

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

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

**ITA No. 3927/MUM/2024  
Assessment Year: 2012-13  
&**

**ITA No. 1594/MUM/2025  
Assessment Year: 2013-14**

Asst. CIT-5(1)(1),  
R.No. 568, Aayakar Bhavan, M.K.  
Road,  
Mumbai-400020.

**Appellant**

Shri Dinesh Harichand Shah,  
175, Kika Street,  
Mumbai-400 004.

**Vs.**

**PAN NO. AAFPS 0930 E  
Respondent**

Assessee by : Mr. Mahaveer Jain  
Revenue by : Mr. Sanjeev M. Bhagat, Sr. DR

Date of Hearing : 12/08/2025  
Date of pronouncement : 26/09/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

These appeals by the Revenue for assessment years 2012-13 and 2013-14 are directed against two separate orders, both dated 10.01.2025. passed by the Ld. Commissioner of Income-tax (Appeals) – 51, Mumbai and Ld. Additional/Joint Commissioner of



Income-tax (Appeals) respectively. As common issue in dispute is involved in both these appeals, therefore, same were heard together and disposed off by way of this consolidated order for the sake of convenience.

2. Firstly, we take up the appeal for assessment year 2012-13 in ITA No. 3927/Mum/2024. The grounds raised by the Revenue are reproduced as under:

1. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 25,00,000/- made u/s 68 of the Income Tax Act towards non-genuine loan shown to have received from M/s Olive Overseas Pvt. Ltd. ignoring that, in consequence to the evidences gathered during the investigation conducted by the investigation wing, Mumbai, the non-genuine nature of these transactions clearly emerged?"*

2. *"Whether on the facts and circumstances of the case and in law, the Ld CIT(A) has erred in deleting the addition of Rs. 25,00,000/- made u/s 68 of the Income Tax Act towards non-genuine loan shown to have received from M/s Olive Overseas Pvt. Ltd. ignoring the ratio laid down by the Hon'ble Delhi High Court in the case of CIT vs. Nova Promoters & Finlease (P) Ltd [2012] 18 taxmann. com 217(Delhi) wherein it was held that when the assessee happens to be beneficiary of racket carried out by the accommodation entry providers, mere filing of copies of documents like loan confirmation, Bank statement etc. will not suffice and that the evidence has to be judged in depth by applying the test of human probability?"*

3. *"Whether on the facts and circumstances of the case and in law, the Ld CIT(A) has erred in deleting the addition of Rs. 25,00,000/- made u/s 68 of the Income Tax Act towards unsecured loan shown to have been received from M/s Olive Overseas Pvt. Ltd. without appreciating that since the sham nature of transactions entered under the garb of loans from M/s Olive Overseas Ltd., a paper entity clearly emerged, it cannot be said that the assessee has substantiated genuineness of the said transaction and financial capacity of*



*the said lender to discharge the onus cast on it in terms of provisions of section 68 of the Income tax Act, 1961.?"*

*4. "Whether on the facts and circumstances of the case and in law, the Ld CIT(A) has erred in deleting the disallowance of Rs. 4,50,379/- made towards the loan shown to have been received from M/s Olive Overseas Pvt. Ltd. without appreciating that when the loan itself is bogus, the interest shown to have been paid towards it cannot be allowed as business expenditure?"*

3. Briefly stated, facts of the case are that the assessee is an individual engaged in the business of trading in ferrous and non-ferrous metals. For the year under consideration, the assessee filed its return of income on 17.03.2013 declaring total income at Rs.5,84,238/-. The return was processed u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act') on 18.05.2013.

3.1 Subsequently, specific information was received from the office of the Director General of Income-tax (Investigation), Mumbai, pursuant to a search and seizure action carried out in the case of Shri Pravin Kumar Jain and his group concerns. The investigation revealed that Shri Pravin Kumar Jain and his network of entities were systematically engaged in providing accommodation entries in the nature of bogus purchases, sales, unsecured loans, and share capital, through a web of paper companies and non-existent concerns. The statement of Shri Pravin Kumar Jain recorded during the search, corroborated by seized digital evidence, confirmed that these concerns were mere fronts used for providing such entries.



