

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos. 2178, 2179, 2187, 2245, 2196/KOL/2024
(AYs: 2013-14 to 2016-17, 2018-19)**

**DCIT, Central Circle 1(4)
Aaykar Bhawan Poorva,
110, Shantipally, Kolkata-700107
West Bengal**

(Appellant)

**Murlidhar Ratanlal Exports
Limited**

**15B, Hemanta Basu Sarani,
Kolkata-700001,
West Bengal**

(Respondent)

PAN No. AABCM8371Q

CO No. 42/KOL/2025

(Arising in ITA No. 2178/KOL/2024 for A.Y. 2013-14)

CO No. 43/KOL/2025

(Arising in ITA No. 2179/KOL/2024 for A.Y. 2014-15)

CO No. 44/KOL/2025

(Arising in ITA No. 2187/KOL/2024 for A.Y. 2015-16)

CO No. 45/KOL/2025

(Arising in ITA No. 2245/KOL/2024 for A.Y. 2016-17)

**Murlidhar Ratanlal Exports
Limited**

**15B, Hemanta Basu Sarani,
Kolkata-700001,
West Bengal**

(Appellant)

DCIT, Central Circle 1(4)

**Vs. 110, Shantipally, Kolkata-700107
West Bengal**

(Respondent)

Assessee by : Shri A.K. Tulsyan &
Shri Rabin Maheshwari, ARs
Revenue by : Shri Sallong Yaden, DR

Date of hearing: 18.09.2025
Date of pronouncement: 28.10.2025

ORDER

Per Rajesh Kumar, AM:

These appeals are preferred by the Revenue and the cross objections by the assessee are against the orders of the Commissioner of Income-tax (Appeals) Kolkata-20 (hereinafter referred to as the "Ld. CIT(A)") vide even dated 12.07.2024 for the AYs 2013-14 to 2016-17 & 2018-19.

02. At the outset, we note that the Cross Objection of assessee in CO No.42 to 45/KOL/2025 are barred by limitation by 167 days for which condonation petitions were filed before the tribunal praying for the condoning the delay. On perusal of the condonation petitions and the reasons stated for delay in filing the appeals, we find that reasons to be genuine and bonafide. The Ld. D.R did raise objections in condoning the delay. Keeping in view reasons explaining the delay in the condonation petitions as well as judicial pronouncements that the case should be decided on merit and technicality should not be a bar to decide the issue, the delay in filing the appeals is hereby condoned and we adjudicate the COs of the assessee in the ensuing paras.

03. We also observe from the appeal folder that there is a delay of 50 days in ITA No.2245/KOL/2024 for A.Y. 2016-17 and 52 days in ITA No.2196/KOL/2024 for A.Y. 2018-19, in filing the appeals by the department in support of which condonation petitions were filed. It was stated in the condonation petitions that the delay had occurred due to obtaining the administrative approvals from the competent authorities and accordingly, the delay may be condoned. The Id. AR, on the other

hand, did not oppose the condonation of delay. Considering the reasons cited before us, we are inclined to condone the delay and admit the appeals of the revenue for adjudication.

A.Y. 2013-14

CO No. 42/KOL/2025

04. Since, the assessee has raised legal issue in cross objection filed, challenging the validity of reopening of assessment u/s 147 of the Income-tax Act, 1961 (the Act) on the ground that the conditions envisaged in proviso to Section 147 of the Act were not satisfied by raising ground no.1, which is as under: -

"1. That the Ld. CIT(A) was wrong in not allowing the assessee's objections regarding re-opening of assessment proceeding by issuing notice u/s 148 after elapse of four years from the end of the relevant assessment year as the assessee had already disclosed all the material facts during the course of the assessment proceedings completed u/s 143(3) dt. 28.03.2016. Thus, the re-opening is bad in law and hence the consequent assessment made u/s 147 needs to be quashed."

05. Facts in brief are that a survey u/s 133A of the Act was conducted on the premises of the assessee on 04.01.2019, during which some documents were found. Based on the findings of the survey team, the Id. AO reopened the assessment u/s 147 of the Income-tax Act, 1961 (the Act) by issuing notice u/s 148 of the Act on 01.04.2021, which were duly served upon the assessee. The assessee filed the return of income in compliance declaring total income of ₹28,34,850/- on 18.02.2021. Pertinent to state that the assessee filed the original return of income u/s 139(1) of the Act on 03.09.2013 at a total income of ₹28,34,850/-. The said original return was selected for scrutiny and assessment was accordingly framed u/s 143(3), assessing the total income at ₹89,86,080/-. In the reopening proceedings, the Id. AO

issued notice u/s 143(2) and 142(1) of the Act along with questionnaire, which were duly served upon the assessee. The assessee also complied with the said notices. Finally, the Id. AO completed the assessment u/s 147 of the Act vide order dated 28.03.2022, by making three additions namely; (i) Addition of ₹80,087/- in respect of bogus purchases (ii) Addition in respect of unexplained cash credit of ₹1.00 crore and (Iii) addition on account of bogus interest expenses of ₹54,795/-, by assessing the income at ₹1,91,28,960/-.

06. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee by directing the Id. AO to delete the additions. However, the legal issue raised in ground no.3 was rejected and dismissed.

07. After hearing the rival contentions and perusing the materials available on record, we find that the assessment in this case were framed u/s 143(3) vide order dated 28.03. 2016. Thereafter, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 01.02.2021, after recording the reasons to believe copy of which is available at page no.80 to 83 of the Paper Book of the assessee. We observe from the said reasons that the AO has not recorded any satisfaction or finding as to failure of the assessee to disclose any information truly and materially in the return of income filed or during the assessment proceedings u/s 143(3) of the Act. Therefore, the reopening of assessment does not meet the parameters as provided under First proviso to Section 147 of the Act. The proviso to Section 147 of the Act provides that where an assessment u/s 143(3) has been framed and four years have elapsed from the end of the relevant assessment year then the reopening u/s 147 of the Act can only be made if there is failure on the part of the assessee to disclose

any information fully and truly disclosing all material facts necessary for assessment or failure on the part of the assessee to make the return u/s 139(1) of the Act or in response to notice u/s 143(1) or 148 of the Act for that assessment year and not otherwise. In the present case, the case of the assessee falls in none of the parameters mentioned in the said proviso, therefore, the reopening of assessment u/s 147 of the Act has been made in violation of proviso to section 147 of the Act and cannot be sustained. The case of the assessee find support from the decision of Hon'ble Apex Court in the case of ACIT vs. CEAT Ltd. in [2023] 146 taxmann.com 108(SC) wherein it has been decided by the Hon'ble Apex court that no re-opening can be made u/s 147 of the Act after elapse of four years from the end of relevant assessment year where an assessment has been framed u/s 143(3) of the Act if the AO has not recorded in the reasons to believe that there was failure on the part of the assessee to disclose any information fully and truly disclosing all material facts necessary for assessment. Considering the facts of the case in the light of the aforesaid decision, we are inclined to quash the reopening of assessment by allowing ground no.1 raised by the assessee. The CO of the assessee is allowed.

08. Since, we have allowed the appeal of the assessee on legal issue raised in ground no.1, therefore, the issue raised in other grounds are not being adjudicated at this stage and left open to be decided if the need arises for the same later on.

ITA No. 2178/KOL/2024

09. Since, we have allowed the appeal of the assessee on ground no.1 raised in Cross objection No. 42/KOL/2025 for A.Y. 2013-14 by quashing the reopening of assessment u/s 147 of the Act, the appeal

filed by the Revenue challenging the order of Id. CIT (A) deleting the additions on merit becomes infructuous and is consequently dismissed.

A.Y. 2014-15

CO No. 43/KOL/2025

010. The issue raised in this Cross Objection No. 43/KOL/2025 is similar to one as decided by us in Cross Objection No. 42/KOL/2025 for A.Y. 2013-14. Accordingly, our decision would, mutatis mutandis, apply to this Cross Objection of assessee in CO. No. 43/KOL/2025 for A.Y. 2014-15. Hence, the Cross Objection of the assessee in CO No. 43/KOL/2025 is allowed.

ITA No. 2179/KOL/2024

011. Since, we have allowed the appeal of the assessee in Cross objection No. 43/KOL/2025 for A.Y. 2014-15 by quashing the reopening of assessment u/s 147 of the Act, the appeal filed by the Revenue challenging the order of Id. CIT (A) deleting the additions on merit becomes infructuous and consequently, dismissed.

A.Y. 2015-16

CO No. 44/KOL/2025

012. The Id. Counsel for the assessee did not press the issue raised in the cross objection and therefore, the Cross Objection filed by the assessee is dismissed as not pressed.

ITA No. 2187/KOL/2024

013. The Revenue has raised following grounds of appeal in ITA No. 2187/KOL/2024 for A.Y. 2015-16: -

"1. That on the facts and circumstances of the case, whether the Ld. CIT(A) is correct in deleting the addition of Rs. 2,85,00,000/- bogus unsecured loan u/s. 68 of the Income Tax Act, 1961 ignoring the fact that the assessee has failed squarely to prove the Identity and creditworthiness of the loan creditors and the genuineness of the impugned transactions.

