V</i>	<i>Copy of extracts of bank Statement of the appellant company for the instant and subsequent year (Refer Payer 78 to 81 of Paper Book)</i>

8. Further he filed documentary evidence of loan taken from ATPL which reads as under :-

<i>Sl.No.</i>	<i>Particulars</i>
<i>I</i>	<i>Copy of confirmation of Accounts of ATPL for instant and subsequent year (Refer Page 84 to 85 of Paper Book)</i>
<i>II</i>	<i>Copy of extracts of Bank Statement of the appellant company for the instant and subsequent year (Refer Pager 87 to 89 of Paper Book)</i>
<i>III</i>	<i>Copy of extracts of bank statement of ATPL for the instant year (Refer page 90 to 91 of Paper Book)</i>
<i>IV</i>	<i>Copy of Audited Accounts of LDPL (Refer Page 177 to 200 of Paper Book)</i>

9. Going over the aforesaid documentary evidence, it is evident from the records that M/s LDPL has given a loan out of its own funds and from the audited accounts of the said company shows that the said company regularly engaged in the business activities and had a net worth of Rs.16,88,98,922/- as on 31.03.2016. It is further pertinent to mention here that in response to the summons u/s.131 of the Act Shri Mukesh Banka had submitted that he had no knowledge of any company with the name of LDPL and was neither a shareholder nor a director of the said company. On perusal of the financial statements of the LDPL it appears that company had turnover of Rs.39,59,577/- and profit of Rs.14,314/-.

10. Further going over admittedly evidence with respect to the ATPL Ltd. we find that M/s ATPL has given loan out of his own funds as evident from the audited accounts of the said company which shows that the said company has also regularly engaged in the business activities and his net worth of Rs.68,52,128/-. Now, going over the said judicial pronouncement, we find that the Hon'ble Kolkata High Court in the case of M/s Sreeleathers (supra) has held as under :-

*4. Before we examine the correctness of the order passed by the Tribunal and consider whether a substantial question of law arises for consideration in this appeal we need to take note of Section 68 of the Act. This provision deals with cash credits. It states that where any sum is found credited in the books of an assessee*

*maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income tax as the income of the assessee of that previous year. The crucial words in the said provision are "assessee offers no explanation". This would mean where the assessee offers no proper, reasonable and acceptable explanation as regard the amount credited in the books maintained by the assessee. No doubt the Income Tax Act places the burden of proof on the tax payer. However, this is only the initial burden. In cases where the assessee offers an explanation to the credit by placing evidence regarding the identity of the investor or lender along with their conformations, it has been held that the assessee has discharged the initial burden and, therefore, the burden shifts on the Assessing Officer to examine the source of the credit so as to be justified in referring to Section 68 of the Act. After the Assessing Officer puts the assessee on notice and the assessee submits the ITAT 18 OF 2022 explanation with regard to the cash credit, the Assessing Officer should consider the same objectively before he takes a decision to accept or reject it. In *Srilekha Banerjee & Ors. Versus CIT 4*, it was held that if the explanation given by the assessee shows that the receipt is not of income nature, the department cannot convert good proof into no proof or otherwise unreasonably reject it. On the other hand, if the explanation is unconvincing, the same can be rejected and an inference shows that the amount represents undisclosed income either from a disclosed or an undisclosed source [*CIT Versus Mohanakala (P) 5*]. The explanation given by the assessee cannot be rejected arbitrarily or capriciously, without sufficient ground on suspicion or on imaginary or irrelevant grounds (*Lal Mohan Krishna Lal Paul Versus CIT 6* and *Anil Kumar Singh Versus CIT 7*).*

*5. Further to be noted that where the assessee furnishes full details regarding the creditors, it is up to the department to pursue the matter further to locate those creditors and examine their creditworthiness. It has been further held in *Sivan Pillai (AS) Versus CIT 8* that while drawing the inference, it cannot be assumed in the absence of any material that there has been some illegalities in the assessee's transaction. Thus, more importantly, as held by the Hon'ble Supreme Court in *CIT Versus Daulat Ram Rawatmull 9*, the onus of proving (1963) 49 ITR 112 (2007) 291 ITR 278 (SC) (1944) 12 ITR 441 (Cal) (1972) 84 ITR 307 (Cal) (1958) 34 ITR 328 (Mad) (1973) 87 ITR 349 (SC) ITAT 18 OF 2022 that the appellant was not the real was on the party who claims it to be so. Bearing the above legal principles in mind, if we examine the case on hand, it is clear that the assessing officer issued show cause notice only in respect of one of the lender M/s. Fast Glow Distributors. The assessee responded to the show cause notice and submitted the reply dated 22.12.2017. The documents annexed to the reply were classified under 3 categories namely: to establish the identity of the lender, to prove the genuineness of the transactions and to establish the creditworthiness of the lender. The assessing officer has brushed aside these documents and in a very casual manner*