3.2 On examining the list of beneficiaries unearthed during investigation, the Assessing Officer found that the assessee was a recipient of accommodation entries amounting to Rs. 25,00,000/- during the relevant previous year, purportedly from M/s Olive Overseas Pvt. Ltd. (formerly known as Real Gold Trading Company Pvt. Ltd.). In consequence, the Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment and accordingly issued notice under section 148 of the Act on 09.02.2015. In response, the assessee, vide letter dated 02.03.2015, requested that the return earlier filed on 17.03.2013 be treated as filed in response to the notice. Thereafter, the Assessing Officer issued notice u/s 142(1) of the Act concerning all the observation made during the course of search on the Pravin Kumar Jain establishing the modus operandi of Shri Pravin Kumar Jain proving accommodation entry, the assessee was accordingly asked to justify the identity, creditworthiness and genuineness of the transaction in respect of credit entry of Rs.25,00,000/- from M/s Olive Overseas Pvt. Ltd.

3.3 In response, the assessee submitted that the impugned loan was received through normal banking channels and, therefore, could not be treated as non-genuine. The Assessing Officer, however, was not satisfied. He observed that mere routing of money through banking channels does not establish the genuineness of the transaction when the surrounding facts point to a contrary



conclusion. Based on the investigation material and the assessee's failure to produce cogent documentary evidence or to produce the lender in person, the Assessing Officer concluded that the alleged loan of Rs. 25,00,000/- represented an accommodation entry. He, therefore, treated the sum as unexplained cash credit within the meaning of section 68 of the Act. The finding of the Assessing Officer is summarized by the Ld. CIT(A) is reproduced for ready reference:

*"3.3 The AO stated that the assessee claimed to have accepted unsecured loan from the abovementioned party which was evident from the unsecured loan details submitted by the assessee. Hence, the AO vide notice u/s.142(1) dated 12.02.2016 asked the assessee to prove the identity and credit worthiness of the bogus unsecured loan lender Jand genuineness of the such transaction. In response to which the assessee made submissions vide letter dated 22.02.2016. The AO did not accept the reply filed by the assessee. The AO stated that during search action in the case of Shri Praveen Kumar Jain and his group on 01.10.2013, it was proved after collection of evidence and other findings that Shri Praveen Kumar Jain through a web of concerns run and operated by him was engaged in providing bogus accommodation entries in the form of unsecured loans, share application and sales etc. During search it was found by Investigation Unit that the entities were non- existing at the address provided and no genuine business was carried out at any of these premises. Various persons shown to be directors/proprietors of different concerns were non-existent on the given addresses, but in certain cases the directors' addresses were located and were covered in action u/s.132. During the course of statement u/s.132(4) / 131 of the Act, these directors / proprietors admitted that they were merely dummy directors and used to sign different papers for nominal consideration given by Shri Pravin Kumar Jain. They were unaware of place of operations, books of accounts and businesses being carried out by the concerns in which they were directors / proprietors. During search action and preceding enquiries, it was found that all the registered address of the assessee were non- functional and*



nowhere the books of accounts of any of the suspected concerns were found. However, during search proceedings, the Investigation Wing came across a premises located at 104, Durga Residency, Inderlok, Phase-III, Bhayander(E), Thane, which was not reflected in any of the official records filed with any of the relevant Government agency by Shri Praveen Kumar Jain. The said place was discrete place of operation of Shri Pravin Kumar Jain where various hard disks, pen drives and documents were found which contained books of accounts of various concerns run and operated by him. It was also noted that Shri Pravin Kumar Jain himself was a director only in 13 concerns and all other concerns were managed and operated by him in the name of various dummy directors / proprietors. The materials found and seized from this premises as per annexure 'A' to Panchnama dated 06.10.2013 was analysed and found to be containing the books of accounts of bogus concerns run and operated by Shri Praveen Kumar Jain. During search a pen drive was seized (as per Annexure 'O' to Panchnama dated 02.10.2013) from the premises located at Mahalaxmi Metal & Paper Mart, Kulupwadi Road, Behind National Park, Near Raheja Estate, Borivali (E), Mumbai-66. On pen drive analyses, it was revealed that the same contained the parallel books of account of Shri Praveen Kumar Jain and ledger of various brokers who were acting as agents between Shri Praveen Kumar Jain and beneficiaries of accommodation entries. During his statement Shri Praveen Kumar Jain admitted that he was providing accommodation entries through brokers only. The ledgers contained in pen drive contained both cheque / RTGS and cash transactions which were reflecting in the regular books of accounts and the cash entries corresponds to these cheques/ RTGS were in the nature of accommodation entries of various natures for the period from 01.04.2006 onwards till the date of search. The ledger was not beneficiary wise. Hence one to one co-relation of the cash transaction with entries appearing in the regular books of accounts was not visible in many of the cases. However, on careful perusal of the brokers' ledgers in certain cases one to one co-relation could be established. Various brokers were also covered during search action whose ledgers were subsequently found in the pen drive seized. The statement of these brokers recorded during the course of the search also corroborated the evidence of the accommodation entries found contained in the pen drive. These brokers admitted that Shri Praveen Kumar Jain through his various entities engaged in the business of providing accommodation entries only. There were some brokers who were providing accommodation entries but shown as dummy directors in the concerns of Shri Praveen Kumar Jain. Shri Praveen Kumar Jain himself was not the director in M/s. Olive Overseas Pvt Ltd.