2. That on the facts and circumstances of the case, whether the Ld. CIT(A) is correct deleting the disallowance of interest against unsecured loans amounting to Rs. 19,76,710/-, whether the assessee itself failed to justify the genuineness of the corresponding unsecured loan on which interest is paid.

3. That on the facts and circumstances of the case, whether the Ld. CIT(A) is correct in deleting the disallowance of Rs. 1,54,718/- being bogus purchase ignoring the fact the assessee failed to prove the genuineness of the impugned purchase transaction from M/s. Ajanta Vinimay Pvt Ltd., M/s Eskay Enclave Pvt. Ltd., M/s Gokul Commotrade Pvt. Ltd. and M/s Ruchika Vinimay Pvt Ltd.

4. That on the facts and circumstances of the case, whether the Ld. CIT(A) is correct deleting the addition of interest on cash loans amounting to Rs. 2,57,72,500/-, the incriminating documents which are suggestive of assessee's availing the cash loan.

5. Whether on the fact and circumstance of the case Ld. CIT(A) is correct admitting fresh submission of the assessee, based on which he held that the alleged loans were factually cash loans as the same were taken through banking channel, in contravention of Rule 46A of the IT Rules, 1962."

014. The issue raised by the Revenue in **ground no.1** is against the deletion of addition of ₹2,85,00,000/- by Id. CIT (A) as made the by the AO u/s 68 of the Act in respect of unsecured loans.

015. The facts in brief are that the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on the basis of findings of the survey team in the survey proceedings conducted u/s 133A of the Act on the assessee on 04.11.2019. The assessee complied with the said notice by filing the return of income declaring total loss of ₹10,17,55,446/- on 21.04.2021. The assessee filed the original return of income u/s 139(1) of the Act on 18.09.2015 declaring the loss of ₹10,17,55,446/-. The Id. AO during the course of reassessment proceedings issued notice u/s 143(2) and 142(1) of the Act along with

questionnaire which were duly replied by the assessee by filing the necessary evidences in respect of loans raised during the year by the assessee. The Id. AO thereafter in para no.6.1 up to 6.7 discussed the loans raised by the assessee from various parties and held that the assessee has rooted its own money in the garb of unsecured loans and accordingly, made an addition on account of unexplained cash credit u/s 68 of the Act amounting to ₹2,85,00,000/- by holding that these were bogus loans on the ground that notices u/s 133(6) of the Act were not complied with by the lenders/ loan creditors.

016. The Id. CIT (A) in the appellate proceedings allowed the appeal of the assessee by passing a very detailed and reasoned order by observing that the loans raised by the assessee from seven parties were repaid either in the subsequent assessment years and in some cases within the same financial year. The details of these loans and repayments are given in para no.6.12 (i) of the appellate order. The Id. CIT (A) has also taken note the observations of the Id. AO that the lender companies were Jama Karchi companies which accordingly to the Id. CIT(A) is incorrect and against the facts on records by referring to the information furnished by the loan creditors by responding to the notices issued u/s 133(6) of the Act. The Id. CIT (A) noted that the Id. AO has not referred to any incriminating material seized in the course of survey on the basis of which assessment was reopened. The Id. CIT (A) in Para no.6.12(4) of the Act noted that the Id. AO heavily relied on the statement of the entry operators and data base of the investigation wing, Kolkata for arriving at the conclusion that loan creditors were Jama Karchi companies, however, forgotten to evaluate and examine the evidences produced before the Id. AO by the assessee during the

course of assessment proceedings. The Id. CIT (A) finally, relied on the decision of Hon'ble Gujarat High Court in case of Ambe Tradecorp (P) Ltd. Vs. PCIT [2022] 145 taxmann.com 27 (Gujarat), wherein the Hon'ble High Court held that if the loan taken during the year are repaid even in the subsequent years, then no addition is called for u/s 68 of the Act. The Id. CIT (A) also relied on the decision in the case of CIT v. Stern Commercial Enterprises (1994) 201 ITR 105 (Cal.) and held that no adverse filing can be made against the assessee on the basis of statement of the third party without allowing any cross examination to the assessee to examine the person on whose statement the reliance was placed.

017. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has raised unsecured loans amounting to ₹2,85,00,000/- from seven parties, which are given in Para no.6.12 (1) of the appellate order. We note that the loans raised by the assessee were repaid either in the current financial year or in the subsequent financial years. The details of repayments were also given by the Id. CIT (A) in the above para which have been verified by us. In the present case, the assessee has filed all the evidences before the AO and Id. CIT(A) and established that the repayment of loans was also made as noted above. Therefore, no addition can be made u/s.68 of the Act on the ground that the assessee has failed to meet the ingredients of Section 68 of the Act. The case of assessee is squarely covered by the decisions of the Hon'ble Calcutta High court in number of cases namely PCIT-2, Kolkata Vs. Rahul Premier India Agency Private Limited in ITAT/133/2025, IA No.GA/2/2025 vide order dated 05.08.2025, PCIT Vs. M/s Narayan Tradecom Pvt. Ltd. in ITAT/76/2025, IA No. GA/1/2025

dated 10.06.2025, PCIT Vs. Alom Extrusions Ltd. ITAT/268/2024, IA no. GA/1/2024, GA/2/2024 dated 17.12.2024, PCIT Vs. M/s Edmond Finvest Pvt. Ltd., in ITAT/28/2024, GA/2/2024 dated 26.02.2024, PCIT Vs. Parwati Lakh Udyong, ITAT/2/2024, IA No.GA/1/2024 dated 19.02.2024. In all the above decisions the Hon'ble court has held that where the assessee has filed all the evidences qua the loan creditors before the Id. AO and loans are also repaid then the same cannot be added u/s 68 of the Act. Similarly, the case of assessee is squarely covered by the decision of the Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P.) Ltd., reported in [2022] 145 taxmann.com 27 (Gujarat), wherein it has been held as under: -

"3. The issue in this case arose in respect of the assessment year 2012-2013. It appears that the two loan transactions of Rs. 8,50,00,000/- and Rs. 23,70,00,000/- received by respondent assessee from one M/s. J.A Infracon Private Limited and M/s. Satya Retail Private Limited were treated by assessing officer to be sham in the sense that the creditworthiness etc. of the giver of the loan were not established. Accordingly, the assessing officer made addition under section 68 of the Act.

3.1 While the assessing officer dealt with unexplained cash credit from the M/s. Satya Retail Private Limited and from M/s. J.A Infracon Private Limited in his order in paras 5.1 and 5.2 respectively, the Commissioner of Income-tax in the appeal preferred by assessee found on facts and the material before it that the said two cash creditors had been holding their identity, creditworthiness and genuineness in respect of the loan transactions.

3.2 The appellate authority observed that, "In this regard, it has been noticed that ledger accounts and confirmations of the aforesaid two parties have been provided by the appellant to the AO in the assessment proceedings. Thereafter, the AO also carried out the independent inquiries u/s. 133(6) of the I.T. Act and in compliance thereto both the companies have submitted the requisite information."

3.3 The information supplied by assessee was duly noticed by appellate authority and facts in that regard were recorded also to arrive at a finding that the unsecured loans to the aforesaid parties have been paid by account payee cheques from the bank account of the assessee which was not in dispute, much less in doubt. The accounts were finally settled with the repayment of the loan to the lender companies.

3.4 When the revenue preferred appeal before the Appellate Tribunal, the Tribunal confirmed the findings recorded by the Appellate Authority. The Tribunal referred to the decision of Durga Prasad More (82) ITR 540 and also in Sumati Dayal (214) ITR 801, to further record on the basis of the facts that the assessee had furnished the details such as copy of ledger account, bank statements, income tax returns, balance sheet etc. It was also recorded that notice under Section 133(6) of the Act was issued to the said parties which were duly responded by them. The identity of the parties could not be, therefore disputed, recorded the tribunal. The aspect was also noticed that the assessee was not beneficiary of the loan received by it and the loan was repaid by the assessee in the subsequent year. It led to unacceptable conclusion that the impugned transaction was a business transaction between the assessee and the loan parties and that they could not be doubted for their genuineness.

3.5 While the revenue has tried to put up a case that the transactions were in the nature of accommodation entries, this case has only presumptive and assumptive value not supported by any factual data. On the contrary, on the basis of the material before the authorities, the transactions were found to be genuine.

4. Learned advocate for the appellant attempted to emphasize that for the purpose of application of Section 68 of the Act, three ingredients were necessary. Firstly, identity of the parties to the transaction of loan, second is the creditworthiness of such parties and thirdly the genuineness of the transaction. It was submitted in vain that neither of the ingredients were satisfied.

5. As discussed above, since the requisite material was furnished by assessee showing the identity and since the assessee was not beneficiary when the loan was repaid in the subsequent year, even the ingredients of creditworthiness and genuineness of transaction were well satisfied.

