

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**ITA Nos.2643, 2644, 2655, 2679 & 2680 /Kol/2024  
Assessment Years: 2015-16, 2016-17, 2017-18, 2018-19 & 2019-20**

**ACIT, Central Circle-3(4), Kolkata.....Appellant**

**vs.**

**Khetawat Properties Ltd .....Respondent  
19A, Sarat Bose Road LR Sarani  
SO- Kolkata-20.  
[PAN: AAACL5633M]**

**C.O. 14 to 18/Kol/2025  
(in ITA Nos.2643, 2644, 2655, 2679 & 2680 /Kol/2024)  
Assessment Years: 2015-16, 2016-17, 2017-18, 2018-19 & 2019-20**

**Khetawat Properties Ltd.....Cross-Objector  
19A, Sarat Bose Road LR Sarani  
SO- Kolkata-20.  
[PAN: AAACL5633M]**

**vs.**

**ACIT, Central Circle-3(4), Kolkata.....Respondent**

**Appearances by:**

Shri Manish Tiwari, FCA, appeared on behalf of the assessee.

Shri Raja Sengupta, DR, appeared on behalf of the Revenue.

Date of concluding the hearing : September 17, 2025

Date of pronouncing the order : September 22, 2025

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

The captioned appeals have been preferred by the Revenue and cross-objections by the assessee against the separate orders of the Commissioner of Income Tax (Appeal)-21, Kolkata [hereinafter referred to as the 'CIT(A)'] all dated 13.08.2024 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') for A.Ys 2015-16, 2016-17, 2017-18, 2018-19 & 2019-20 respectively.

2. At the outset, we notice that there are delays in filing of the captioned appeals by the Revenue by 54 days, 54 days, 26 days, 27 days & 27 days and condonation petitions for the said delays have been filed by the revenue respectively. On perusal of the contents of the condonation petitions, we find that the reasons mentioned therein are valid and reasonable. Hence, we condone the delays and admit the appeals of the revenue for adjudication.

3. Brief facts of the case are that the assessee is a company engaged in real estate business and it filed its return of income u/s. 139(1) of the Act for the relevant assessment year on 30.09.2015 declaring a loss of Rs 46,50,306/-. The return was subsequently processed u/s 143(1). Thereafter, a search and seizure operation was conducted at the appellant's premises on 01-12-2020 and notice u/s 153A was issued to the assessee and in response to which the assessee submitted its return of income u/s. 153A on 22-11-2021 and declared a loss of Rs. 46,50,306/-. Subsequently statutory notices u/s 143(2) and 142(1) were issued to the assessee and in compliance to such notices, the assessee made time to time compliances and submitted details and explanations as called for. The Assessing Officer has completed the assessment by making an addition of Rs.24,75,000/- u/s 68 on account of bogus unsecured loans.

4. Aggrieved by the said order, the assessee preferred an appeal before the ld. CIT(A) by taking two grounds. One is legal i.e. no addition was permissible in the absence of any incriminating material found in the course of search and the other is on merits. The ld. CIT(A) has dismissed the legal ground of the assessee but allowed the appeal of the assessee on merits.

5. Being aggrieved and dissatisfied, the revenue has preferred the appeals and the assessee filed corresponding cross-objections. For the

sake of convenience, ITA No.2643/Kol/2024 & corresponding C.O No.14/Kol/2025 is taken as the lead case.

6. Firstly, we take C.O No.14/Kol/2025. The ld. AR has submitted that additions have been made by the Assessing Officer solely on the basis of statement of Shri Sunil Kumar Murmuria who is alleged to be an entry operator and engaged in the business of providing accommodation entries. The ld. AR submits that the additions made in the course of unabated assessment proceedings u/s 153A of the Act when there was no incriminating documents found in the course of search and seizure operation. The ld. AR had explained the seized materials in its paper-book and submits that there has been no connection of the seized materials with the assessee. He has placed reliance of the judgment of the Apex Court passed in *PCIT vs. Abhisar Buildwell Pvt. Ltd. [2023] 149 taxmann.com 399 (SC)* dated 24.04.2023.

7. The ld. DR supported the impugned order of the ld. CIT(A) on this issue by submitting that the assessee did not bring anything in the appellate proceedings that proves that the Assessing Officer had not relied upon the incriminating material while making the impugned addition. According to him, the assessee did not explain about the loan taken by the assessee company.