*However, both the books of accounts, bank details, and parallel books of accounts seized in the form of pen drive established that this concern was run and operated by Shri Praveen Kumar Jain. In his statement recorded on oath u/s.132(4) of the Act, Shri Praveen Kumar Jain admitted that he was indulged in providing accommodation entries and explained the complete modus operandi of providing the entries.*

*3.4 The AO stated that the onus lied on the assessee to establish the genuineness of the unsecured loan accepted from the relevant party and it was incumbent on the assessee to produce the party along with necessary documents to establish the genuineness of the transaction. Thus, the assessee failed to provide cogent evidences in respect of claim made by him. After going through findings of Investigation Unit and statements of various persons recorded it was clearly established that all the concerns run, controlled and operated by Shri Praveen Jain were not carrying out any genuine business activity and were providing accommodation entries only. The AO concluded that the assessee had received bogus unsecured loan which he accepted from the above hawala entity amounting to Rs.25,00,000/-. Therefore, the AO disallowed and added the sum of Rs. 25,00,000/- u/s.68 of the Act to the total income of the assessee.”*

3.4 The Assessing Officer further noted that the assessee had claimed interest expenditure of Rs. 4,58,411/-, forming part of the gross interest paid of Rs. 12,13,115/-, on loans allegedly obtained from entities identified as accommodation entry providers, namely, M/s Josh Trading Pvt. Ltd., M/s Nakshatra Business Pvt. Ltd. (earlier Hema Trading Co. Pvt. Ltd.), and M/s Olive Overseas Pvt. Ltd. The assessee contended that the interest paid was wholly and exclusively for earning interest income and therefore deductible under section 57(iii) of the Act. The Assessing Officer, however, rejected this contention. Relying upon the findings of the Investigation Wing that the said loans were not genuine but were in the nature of accommodation entries, he held that the interest



claimed thereon was not allowable, as it represented a claim arising from fictitious transactions. Accordingly, the interest payment of Rs. 4,58,411/- was disallowed under section 57(iii) of the Act.

3.5 Before the Ld. CIT(A), the assessee placed reliance on various judicial pronouncements and contended that the statutory onus cast upon him under section 68 of the Act stood duly discharged by filing on record the confirmation, copy of return of income, audited financial statements of the lender, as well as the assessee's own balance sheet and profit and loss account. The Ld. CIT(A), after an elaborate consideration of the rival contentions and the precedents cited, arrived at the conclusion that the loan of Rs.25,00,000/- obtained from M/s Olive Overseas Pvt. Ltd. bore the attributes of a genuine transaction. The relevant finding of the Ld. CIT(A) is reproduced as under:

*“7.13 Now coming to the facts of the case, it is observed that the appellant has submitted the confirmation, ITR, audited financial statements of the lender and relevant bank statements to support the loan transactions. It is observed that the identity of the lender is proved by the ITRs. Further, the genuineness of the transaction can also be safely concluded from the confirmations filed and since the entire transaction has been done through the banking channels, duly recorded in the books of accounts of the assessee and duly reflected in the financial statements of the assessee. Further, the creditworthiness or financial strength of the lender is proved from the audited financial statements of the lender wherein it is observed that it had sufficient balance in its accounts to enable it to advance the unsecured loan. The AO on the other hand has not made any independent inquiry to negate the explanation provided by the assessee, except relying on the statement of Sh. Pravin Jain, which had in any case been retracted. The AO has also not been able to bring on record any specific reference made to the assessee in any*



*such statement recorded. It is noted that the AO has not been able to bring on record any evidence to show that the loan entries are coupled with similar contra-transactions in cash. The conduct of the two parties also does not lead us to an inference that each loan entry was coupled with a contra cash transaction.”*

4. Aggrieved with the finding of the Ld. CIT(A), the Revenue is in appeal before us by way of raising grounds as reproduced above.