6. The Tribunal rightly recorded in para 29 of the judgment,

"Once repayment of the loan has been established based on the documentary evidence, the credit entries cannot be looked into isolation after ignoring the debit entries despite the debit entries were carried out in the later years. Thus, in the given facts and circumstances, were hold that there is no infirmity in the order of the Ld. CIT-A. "

7. For the reasons recorded above, no question of law muchless substantial questions arises in this appeal. It stands meritless and accordingly dismissed.

018. Similarly, the Id. CIT (A) noted that the Id. AO has relied on the statement of the entry operators and data base of the investigation wing, Kolkata to arrive at a conclusion that the lenders were shell/ bogus companies, however, did not allow any opportunity to assessee

to cross-examine the entry operators whose statements were relied upon. Moreover, we note that the assessee has furnished all the evidences called by the AO during the re-assessment proceedings and the loan creditors also responded to notices issued u/s 133(6) of the Act. Therefore, the Id. CIT (A) rightly followed the decision of Hon'ble Jurisdiction High Court in case of CIT v. Stern Commercial Enterprises(supra). We even note that the Id. AO has not pointed out any defect or deficiency in the evidences filed by the assessee and even the lenders have sufficient resources to advance money to the assessee company. Therefore, we do not find any infirmity in the order of the Id. CIT (A) which is otherwise a very reasoned and speaking one. Consequently, we uphold the order of the Id. CIT (A), by dismissing the appeal of the Revenue on this issue. Ground no.1 of the Revenue's appeal is dismissed.

019. The Revenue has raised **ground no.2**, which is against the disallowance of interest of ₹19,76,710/-.

020. Since we have already dismissed the appeal of the Revenue by upholding the order of the Id. CIT (A), wherein the Id. CIT (A) allowed the appeal of the assessee on merit by directing the Id. AO to delete the addition in respect of unsecured loans. The issue raised in this ground is consequential to ground no.1. Therefore, same is dismissed. Ground no.2 of Revenue's appeal is dismissed.

021. The issue raised in **ground no.3**, is against the deletion of disallowance of ₹1,54,718/- by the Id. CIT (A) as made by the Id. AO in respect of bogus purchases.

022. The Id. AO during the course of assessment proceedings, noted that there were certain discrepancies in the documents filed by the assessee in respect of purchases. The Id. AO specifically referred to the bill/ invoice issued by M/s Eskay Enclave Pvt. Ltd. on 23.02.2012 amounting to ₹4,08,362/-. The Id. AO noted that the lorry mentioned in the said document was an ambulance and how the ambulance could be used to transport the jute materials. Accordingly, the Id. AO concluded that these were bogus purchases made by the assessee and accordingly, income was estimated on the total purchases of ₹3,09,43,483/- from various parties @ 0.5% and added to the income of the assessee thereby making an addition of ₹1,54,718/-.

023. In the appellate proceedings, the Id. CIT (A) in Para no.4.1 extracted the details of purchases from four parties aggregating to ₹3,09.43,483/- on which the Id. AO disallowed 0.5% of the total purchases on estimated basis which comes to ₹1,54,718/-. The Id. CIT (A) noted that the assessee had been making purchases from these parties on regular basis and were duly supported with the vouchers, delivery challans and bills receipts etc. and the payments were made through banking channels. The Id. CIT (A) even noted that the weighing slips were also furnished by the assessee. Finally, the Id. CIT (A) deleted the addition after examining the evidences furnished by the assessee. The Id. CIT (A) recorded a specific finding in respect of invoices issued by M/s Eskay Enclave Pvt Ltd., wherein the Id. AO observed that vouchers no. WB25D5958 was ambulance and not lorry. The Id. CIT (A) on the basis of reply of the assessee with evidences recorded a finding that the alleged vehicle is a heavy goods carrier and not ambulance.

024. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) has rightly deleted the estimated additions made by the Id. AO in respect of purchases. We note that all the evidences were furnished before the AO as well as CIT (A). We note that the Id. CIT (A) recorded a finding of fact that the vehicle stated to be ambulance was in fact a heavy goods carrier and the Id. CIT (A) held that conclusion drawn by the Id. AO was wrong and fallacious. Therefore, the Id. CIT (A) has rightly observed that the Id. AO has failed to bring on record any substantial evidences to prove that these were bogus purchases. Accordingly, we uphold the order of Id. CIT (A) by dismissing the appeal of the Revenue on this issue. Ground no.3 of Revenue's appeal is dismissed.

025. The issue raised by Revenue in **Ground no.4 and 5**, is against the deletion of addition of ₹2,57,72,500/-, by the Id. CIT (A) as made by the Id. AO in respect of interest on cash loans taken by the assessee during the year.

026. The facts and circumstances are similar to ground no. 3 &4 of ITA No.2245/KOL/2024 A.Y. 2016-17, which are discussed and decided by us (infra). Therefore, our decision on ground no. 3 and 4 in ITA No. 2245/KOL/2024 A.Y. 2016-17 would, mutatis mutandis, apply to ground no. 4 and 5 of this appeal. Consequently ground no.4 & 5 of Revenue's appeal are dismissed.

A.Y. 2016-17**CO No. 45/KOL/2025**

027. The Id. Counsel for the assessee did not press the issue raised in the cross objection and therefore, the Cross Objection filed by the assessee is dismissed.

ITA No. 2245/KOL/2024

028. The issue raised by Revenue in **Ground no.1 & 2** are similar to ground no.1 & 2 of Revenue's appeal by Id. CIT (A) as made by the Id. AO u/s 68 of the Act on account of unexplained cash credit and against the deletion of additions of ₹1,00,00,000/- and ₹32,35,250/- respectively, in ITA no. 2187/KOL/2024 for A.Y. 2015-16. Hence, taking similar view in this appeal also, ground no.1 & 2 of revenue appeal are dismissed.

029. The issue raised by Revenue in **Ground no.3 and 4**, is against the deletion of addition of ₹1,46,55,000/- by the Id. CIT (A) as made by the Id. AO in respect of interest on cash loans taken by the assessee during the year.

030. The facts in brief are that the Id. AO observed on the basis of incriminating material found during the course of survey which was also extracted by the Id. AO in para no.13.3.1. of the assessment order that assessee had entered into several transactions of cash loans during F.Y. 2015-16 and 2016-17 and assessee has not paid interest on unsecured cash loans taken during the year under consideration. Accordingly, the Id. AO estimated the interest paid by the assessee at the rate of 12% on total cash loans taken and thus made an addition of ₹1,46,55,000/-

the calculation whereof (interest) is given at para no.11 of the assessment order and same was added to the income of the assessee.

031. In the appellate proceedings, the Id. CIT (A) deleted the addition by observing and holding as under: -

"8.14.1 I have carefully considered the facts of the case, the Assessment Order of the AO and the submission of the appellant. The AO has made the addition of Rs. 1,46,55,000/- on account of interest expenses paid in cash on the cash loan received through Finance broker Sanwaria and Kasera Group. As per AO search u/s 132 of the Act was conducted at the premises of the Finance broker i.e. Sanwaria and Kasera on 30.11.2018 and in search several incriminating documents were found and seized, wherein transaction relating to loan transactions with MREL group were recorded.

8.14.2 The AO has mentioned about incriminating documents impounded during the course of survey operation and reproduce the extract of documents found from the computer Hard Disk marked MREL/HD/2 at page no. 41-46 of the assessment order. Thereafter, the AO alleged that on the perusal of transaction details it was seen that the assessee has entered into several cash loan transactions during the relevant year under consideration and several incriminating material were impounded during the course of survey. The AO has thereafter, prepared a summary at page no. 47 of the assessment order based on the extract of documents from computer Hard Disk marked MREL/HD/2. The AO has made calculation of total credit entry, total debit entry and calculation of interest expense. The summary of documents impounded as per the order is reproduce as under:

S/L No		Total credit entry (In Rs.)	Total debit entry (In Rs.)	Interest Expense
1	FY 2015-16	48,85,00,000/-	31,32,00,000/-	1,46,55,000/-

8.14.3 However, the appellant in its submission has stated that all these loan transactions alleged to have been made in cash are duly recorded in the books of accounts and have made through proper banking channels. The loan ledgers, interest ledgers, details of TDS deductions etc. were duly furnished to the AO in the assessment. Not only that the AO has conducted enquiry u/s 133(6) of the Act for all the loan creditors appearing in its regular books. This proves that AO has not applied his mind while making vague allegation. Further, there is merit in the submission of the Appellant that all these loans appearing at page no. 42-46 of the assessment order are duly reflected in the item no. 31(a) & 31(b) of the tax audit report, which was duly uploaded on the income tax portal. Furthermore, the appellant has pointed out various other glaring mistakes in the

analysis of the data found in the excel sheets of Hard Disk marked as MREL/HD/2. As per appellant, there is many mistakes and repetition in the data prepared by the AO.