8. Upon hearing the submissions of the counsels of the respective parties, we have perused the facts of the case and find that the seized materials with its explanation which have been given by the assessee in its paper-book are as under:

PAGE No.	Explanation
1	This is rough noting which has no relevance
2	Consignment note of Bharat Roadways dt. 19.08.20 which is duly accounted for by Bharat Roadways which was lying at our office to delever to M/s. Bharat Roadways
3	This is noting for preparation of accounts of company M/s. Gulshi Sabuj Sathi farmers producers Co Ltd for finalisation of audit
4	This is tally extract of balance sheet of M/s. Nandakunj Nirman (P) Ltd for the purpose of finalisation of balance sheet
5,6, 7 & 8	This is the statement of prepared for verification of company wise TDS deducted by various companies
9	This is a rough nothing made by the accountant in the process of filing of IT return of one of his party GS Enterprises for working of the amount as bad debts
10	Ledger copy of the account of Murmuria Projects (P) Ltd in the books of Sheema E-Vehicles and Solar (P) Ltd to whom the company had advanced loan during FY 2018-19 relevant to AY 2019-20
11 & 12	Company wise statement prepared for transaction with various company of Khetawat Group which are duly recorded transaction in the books of our respective company
13 & 14	Statement prepared for rectification of TDS of different company for FY 2009-10 to 2014-15
15	Schedule of some company Audited accounts
16	Statement for reconciling interest and TDS figure of different company
17	Aadhar card of Ajay Kumar Agarwal one of our client
18	Rough noting for a client Tapas Rudra, retired employee seeking advice section 89 regarding leave encashment and gratuity
19	Nothing regarding purchase of share of different company required for finalisation of accounts
20	Rough noting in respect of some company for finalization of accounts
21	Rough noting
22	Rough noting which has no relevance
23	Rough working of share transaction of NM Syntex, NLM Trading and NLM Projects which are duly accounted for
24	This page contains noting regarding payment recd in Bank from Khetawat Properties Ltd in our company ltyadi Projects (P) Ltd and Guliver Trading (P) Ltd which is duly recorded in our books of accounts
25	Noting regarding Bank transaction in the books of NM Syntex which is duly accounted for. Balance noting on the right side is the double reflection of page No. 24
26	Rough noting of Bank transaction in the books of NML Projects, NML Trading, NM Syntex
27	Noting regarding receipt of cheque of Rs. 5 Lacs but in the absence of details it was noted as suspense. The noting of 25 Lacs cash is the cash balance of NM Traders which was noted in the sheet by the accountant.

8.1 We have gone through the order passed by the Assessing Officer and find that the assessment was made on the sole basis of statement of Sri Sunil Kumar Murmuria and it is admitted fact that Sri Sunil Kumar Murmuria has retracted his previous statement which was recorded during the search. In the present case, original return of income for

assessment years 2015-16 was filed on 30.09.2015 and the time limit for issuing of notice u/s 143(2) was on 30.09.2016, thus this was unabated assessment year.

Going over the order of the Assessing Officer and keeping in view the explanation on seized materials and considering the Apex Court's judgment passed in *PCIT vs. Abhisar Buildwell Pvt. Ltd.* (supra), we do not find any hesitation to hold that in the present case, no incriminating materials found in the course of search that relates to the assessee company. The Hon'ble Supreme Court in the *Abhisar Buildwell Pvt. Ltd.*'s case (supra) has clearly held that in case, no incriminating material has unearthed during the search, the Assessing Officer cannot assess or reassess taking into consideration of other material in respect of completed/unabated assessment. Meaning thereby that in respect of completed/unabated assessment, no addition can be made by the Assessing Officer in the absence of any incriminating material found during the course of search. **Keeping in view the said decision and going over the facts of the case, we find substance in the arguments of the ld. counsel for the assessee. We hold that in the present case, no incriminating material was found during the course of search, hence the addition cannot be made and we, therefore, allow the cross-objection No.14/Kol/2015 filed by the assessee.**

9. ITA No.2643/Kol/2024 - Now looking into the merits of the case as the department has preferred appeal by taking the ground that the ld. CIT(A) has erred in deleting the addition of bogus unsecured loan to the tune of Rs.24,75,000/- made u/s 68 of the Act when the genuineness of the transaction and identity and creditworthiness of the creditors could not be established.