4.1 In the grounds, the Revenue is agitated that the Ld. CIT(A) has ignored the evidences gathered during investigation, ignored ratio of the Hon'ble Delhi High court in the case of CIT v. Nova Promoters & Finlease (P) Ltd. (supra), ignored that M/s Olive Overseas Pvt. Ltd. was a paper entity without any financial capacity and the interest also was not in the nature of business expenditure.

5. Before us, the learned counsel for the assessee has filed an application under Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963, vide letter dated 07.05.2025, raising certain legal grounds. The substance of the application is that (i) in view of CBDT Circular No. 09 of 2024 dated 17.09.2024, the Department was barred from filing the present appeal as the tax effect is admittedly below Rs.60 lakhs; (ii) that the issuance of exceptions by the Board beyond the scope of section 268A of the Act is contrary to the legislative mandate; and (iii) that the assessment order itself is vitiated for want of jurisdiction, as in terms of CBDT Instruction No.1/2011 dated 31.01.2011, the case of an assessee with returned income below Rs.20 lakhs lies within the jurisdiction of the ITO and



not the ACIT/DCIT. Accordingly, it was urged that the assessment order passed by the DCIT is void ab initio.

6. We have carefully considered the rival submissions and examined the applicability of Rule 27 of the Rules. For ready reference, the text of the Rule reads as under:

***“Respondent may support order on grounds decided against him.***

*27. The respondent, though he may not have appealed, may support the order appealed against on any of the grounds decided against him.”*

6.1 The plain language of Rule 27 admits of no ambiguity. The *sine qua non* for invoking the said Rule is that there must exist a specific ground which, though decided against the respondent by the authority below, has not been assailed in appeal by him, yet may be pressed before the appellate forum in support of the order ultimately rendered in his favour. Thus, the right conferred by Rule 27 is not a carte blanche to introduce altogether new issues, but is circumscribed by the condition that such ground must have been expressly raised and adjudicated against the respondent at the stage of the first appellate authority.

6.2 Tested on this anvil, we find that the issues sought to be canvassed before us—relating to the applicability of the tax effect circular, the scope of section 268A, and the jurisdiction of the DCIT in view of CBDT Instruction No.1/2011—were neither raised before,



nor adjudicated upon by, the learned CIT(A). There is, therefore, no finding adverse to the assessee on these aspects at the stage of the first appellate authority. In such circumstances, the invocation of Rule 27 to press fresh issues which were never subject matter of adjudication before the CIT(A) is plainly impermissible. To permit otherwise would amount to enlarging the scope of the appeal and transgressing the confines of Rule 27. The Rule 27 is not intended to enlarge the scope of appeal by permitting a respondent to set up an altogether fresh ground which was neither raised nor adjudicated upon by the authority below.

6.3 We also take note of the fact that in assessee's own case for the assessment year 2011-12, an identical application under Rule 27 came to be rejected by this Tribunal in ITA No. 3928/Mum/2024. Consistency demands that we adopt the same approach herein. In view of the foregoing discussion, the application filed by the assessee under Rule 27 of the Rules is held to be not maintainable and is accordingly rejected.

7. We now turn to the grounds of appeal raised by the Revenue. Broadly, the disputes pertain to two issues: (i) the addition of Rs.25,00,000/- as unexplained cash credit under section 68 of the Income-tax Act, 1961 (hereinafter 'the Act'), and (ii) the disallowance of interest paid on such purportedly bogus loans under section 57(iii) of the Act.



7.1 Before us, the learned Departmental Representative (DR) drew attention to the decision of this Tribunal in *J.K. Global* (ITA Nos. 3260, 3259 & 3258/Mum/2023, for AYs 2010-11 to 2012-13), wherein the Tribunal had examined similar claims of accommodation entries and had, in those cases, deleted the addition in respect of the beneficiary of the accommodation entry. The DR, however, also relied on the decisions of the Co-ordinate Bench in *Pravin Kumar Jain & Pankaj Jain* (ITA Nos. 7191 to 7197/Mum/2018 and ITA Nos. 4977 to 4980/Mum/2018, for AYs 2008-09 to 2014-15), wherein the Tribunal held that Shri Pravin Kumar Jain and Shri Pankaj Jain were indeed providers of accommodation entries.