8.14.4 I have examined all the details submitted by the appellant with its submissions. These details were duly furnished to the AO in the assessment as well. On the verification of all the details, I am fully convinced that the loans alleged by AO to have been taken in cash are actually taken through proper banking channels and duly reflected in the books of accounts of the assessee. The interest payments on those loans are also accounted for in the books of account and paid through banks. Assessee has also pointed out that against the assessee penalty proceeding for taking cash loan and refunding u/s 271D and u/s 271E of the act was initiated by the Addl. Commissioner, Central Range -1, Kolkata and he has after due verification found that the assessee has not taken or refunded any cash loan. Hence, he dropped the penalty proceeding initiated u/s 271D and 271E vide order dt. 03.08.2022 for the year under consideration. The claim of the appellant was verified and found to be correct. AO himself has verified all the loan taken in the regular books of account of the assessee is evident from the assessment order and made addition of Rs. 1,46,55,000/- separately. This shows AO has alleged these as cash loan is factually wrong.

8.14.5 Further, the appellant has deducted TDS on the payments of these loans and has claimed these interest payment in P/L Accounts. So, there is no any reason found to treat these loans as received in cash and interest of Rs. 1,46,55,000/- have been paid in cash. The AO has made this addition purely on presumptions and surmises and without bringing any adverse material on record. Further, while making this addition, the AO has failed to look into the details furnished by assessee to him in assessment proceeding.

Therefore, in view of the above discussion, I held that addition made by the AO on account of interest payment on the cash loan of Rs. 1,46,55,000/- is arbitrary and untenable in the eyes of law. The AO has made this addition without analyzing the relevant fact of the case and purely on the basis of surmises and presumption. Hence, the addition of Rs. 1,46,55,000/- made u/s 69C of the Act is deleted."

032. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) has recorded a finding of fact that the loans which the Id. AO misconstrued as cash loans taken by the assessee during the year were fully recorded by the assessee in the books of accounts. The Id. CIT (A) recorded a finding of fact that these were in fact the loans taken by the assessee through banking channel and interest payment were also duly accounted for in the books

of accounts and paid through bank accounts. The Id. CIT (A) also noted that the penalty proceedings initiated for taking cash loans and the payments thereof u/s 271D of the Act and 271E of the Act were initiated by the additional Commissioner of Income Tax, Central Range-1, Kolkata and the said authority, after due verification, found that assessee had not taken or refunded any cash loans during the impugned assessment year during proceedings u/s 271D and 271E of the Act and accordingly order was passed dated 03.08.2022 dropping the proceedings u/s 271D and 271E of the Act. Considering these facts, we are inclined to uphold the order of the Id. CIT (A), which is a very reasoned order and fully justified the reasons for deletion of the notional interest added by the Id. AO. Consequently, we dismiss the ground nos. 3 and 4 of the Revenues appeal.

033. The issue raised by Revenue in **Ground no.5** is same as ground no.3 in Revenue's appeal in ITA No. 2187/KOL/2024 for A.Y. 2015-16, which is discussed and decided in above paras. Therefore, following our own decision in ground no.3 in ITA No.2187/KOL/2024 for A.Y. 2015-16, we dismiss the ground no.15 of Revenue's appeal.

A.Y. 2018-19

ITA No. 2196/KOL/2024

034. The issue raised in **ground no.1** is against the deletion of disallowance of ₹1,07,54,192/- by the Id. CIT (A) as made by the Id. AO in respect of bogus purchases.

035. The facts and circumstances are similar to ground no.3 in ITA No. 2187/KOL/2024 for A.Y. 2015-16, which is discussed and decided by us

supra. Hence, taking similar view in this appeal, the ground no.1 of Revenue's appeal is dismissed.

036. The Revenue has raised **ground no.2**, which is against the disallowance of interest of ₹44,83,667/-.

037. The facts and circumstances are similar to ground no.2 in ITA No. 2187/KOL/2024 for A.Y. 2015-16, which is discussed and decided by us (supra). We note that Id. CIT(A) noted that the interest was disallowed on the loans borrowed in earlier assessment years. The Id. CIT(A) even noted that the addition was made on the basis of third-party statement without allowing any cross examination to the assessee. It was also noted in the appellate order that the assessee has furnished all the evidences during the assessment proceedings which were not flawed by the AO. For the sake of ready reference, we extract the operative part of the appellate order as under: -

"4.10 Decision: -

4.10(1) I have carefully considered the facts of the case and the submission of the appellant on this ground. The AO in its assessment order has treated the interest paid of Rs. 44,83,667/- on loan taken from various loan creditors which the AO has held as bogus loan creditors for AY 2013-14 to 2017-18, as bogus interest.

4.10(2) While making the addition the AO has stated in the assessment order that the unsecured loans have been taken in earlier years from the paper/Jamakharchi Companies. Because as per Investigation Wing data base, the Companies were controlled and managed by various entry operators.

