

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

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

**ITA Nos.1656 to 1661/KOL/2025
(Assessment Years: 2015-16 to 2020-21)**

DCIT, CC 4(4)
Aaykar Bhawan Poorva,
5th Floor, Room No.509,
110, Shanti Pally,
Kolkata-700107, West Bengal

(Appellant)

vs. **Ladhuram Toshniwal and Sons
Electricals Private Limited**
11, Pollock Street,
Kolkata-700001, West Bengal

(Respondent)

PAN No. AABCL4778L

Assessee by : Shri Manish Tiwari, AR

Revenue by : Shri Kapil Mandal, DR

Date of hearing: 04.11.2025

Date of pronouncement: 11.11.2025

ORDER

Per Rajesh Kumar, AM:

These are the appeals preferred by the Revenue against the orders of the Commissioner of Income-tax (Appeals), Kolkata-27(hereinafter referred to as the "Ld. CIT(A)") dated 26.04.2025, 27.04.2025 & 28.04.2025 for the AY 2015-16 to 2020-21. Since all the appeals relate to the same assessee and involves common issue, therefore these are being decided by this common order for the sake of convenience and brevity. First of all we shall take up ITA No. 1656/Kol/2025 A.Y. 2015-16.

A.Y. 2015-16**1656/KOL/2025**

02. The only issue raised by the Revenue in various grounds of appeal is against the deletion of addition of ₹1,50,00,000/- as made by the Id. AO u/s 68 of the Act as unexplained cash credit in respect of unsecured loans taken during the instant financial year. The Revenue has also challenged the deletion of ₹4,99,125/- by the Id. CIT (A) as made by the Id. AO in respect of interest payments on above unsecured loans. ₹75,000/- towards commission at the rate of 0.50% for arranging the accommodation entries was also under challenge.
03. The facts in brief are that the assessee is covered under search u/s 132 of the Act on 08.03.2022. The notice u/s 148 of the Act was issued on 11.10.2023, after obtaining the approval of the competent authority. The assessee filed the return of income on 19.10.2023 in response to the said notice declaring total income of ₹62,35,480/-. The case of the assessee was selected for scrutiny and statutory notices along with questionnaire were duly issued and served on the assessee. The assessee replied to the said notices vide written submission dated 08.01.2024. The Id. AO during the course of assessment proceedings observed that the assessee is a beneficiary of bogus unsecured loans from entities, managed and controlled by the entry operator Shri Rajkumar Kothari. The Id. AO noted in para 7, the details of three parties from whom the assessee borrowed aggregating to ₹1,50,00,000/- and paid interest thereon of ₹4,99,125/-. During the course of assessment proceedings, the assessee furnished before the Id. AO the details / evidences qua these loans and proved the repayments also. We note that TDS was deducted on the interest paid on the said loans. The Id. AO also issued notice u/s 133(6) of the Act

to the lender entities and noted that from one lender Divya Electronics Pvt. Ltd. incomplete reply was received whereas the other two parties namely Paritosh Electricals P. Ltd. and Vivek Barter Pvt. Ltd. did not reply. Consequently, the Id. AO issued show cause notice to the assessee as to why the amount of loan along with interest thereon should not be added to the income of the assessee which was replied by the assessee. Finally, the Id. AO added the amount of unsecured loans as unexplained cash credit u/s 68 of the Act on the ground that the assessee failed to establish the identity, creditworthiness of the lenders and genuineness of the transactions. The Id. AO also disallowed the interest paid of ₹4,99,125/- on the above said unsecured loans. Besides the Id. AO made an addition towards commission for arranging bogus accommodation entries at the rate of 0.50% which worked out to Rs.75,000/-.

04. In the appellate proceedings, the Id. CIT (A) deleted the addition by holding that the assessee has furnished all the details / evidences before the Id. AO and the Id. AO has failed to carry out any further enquiries of these evidences nor pointed out any defects in the evidences. The Id. CIT (A) dealt with the observations of the Id. AO that lending entities did not have minimum financial strength to extend such funds to the assessee and also observations in the assessment proceedings as well as remand proceedings that they have very weak parameters like 'fixed assets', 'Turnover', 'Rent Payment', 'PBT', 'PAT', 'total other income', etc. The Id. CIT (A) held that the financial strength cannot be determined based on the aforesaid parameters by relying on the decision of Hon'ble Delhi High Court in case of CIT vs. Ms. Mayawati 338 ITR 563 dated 03.08.2011. The Id. CIT (A) also noted that the assessee had repaid these loans along with

interest in the subsequent assessment years and therefore, the addition cannot be made u/s 68 of the Act by relying on the decision of Hon'ble Calcutta High Court in case of PCIT Vs. Alom Extrusions Limited [ITAT/268/2024] vide order dated 17.12.2024. Ambe Tradecorp (P) Ltd. Vs. PCIT (2022) 145 taxmann.com 27 (Gujarat). The Id. CIT (A) also followed the decision of Hon'ble Supreme Court in case of CIT Vs. Orissa Corporation Pvt. Ltd. 159 ITR 78 (SC). The Id. CIT (A) by relying on the above decision observing and holding as under:-