10. We have gone through the order passed by the ld. CIT(A) and find that the ld. CIT(A) has passed an exhaustive order and thereafter allowed

the appeal of the assessee. It is important to mention here that the assessee in the course of assessment has filed the following details which are as under:

1. *Details of unsecured Loans*
2. *Details / documents relating to Loan Parties*
  - (i) *Ezee Projects Pvt. Ltd.*
    - a) *Copy of Loan confirmation*
    - b) *Copy of I.T. Return Acknowledgement for AY 2015-16*
    - c) *Copy of Audited Financial Statement for AY 2015-16*
    - d) *Copy of Bank statement*
    - e) *Copy of TDS certificate*
  - (ii) *Karishma Commercial Pvt. Ltd.*
    - a) *Copy of Loan confirmation*
    - b) *Copy of I.T. Return Acknowledgement for AY 2015-16*
    - c) *Copy of Audited Financial Statement for AY 2015-16*
    - d) *Copy of Bank statement*
    - e) *Copy of TDS certificate*
  - (iii) *Murmuria Developers Pvt. Ltd.*
    - a) *Copy of Loan confirmation*
    - b) *Copy of I.T. Return Acknowledgement for AY 2015-16*
    - c) *Copy of Audited Financial Statement for AY 2015-16*
    - d) *Copy of Bank statement*
    - e) *Copy of TDS certificate*
    - f) *Copy of Order u/s 143(3) dated 04.03.22 for AY 2015-16*
  - (iv) *Murmuria Infrastructures Pvt. Ltd.*
    - a) *Copy of Loan confirmation*
    - b) *Copy of I.T. Return Acknowledgement for AY 2015-16*
    - c) *Copy of Audited Financial Statement for AY 2015-16*
    - d) *Copy of Bank statement*
    - e) *Copy of TDS certificate*
    - f) *Copy of Order u/s 143(3) dated 03.03.22 for AY 2015-16*

10.1 The ld. CIT(A) in its findings has discussed the documentary evidences filed by the assessee and it is needless to reiterate the same. The operative portion of the order of the ld. CIT(A) in allowing the appeal on merits is as under:

*“Owing to the said discussion, since the appellant has submitted all requisite documents to establish the bonafides of the transaction and the AO has not disputed the same, the action of the AO in treating the loans received from M/s Ezee Projects Pvt Ltd, M/s Karishma Commercial (P) Ltd*

and M/s Murmuria Developers Pvt Ltd to the tune of Rs.14,75,000/- as bogus cannot be sustained and stands deleted.

*In page 14 of the assessment order, the AO has commented that the assessee will not be entitled for the credit of this interest expenses to the tune of Rs. 98,39,150/- when profit will be booked. It has already been discussed earlier that as on 01.04.2014 there was an opening balance to the tune of Rs.13,10,15,343/- and that there was substantial opening balance in respect of all the lender companies. It has also been demonstrated by the appellant that these loans were running loans and fresh receipts and substantial payments were made from 01.04.2014 till the date of search. It has already been held earlier that the action of the AO in making an addition u/s 68 towards fresh loans received during the year is unsustainable. The interest paid on such loans was included in income by the respective lender companies and the corresponding TDS credit was also claimed by the lenders in the ITR filed for AY: 2015-16. The appellant has submitted that it was explained to the AO that all these interest which were paid/payable were capitalised to the cost of land, which were held as stock in trade since long time past. The appellant has also submitted that all documents were filed to establish the genuineness of loans which were verified and not disputed by the AO in course of assessment proceedings. On perusal of the documents filed by the appellant it is observed that majority of the loans were pre-existent as on 01.04.2015 which have not been placed under doubt during the previous years and various repayments were also made prior to initiation of search. The accounting practice of the appellant also stands accepted. I find that these facts have been ignored by the AO and no specific findings have been given by him in his order. I therefore cannot concur with the AO and the action of the AO in this regard is not sustained.*

*These grounds of appeal are therefore allowed.”*

10.2 Keeping in view the above discussion of the ld. CIT(A) and considering the documents filed by the assessee, we do not find any infirmity in the impugned order of the ld. CIT(A) on merits also. On this score also, the revenue has failed to establish its case. Accordingly, the appeal by the revenue is hereby dismissed on merit.

11. ITA Nos.2644, 2655, 2679 & 2680/Kol/2024 & C.O. 15 to 18/Kol/2025 - Since the facts and issues involved in all the appeals filed by the revenue and cross-objections filed by the assessee are identical and arise out of similar set of facts and circumstances, therefore, our findings/directions given above in ITA No.2643/Kol/2024 & C.O

No.14/Kol/2025 will mutatis mutandis apply to ITA Nos.2644, 2655, 2679 & 2680/Kol/2024 and their corresponding C.O Nos.15 to 18/Kol/2025. Therefore, ITA Nos.2644, 2655, 2679 & 2680/Kol/2024 are hereby dismissed and respective C.O Nos.15 to 18/Kol/2025 are accordingly allowed.

12. In the result, all the captioned appeals filed by the revenue are dismissed and cross-objections filed by the assessee are allowed.

***Kolkata, the 22<sup>nd</sup> September, 2025.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Sd/-  
**[Pradip Kumar Choubey]**  
**Judicial Member**

Dated: 22.09.2025.

RS

*Copy of the order forwarded to:*

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches