

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**I.T.A. No. 885/SRT/2025  
Assessment Year: 2011-12**

Iscon Copper Pvt Ltd U-27, Bhagwati Ashish Complex, Nr. Raghuveer bungalow, City Light, Surat - 395007 <b>PAN - AACCI3933M</b>	Vs	ITO, Ward – 1(1)(3) 4 <sup>th</sup> Floor, Aayakar Bhavan, Majura Gate, Surat.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri PM Jagasheth, CA
Revenue by	J.K. Chandnani, Sr. DR

Date of Hearing	06.10.2025
Date of Pronouncement	09.10.2025

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the assessee challenging the impugned order dt. 23.06.2025 passed under section 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2011-12.

2. At the very outset, we noticed that assessee has raised legal ground thereby challenging the reopening of assessment u/s 147 of the Act. In this regard Ld. AR has drawn our attention to the reasons recorded by the AO at the time of reopening which is contained in para No. 1 of

the assessment order and the same is reproduced herein below:

*The assessee company has not filed its return of income for the A.Y. 2011-12. The assessee has been identified as a non-filer in the NMS (Non-filer Management System). Since the assessee is a non-filer of return of income, the nature of business activity/ sources of income is not known.*

*2. As per the NMS details made available through NMS Cycle 2 and the ITS details, the assessee has received contract receipts amounting to Rs.7,86,422/- during the F.Y. 2010-11 relevant to A.Y. 2011-12.*

*3. On perusal of the information reported in ITS details, it is noticed that the assessee has received contract receipts of Rs. 3,82,916/- from M/s Aishloni Copper Alloys Pvt. Ltd. and Rs. 4,03,504/- from M/s Kanak Pipe Industries Pvt. Ltd. totaling to Rs. 7,86,420/- during the F.Y. 2010-11 relevant to A.Y. 2011-12. However, from the records, it is noticed that the assessee has not filed any return of income for the A.Y. 2011-12."*

3. However, the additions were not made at all on the reasons which were recorded for reopening of the assessment as can be seen from the order of assessment. The additions were made u/s 68 of the Act on account of disallowance of expenditure, in this regard reliance was also placed upon the following decisions.

**1. PR. CIT VS. LARK CHEMICALS (P.) LTD, [2018] 99 TAXMANN.COM 312 (SC) (SC OF INDIA)**

**2. CIT-II VS. MOHMED JUNED DADANI, [2013] 30 TAXMANN.COM 1 (GUJARAT) (HC OF GUJARAT)**

**3. CIT-5, MUMBAI VS. JET AIRWAYS (I) LTD. [2010] 195 TAXMAN 117 (BOMBAY) (HC OF MUMBAI)**

**4. MARTECH PERIPHERALS (P.) LTD. VS. DCIT, COMPANY CIRCLE- I(1), CHENNAI - [2017] 81 TAXXMANN.COM 73 (MADRAS)**

**5. ATS INFRASTRUCTURE LTD. VS. ACIT, [2024] 166 TAXMANN.COM 61 (DELHI) (HC OF DELHI)**

**6. ALIT GARG HUF VS. THE ACIT, CC-1, VAPI, ITA 392/SRT/2024 (ITAT, SURAT)**

**7. GLASSEYE TRADERS PVT.LTD. VS. WD-1(1)(1), KOLKATA, ITA NO.1485/KOL/2024 (ITAT, KOLKATA)**

4. After having gone through the facts of the present case, we noticed that it is an undisputed fact that no addition was made on the reasons recorded by the assessee for reopening of assessment therefore while following the decision of Hon'ble Bombay High Court in the case of **CIT Vs. Jet Airways (I) Pvt Ltd, [2010] 195 taxman 117 (Bombay)**, wherein it was held as under:

*17. We have approached the issue of interpretation that has arisen for decision in these appeals, both as a matter of first principle, based on the language used in section 147(1) and on the basis of the precedent on the subject. We agree with the submission which has been urged on behalf of the assessee that section 147(1) as it stands postulates that upon the formation of a reason to believe that income chargeable to tax has escaped assessment for any assessment year, the Assessing Officer may assess or reassess such income "and also" any other income chargeable to tax which comes to his notice subsequently during the proceedings as having escaped assessment. The words "and also" are used in a cumulative and conjunctive sense. To read these words as being in the alternative would be to rewrite the language used by Parliament. Our view has been supported by the background which led to the insertion of Explanation 3 to section 147. Parliament must be regarded as being aware of the interpretation that was placed on the words "and also" by the Rajasthan High Court in Shri Ram Singh's case (supra). Parliament has not taken away the basis of that decision.*

*While it is open to Parliament, having regard to the plenitude of its legislative powers to do so, the provisions of section 147(1) as they stood after the amendment of 1-4-1989 continue to hold the field.*

*18. In that view of the matter and for the reasons that we have indicated, we do not regard the decision of the Tribunal in the present case as being in error. The question of law shall, accordingly, stand answered against the revenue and in favour of the assessee. The appeal is, accordingly, dismissed. There shall be no order as to costs A*

5. Therefore, respectfully following the decision of the ***Jet Airways (I) Pvt Ltd (supra)*** and in order to maintain judicial consistency, we apply the same findings which are applicable *mutatis mutandis* in the present case. Therefore we direct the AO to delete the addition made u/s 68 of the Act on account of share capital treated as cash credit u/s 68 of the Act.

6. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 09/10/2025

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

Sd/-  
**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Surat:  
Dated: 09/10/2025

KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Surat**