"6.2.18. In view of the various judicial pronouncements cited by assessee together with various evidential documents submitted by the assessee, it can be inferred that since the assessee had taken loan in case of normal business and repaid the said loan through banking channel in the next FY, the assessee cannot be said to be beneficial owner of the money without any cogent evidence brought by the AD on record and addition under section 68 made by the AO cannot be sustained. Additionally, as discussed above, the assessee's burden is confined to prove identity of the creditors, creditworthiness of creditor and genuineness of the transaction with reference to transaction between assessee and creditor and the same cannot be extended to include source of such creditor for the purpose of section 68 of the Act. The burden of the assessee to prove the genuineness of the transactions as well as the creditworthiness of the creditor must remain confined to the transactions, which have taken place between the assessee and the creditor. In the present case, the assessee had received unsecured loan of Rs. 1,50,00,000/- from the said three lending entities (supra) through banking channel and also repaid the same during the subsequent years through banking channel and the same is well reflected in the Tax Audit Report. The acceptance of loan has been established vide the confirmation and bank statements filed during the appellate proceedings. Hence, the addition of Rs. 1,50,00,000/- made by the AO u/s 68 of the Act is deleted

6.2.19. As the addition on the unsecured loan has been deleted by the AO, the corresponding addition on interest payments against the such loans of Rs. 4,99,125/- is also liable to be deleted as the same was paid by the assessee through proper banking channel and the said was reflected in the audited P&L A/c and books of the assessee. Hence, the corresponding addition on such interest payments are also liable to be deleted. Further, the said interest payment was reflected in the audited books of accounts of the assessee and paid through banking channel. The AO had failed to bring any corroborative evidence on record to substantiate the fact that the aforesaid interests were paid from unexplained sources of the assessee and outside books of it. Hence, the disallowance u/s 36(1)(ii) can't be invoked in any manner. Therefore, the addition totaling to Rs. 4,99,125/- is hereby deleted. Consequently, these grounds of appeal raised by the assessee are allowed.

6.2.20. Again, the assessee's contention in this ground No. 3 is perused. As in the discussions made in the above grounds, the afore-mentioned unsecured loan transactions are declared to be genuine, there no question arises in respect of availing entry by the assessee from any entry operator. The investigation wing as well as the AO had neither found any incriminating evince which can prove that the assessee had actually paid Rs.75,000/- to the said lending entities for availing any accommodation entry nor the said lending entities and their directors or key persons had admitted that they had taken such commission 0.5% against accommodation entry. Hence, the AO's observation that there may be expenses incurred by the assessee in respect of commission paid to the entry operators is nothing but an Imaginary fictional story. Hence, in view of the above the addition of Rs. 75,000/- as estimated by the AO @0.5% of total loan of Rs.1,50,00,000/- is liable to be deleted. Hence, this ground of the assessee is also allowed."

05. After hearing the rival contentions and perusing the material on record, we find that in this case, the assessee has received loans from three parties. We note that the assessee filed all the evidences/documents qua the said loans before the AO as well as before the Ld. CIT(A). We also note that the notices issued u/s 133(6) of the Act to all the three lenders were not complied with by two whereas the third one filed incomplete details. We also note that the Ld. CIT(A) has also recorded a detailed finding of fact that these loans were repaid in the subsequent years and therefore, no addition can be made u/s 68 of the Act. In this case we find that the assessee has filed all the evidences before the AO qua these loans and AO has not pointed out any defects in the said evidences except that the lenders were having very less operational income, no fixed assets, not paying any rent etc by ignoring the fact that lenders have sufficient funds in the form of share capital/reserves and surplus. In our opinion the addition made on this basis is wrong and cannot be sustained as has been held by Hon'ble Delhi High Court in the case of CIT Vs. Ms. Mayawati (supra) wherein the exactly same ratio was laid.
06. In the present case the assessee has filed all the evidences before the AO and Ld. CIT(A) and established that the repayment of loans made

in the subsequent financial year. 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 us/ 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, muchless 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."

07. Considering the facts of the assessee's case in the light of the aforesaid decisions, we do not find any infirmity in the order of the Id. CIT (A). Hence, the appeal of the Revenue is dismissed.
08. The issue raised in other appeals for A.Ys. 2016-17 to 2020-21, bearing ITA Nos. 1657 to 1661/KOL/2025 are similar to one as decided by us in ITA No. 1656/KOL/2025. Accordingly, our decision would, mutatis mutandis, apply to these appeals of assessee for A.Ys. 2016-17 to 2020-21 as well. Hence, the appeals of Revenue are dismissed.
09. In the result, allthe appeals of the Revenue are dismissed.

Order pronounced in the open court on 11.11.2025.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 11.11.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

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