7.2 In the instant case, it is apparent that the assessee has not produced the alleged cash creditor to discharge its statutory onus under section 68 of the Act, particularly in light of the findings of the search conducted on Shri Pravin Kumar Jain and the observations of the Investigation Wing regarding his modus operandi. While the assessee has placed reliance on confirmations, bank statements, and audited financial statements of M/s Olive Overseas Pvt. Ltd., such documents alone cannot suffice. Once the lender is linked, even circumstantially, to an accommodation entry provider, the onus rests squarely on the assessee to demonstrate, with cogent evidence, the identity, creditworthiness, and genuineness of the transaction.



7.3 The Hon'ble Delhi High Court, in *Nova Promoters & Finlease (P) Ltd.* (supra), has consistently held that where an assessee is shown to be a beneficiary of an accommodation entry racket, the evidence submitted in the form of confirmations, bank statements, or similar documents must be scrutinized with the application of the test of human probability. Mere production of documents cannot absolve the assessee of its statutory burden.

7.4 The learned counsel for the assessee placed reliance on the Tribunal's decision in the assessee's own case for an earlier assessment year. However, it is pertinent to note that in that earlier year, the loan was alleged to have been received from a different party. The ratio of such decisions is therefore inapplicable to the facts of the year under consideration, as the requirement under section 68 of the Act to establish the identity and creditworthiness of the lender is fact-specific and must be discharged afresh for each assessment year.

7.5 Further reliance was placed on the decision of the Hon'ble Co-ordinate Bench of Kolkata in *Aristocrat Residences LLP v. ITO* (supra). However, in that case, the challenge pertained solely to the legal validity of the notice issued under section 148 of the Act. The facts and scope of adjudication in that case are thus materially distinguishable from the present proceedings.



7.6 In the light of the foregoing discussion, we find that the learned CIT(A) erred in deleting the addition of Rs.25,00,000/-, as the assessee has failed to discharge its onus under section 68 of the Act. Consequently, the finding of the Ld. CIT(A) on the issue in dispute is set aside and the order of the Assessing Officer is restored, and the addition of Rs.25,00,000/- as unexplained cash credit is upheld. Grounds Nos. 1 to 3 of the Revenue are therefore allowed.

8. In Ground No. 4, the Revenue challenges the deletion of disallowance of interest amounting to Rs.4,50,379/- claimed by the assessee in respect of the loan purportedly received from M/s Olive Overseas Pvt. Ltd.

8.1 Since, for the reasons detailed hereinabove, we have held that the loan from M/s Olive Overseas Pvt. Ltd. constitutes unexplained cash credit within the meaning of section 68 of the Act, the corresponding interest payment cannot be allowed as a business expenditure. The claim of interest is intrinsically linked to the principal, and where the principal is held to be unproved or sham, the associated interest expenditure cannot stand. Accordingly, the finding of the learned CIT(A) on this issue is set aside, and Ground No. 4 of the Revenue's appeal is allowed.

9. In the appeal for assessment year 2013-14, only disallowance of interest in respect of loans received in the AY 2012-13 and in



earlier years is subject matter of litigation. As the loan in AY 2012-13 has already been held as unexplained by us, the relevant interest expenditure in AY 2013-14 is consequently disallowed. It is clarified that the disallowance pertains strictly to the interest in respect of loans received in AY 2012-13, and any earlier year loans are beyond the scope of this adjudication. therefore, the relevant interest expenditure corresponding to loans of earlier years which have been allowed by the Coordinate Bench of Tribunal(supra) are not disturbed. Accordingly, the ground of the appeal of the Revenue is partly allowed.

10. In the result, the appeal of the Revenue for assessment year 2012-13 is allowed whereas appeal for assessment year 2013-14 is partly allowed.

**Order pronounced in the open Court on 26/09/2025.**

Sd/-  
**(RAJ KUMAR CHAUHAN)**  
**JUDICIAL MEMBER**

Sd/-  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 26/09/2025  
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**