*has stated that mere filing PAN details, balance sheet does not absolve the assessee from his responsibility of proving the nature of transaction. There is no discussion by the assessing officer on the correctness of the stand taken by the assessee. Thus, going by the records placed by the assessee, it could be safely held that the assessee has discharged his initial burden and the burden shifts on the assessing officer to enquire further into the matter which he failed to do. In more than one place the assessing officer used the expression "money laundering." We find such usage to be uncalled for as the allegations of money laundering is a very serious allegations and the effect of a case of money laundering under the relevant Act is markedly different. Therefore, the assessing officer should have desisted from using such expression when it was never the case that there was any allegations of money laundering. Paragraph 5.4 and 5.5 of the assessment order are all personal perception and opinion of the assessing officer which needs to be ITAT 18 OF 2022 ignored. Much reliance was placed on the statement of Shri Ashish Kumar Agarwal, which statement has been extracted in full in the assessment order and it cannot be disputed that there is no allegation against the assessee company in the said statement. There is no evidence brought on record by the assessing officer to connect the said entry operator with the loan transaction done by the assessee. Therefore, the statement is of little avail and could not have been the basis for making allegations. The assessing officer ignored the settled legal principle and in spite of the assessee having offered the explanation with regard to the loan transaction, no finding has been recorded as regards the satisfaction on the explanation offered by the assessee. Therefore, the assessing officer ignored the basic tenets of law before invoking his power under Section 68 of the Act. Fortunately, for the assessee, CIT(A) has done an elaborate factual exercise, took into consideration, the creditworthiness of the 13 companies the details of which were furnished by the assessee. More importantly, the CIT noted that all these companies responded to the notices issued under Section 133 (6) of the Act which fact has not been denied by the assessing officer. On going through the records and the net worth of the lender companies, the CIT has recorded the factual findings that the net worth of those companies is in crores of rupees and they have declared income to the tune of Rs. 45,00,000/- and 75,00,000/-. Therefore, the assessing officer if in his opinion found the explanation offered by the assessee to be not satisfactory, he should have recorded so with reasons. We find that there is no discussion on the explanation offered ITAT 18 OF 2022 by the assessee qua, one of the lenders. Admittedly, the assessee was not issued any show cause notice in respect of other lenders. However, they are able to produce the details before the CIT(A) who had in our view rightly appreciated the facts and circumstances of the case. As pointed out earlier, the assessing officer brushed aside the explanation offered by the assessee by stating that merely filing PAN details, balance sheet does not absolve the assessee from his responsibilities of proving the nature of transactions. It is not enough for the assessing officer to say so but he should record reasons in writing as to why the documents*

*which were filed by the assessee along with the reply dated 22.12.2017 does not go to establish the identity of the lender or prove the genuineness of the transaction or establish the creditworthiness of the lender. In the absence of any such finding, we have to hold that the order passed by the assessing officer was utterly perverse and rightly interfered by the CIT(A). The Tribunal re-appreciated the factual position and agreed with the CIT(A). The tribunal apart from taking into consideration, the legal effect of the statement of Ashish Kumar Agarwal also took note of the fact that the notices which were issued by the assessing officer under Section 133 (6) of the Act to the lenders where duly acknowledged and all the lenders confirmed the loan transactions by filing the documents which were placed before the tribunal in the form of a paper book. These materials were available on the file of the assessing officer and there is no discussion on this aspect. Thus, we find that the tribunal rightly dismissed the appeal filed by the revenue.*

11. In the instant case, we find that the assessee company had filed confirmation with name, address, PAN number, copy of ledger account, copy of balance sheet and profit & loss account, copy of ITR in respect of all the parties. Keeping in view with the above discussion and going over the judicial pronouncement, we find merit in the appeal of the assessee and we hereby hold that assessee company has satisfied all the three conditions namely, identity of the creditor, genuineness of the transaction and financial capability of the person given cash credit to the assessee and as such the order passed by the Assessing Officer and confirmed by the Id.CIT(A) is hereby set aside.

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

Order pronounced in the open court on 03/09/2025.

Sd/-

**(RAJESH KUMAR)**

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

**(PRADIP KUMAR CHOUBEY)**

न्यायिक सदस्य / JUDICIAL MEMBER

**कोलकाता** Kolkata; दिनांक Dated 03/09/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**(Assistant Registrar)  
Income Tax Appellate Tribunal, Kolkata**