The AO has stated that, the entry operators have given statement before DDIT(Inv.), that said companies are Jamakharchi companies and were used for giving accommodation entries to various companies/persons. Further the AO has stated that the identities of these companies were also not established as notices u/s 131/133(6) of the IT Act were either returned unserved or not complied with. Further, in the Income Tax Inspector enquiry report, it was found that the above-mentioned companies are not existing at their respective addresses. The AO has analyzed the financial capacity of these seven companies on the basis of their IT

returns and audited accounts and has reached to the conclusion that the above said companies does not have financial capacity to give such a big amount of unsecured loans to the assessee. Thus, the AO in Page 10 of its assessment order has finally held that the identity and creditworthiness of these two loan creditor companies as well as genuineness of their transactions in the form of interest of Rs. 44,83,667/- remains unexplained.

4.10(3) However, on perusal of the assessment order of earlier years and other relevant facts of the case, I find various legal flaws and short-coming in the decision of the AO. The AO in the Assessment Order has stated that survey proceedings u/s 133A of the Act was conducted on 04.11.2019 at the premises of the assessee group including the premise of the assessee company and in survey various incriminating documents/materials were found. Assessment proceeding is initiated on the basis of the material found in the survey. But ironically the AO did not refer any impounded document/paper with its identity mark either for initiation of reassessment proceeding or for the purpose of making addition of Rs. 44,83,667/- to the total income. Thus, absence of reference of impounded material relating to the unsecured loan in the assessment order of the AO is giving ample reason to suspect that nothing incriminating relating to loan transactions were found in the survey against the assessee.

4.10(4) Furthermore, the AO has heavily relied on the statement of entry operators and data base of investigation wing, Kolkata in arriving at the conclusion that the above loan creditors were the Jamakharchi/Paper Companies and have been used for giving accommodation entries in the form of Bogus loans to the assessee. However, the AO has forgotten to evaluate evidentiary value of the statement of alleged entry operators and database of Investigation Wing for making addition in this case. First and foremost is that the database of Investigation Wing, Kolkata is neither a public documents nor a document duly certified by a court of law/Rules/Acts/Circular/ Instructions etc. for its use as an evidence in Income Tax matter. So these details or statements cannot be directly used for making addition in a case. Rather, the AO should have taken the help of these data base for conducting further enquiry in these cases.

(i) The AO has relied on 3rd party statement without realising the fact that whether those statements of 3 rd parties were taken in course of survey or assessment proceeding in the case of assessee or in the search/survey conducted on different parties in different context.

(ii) The AO should have brought in the fact if any, on record that whether the alleged entry operators have accepted in their statement that the above-mentioned loan given to the assessee are fictitious and bogus, and they are just accommodation entries. No such categorical findings have been brought on record by the AO. Not only that the AO has even failed to justify its claim that the assessee has brought in its own unaccounted money into business in the form of unsecured loan by using these paper companies and sham transaction. The AO has not brought on record any evidence regarding circular transaction whether in the form of cash transaction or through banking channel.

4.10(5) Furthermore, the AO has used the statement of those third parties, (the alleged entry operators) at the back of the assessee as he did not provide the copy of those statements to the assessee for cross examination and rebuttal. The Hon'ble Calcutta High Court in the case of CIT v. Eastern Commercial Enterprises (1994) 201 ITR 105 (Cal) has held that, 'an adverse finding cannot be made against an assessee on the basis of such statements without allowing opportunity to assessee to cross examine the person on whose statement reliance is placed against the assessee

Not only that, there is merit in the submission of the appellant, when it states that the 3rd parties, i.e. alleged entry operators were neither the directors nor were any way related to the loan creditors. So, their statement cannot be taken as so relevant in this case and that too without any corroborative material.

4.10(6) Therefore, in view of the above discussion and considering the relevant facts of the case, vis-a-vis relying on the cases cited above, I find no merit in the decision of AO in treating the interest paid on loan of Rs. 44,83,667/- after deduction of TDS as bogus transaction. Hence, the addition of Rs. 44,83,667/- made by the AO on account of interest expenses is deleted."

038. We have heard the rival submissions and perused the facts on records including the appellate order. We note that the facts are similar to one as decided by us in ground no. 2 in ITA No. 2187/KOL/2024 for A.Y. 2015-16. Hence, taking similar view in this appeal also, we dismiss ground no.2 of Revenue's appeal.

039. In the result, the appeals of the Revenue are dismissed and the COs of the assessee are partly allowed.

Order pronounced in the open court on 28.10.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 28.10.2025
Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

True Copy//

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata