

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

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

**ITA No.1566/KOL/2025  
(Assessment Year: 2015-16)**

**Income Tax Officer, Ward 11(1)**

**Kolkata**

Aayakar Bhawan P-7,  
Chowringhee Road, 6<sup>th</sup> Floor,  
Room No.6/20, Kolkata-700069,  
West Bengal,

**(Appellant)**

**Kish Engineering Pvt. Ltd.**

138Q, Pinic Garden Road,  
Kolkata-700039,  
West Bengal

**Vs.**

**(Respondent)**

**PAN No. AABCK3454G**

**Assessee by** : Shri S.K. Tulsiyan &  
Ms. Lata Goyal, AR  
**Revenue by** : Shri Dipu Koley, DR

**Date of hearing:** 28.10.2025  
**Date of pronouncement:** 11.11.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 29.05.2025 for the AY 2015-16.

02. In all the grounds there are two effective issues raised by the Revenue.
03. First, effective issue is against the order of Id. CIT (A) deleting the addition partly equal to 50% of the total disallowance of ₹25,76,473/- in respect of "other expenses and interest expenses" without any basis that too without any evidences from the assessee.

04. The facts in brief are that the assessee filed the return of income on 31.10.2015, declaring total loss of ₹3,77,85,008/-. The case of the assessee was selected for scrutiny and the statutory notices along with questionnaire were issued and duly replied by the assessee. During the course of assessment proceedings, the Id. AO noted that the case was heard with the authorized representative of the assessee. The Id. AO during the course of assessment proceedings upon perusal of the evidences and accounts of the assessee observed that the assessee has debited a sum of ₹20,84,784/- under the head of other expenses and ₹4,91,689/- under head interest expenses. Accordingly, the AO called upon the assessee to furnish the breakup/ details of such expenses along with evidences. When assessee failed to furnish the evidences, the Id. AO disallowed the entire expenses claimed aggregating to ₹25,76,473/- in profit and loss account and added the same to the income of the assessee.
05. In the appellate proceedings, the Id. CIT (A) partly allowed the appeal of the assessee by deleting 50% of the total disallowances after taking into consideration all submissions/ evidences furnished by the assessee. The Id. CIT (A) while partly allowing the appeal of the assessee on this issue noted that the Id. AO has only disallowed these expenses on the ground that breakup and supporting evidences were not furnished. The Id. CIT (A) in para no.10.3 of the appellate order noted that the assessee submitted the expenses incurred during the year were in the nature of electricity charges, legal fee, printing and stationery, telephone expenses and interest expenses. The Id. CIT (A) examined the breakup of such expenses. The Id. CIT (A) thereafter noted that these expenses were required to be incurred for running the business on day-to-day basis. However, in absence of any documentary evidences of these expenses being incurred wholly and

exclusively for the purpose of business, the Id. CIT (A) confirmed the disallowance equal to 50% of the total expenses thereby deleting the addition to the extent of ₹12,88,286/- and sustaining the addition to an equal extent.

06. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) noted that these expenses were incurred by the assessee under various heads such as electricity charges, legal expenses, printing and stationery, travelling, telephone and interest etc. which are normally incurred for the purpose of business. However, the Id. CIT (A) noted that in absence of any documentary evidences, whether these expenses were wholly and exclusively incurred for the purpose of business could not be ascertained. Therefore, restricted the addition to 50% of the total disallowance. In our opinion, the order of Id. CIT (A) is very reasonable. Therefore, we are inclined to uphold the same by dismissing the first issue raised by the Revenue.
07. The second effective issue raised by the Revenue is against the order of Id. CIT (A) deleting the addition of ₹3,60,00,000/- as made by the Id. AO in respect of unsecured loans of ₹3,60,00,000/- from Wesman Thermal Engineering Process Pvt. Ltd.
08. Accordingly, the assessee was called upon to furnish the details/evidences qua the said loan creditor. However, the assessee failed to furnish any reply except the copy of account and therefore, the assessee has failed to discharge the onus cast upon the assessee under section 68 of the Act. Accordingly, the Id. AO disallowed and added a sum of ₹3,90,00,000/- as unexplained cash credit u/s 68 of the Act in the books of the assessee comprising ₹3,60,00,000/- from

Wesman Thermal Engineering Process Pvt. Ltd. and ₹30,00,000/- as advance towards rehabilitation charges.

09. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee by deleting both the additions of ₹3,60,00,000/- being received from Wesman Thermal Engineering Process Pvt. Ltd. and 30,00,000/- lacs on account of rehabilitation charges. The Revenue has challenged before us only deletion of amount received from Wesman Thermal Engineering Process Pvt. Ltd. The Id. CIT (A) in Para 3.3. noted that ₹3,60,00,000/- received from Wesman Thermal Engineering Process Pvt. Ltd. was a trade advance received from the Wesman Thermal Engineering Process Pvt. Ltd. for carrying out conversion works in the ordinary course of business. The Id. CIT (A) noted that advance was received against the sales bills raised by the appellant and thus, the said amount was received in the ordinary course of business and the transactions were explained satisfactorily. Accordingly, the Id. CIT (A) deleted the addition.
010. After hearing the rival contentions and perusing the materials available on record, we note that the assessee has not raised any loan from Westman Thermal Engineering Process Pvt. Ltd. as observed by the Id. AO and Id. CIT (A) has correctly observed that amount received was on account of trading advance received in the ordinary course of business which was adjusted against the sale bills. We note that the assessee has regularly been receiving advances from said customer which were being regularly adjusted against the sale bills as is apparent from the copies of ledger accounts available in the paper book from page no.108 to 122 in respect of A.Y. 2015-16 and from page no. 134 to 175 in respect of A.Y. 2016-17. The case of the assessee is squarely covered by the decision of Hon'ble Apex Court in

the case of PCIT Vs. Montage Enterprises Pvt. Ltd. reported in (2018) 100 taxmann.com 100 (SC), wherein Hon'ble Supreme Court has held as under:-

*"Section 68, of the Income-tax Act, 1961-Cash credit (Trade advance) - In course of assessment, Assessing Officer made additions to assessee's income under section 68 in respect of trade advances - Commissioner (Appeals) and Tribunal deleted said addition finding that trade advances received by assessee were adjusted against sales made in subsequent years. High Court upheld order passed by Tribunal. Whether, on facts, SLP filed against decision of High Court was to be dismissed Held, yes [Para 2][In favour of assessee]."*

011. Similarly, the case of the assessee find support from the decision of co-ordinate Bench in case of Narendra Nath Paul Vs. ITO in ITA No. 2284/KOL/2014, wherein it has been held as under:-

*"Reliance is also placed on the decision of the Hon'ble jurisdictional Tribunal in the case of Narendra Nath Paul vs. ITO (ITA No.2284/Kol/2014), wherein it was held as under: copy enclosed at pages 179-181 of the P/B.*

*I have considered the rival submissions and also perused the relevant material available on record. It is observed that the advances in question were stated to be received by the assessee from his dealers and two of such dealers had also appeared before the Assessing Officer and confirmed of having given such advances to the assessee.*

*Moreover, the said advances were adjusted against the sale subsequently made by the assessee to the concerned M.R. Dealers and such sale was duly accounted for by the assessee in his books of account regularly maintained. It appears that these vital facts, however, have been lost sight off by the authorities below and they have mainly decided the issue going by the aspect of preponderance of probabilities. No doubt the preponderance of probabilities can be taken into consideration for deciding the issue if it is found that what is apparent is not real. However, if the facts of the present case are considered in the light of the evidence brought on record by the assessee, it was a case of advances received by the assessee in cash from his dealers and the same having been adjusted against the sale subsequently made to the said dealers, there was no reason to apply the theory of preponderance of probabilities, especially when there was nothing brought on record to doubt the explanation offered by the assessee. There was also no inquiry made by the Assessing Officer with the concerned dealers to establish that what was stated by the assessee is not correct. On the other hand, at least two dealers were produced by the assessee for verification before the Assessing Officer and they admitted of having been given the cash advances to the assessee. Having regard to all these facts of this case, I am of the view that all the advances except the advance of Rs.1,20,000/-received by the assessee on 30.03.2009 having been*

*already adjusted against the sales made by the assessee to the concerned Dealers and the sales so made having been duly accounted for by the assessee, the corresponding advances could not be added to the total income of the assessee under section 68 treating the same as unexplained. As regards the advance of Rs.1,20,000/- claimed to be received by the assessee on 30.03.2009, 1, however, find that the assessee has failed to explain the same in terms of section 68 and the addition made by the Assessing Officer and confirmed by the Id. CIT(Appeals) to this extent is liable to be sustained. 1, therefore, modify the impugned order of the Id. CIT(Appeals) and sustain the addition of Rs. 11.15.131/- made by the Assessing Officer under section 68 to the extent of Rs. 1,20,000/-"*

012. Therefore, considering the facts of the assessee's case in the light of the aforesaid decisions, we are inclined to uphold that the Id. CIT (A) on this issue who has correctly passed the order by holding that advances received in the normal course of business cannot be added u/s 68 of the Act when the advances are adjusted against the sale bills . Therefore, we do not find any infirmity in the order of Id. CIT (A) and accordingly uphold the same on this issue by dimssing the appeal of the revenue on this issue.

013. On the additional evidences, we note that all the details were available before the Id. CIT (A) which were filed by the assessee in compliance to direction of Id. CIT (A). Therefore, the same cannot be considered as additional evidences. Therefore, issue raised by the Revenue is devoid of any merit and accordingly, dismissed.

014. In the result, the appeal of the Revenue is 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