

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

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

**ITA Nos. 1877 & 1878, 1879 & 1880, 1881/KOL/2024
(Assessment Years: 2014-15, 2015-16, 2016-17)**

M/s NG Brothers
3rd Floor, Room No. 1E, 29B,
Rabindra Sarani,
Kolkata-700073, West Bengal

Vs.

ACIT, Circle-40,
Income Tax Office,
Govt. Place (West),
Kolkata-700001,
West Bengal

(Appellant)

(Respondent)

PAN No. AAEFN7669N

Assessee by : Shri Miraj D. Shah, AR
Revenue by : Shri Madhumita Das, DR

Date of hearing: 15.10.2025
Date of pronouncement: 19.11.2025

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 08.07.2024, 08.07.2024 and 26.07.2024 for the AY 204-15, 2015-16 and 2016-17. The penalties were levied u/s 271(1)(c) of the Act by the NFAC (national Faceless Assessment Centre), Delhi for A.Y. 2014-15 and 2015-16 vide even order dated 15.06.2021.

2. As the facts and circumstances are similar in all the appeals and these all relates to the same assessee, these are being decided by

this consolidated order for the sake of brevity. We first decide the appeal in ITA no. 1877/KOL/2024 for A.Y. 2014-15.

A.Y. 2014-15

ITA No. 1877/KOL/2024

3. The issue raised in ground no.1 and 2 is against the confirmation of addition by Id. CIT (A) as made by the Id. AO on account of unexplained cash credit u/s 68 of the Act.

3.1. The facts in brief are that the assessee filed the return of income on 09.09.2014, declaring total income at ₹27,34,820/-. The case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 27.03.2019, which was complied with by the assessee by filing the return of income on 09.04.2019. Thereafter, statutory notices were issued and served upon the assessee along with questionnaire which were complied by filing the necessary evidences/ documents. During the course of assessment proceedings, the Id. AO noted that the assessee has taken unsecured loan from two parties namely Ms. Shresth Builders Pvt. Ltd. and BSR Finance and construction Pvt. Ltd. of ₹22,00,000/- and ₹50,00,000/- respectively. The Id. AO treated the loans as unexplained cash credit on the ground that the assessee failed to provide sufficient evidences to substantiate the identity, creditworthiness of the lenders and the genuineness of the transactions. The Id. AO also noted that the Inspector deputed to verify these lender companies, could not trace lenders' offices. Finally, the addition was made to the income of the assessee as unexplained cash credit u/s 68 of the Act.

3.2. In the appellate proceedings, the Id. CIT (A) confirmed the addition made by the Id. AO simply confirming the order of Id. Assessing Officer.

4. After hearing the rival contentions and perusing the materials available on record, we find that the assessee raised the above said loans from two parties. The assessee filed before the Id. AO evidences qua the said loan creditors i.e. names, addresses, PAN numbers, audited financial statements, confirmations, etc. However, according to the Id. AO, the reply furnished by the loan creditors u/s 133(6) of the Act did not prove the creditworthiness of these lenders and therefore, the Id. AO treated these loans as unexplained. The Id. CIT (A) simply affirmed the order of the Id. AO. We note that the loans raised by the assessee company were repaid in the subsequent assessment years and evidences to that effect were available before the authorities below. Therefore, once the assessee established that the loans raised by the assessee were repaid in the subsequent financial years then in our opinion, the provisions of Section 68 of the Act cannot be invoked as the subsequent payments made by the assessee cannot be considered in isolation. 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 there 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.

4.1. In view of the above, we set aside the order of Id. CIT (A) direct the Id. AO to delete the addition. Ground no.1 and 2 of this appeal are allowed.

5. The issue raised in ground no. 3 is against the confirmation of addition of ₹2,16,000/- by Id. CIT (A) as made by the Id. AO towards commission paid for arranging bogus unsecured loans.

6. Since, we have allowed ground no.1 and 2 by directing the Id. AO to delete the addition made in respect of unsecured loans raised from

these parties, this being a consequential issue to ground no.1 and 2 therefore, we set aside the order of Id. CIT (A) on this issue as well and direct the Id. AO to delete the addition. The ground no 3 is allowed.

7. The issue raised in ground no.4 is against the order of Id. CIT (A) confirming the addition of ₹99,649/- as made by the Id. AO no account of interest paid on bogus unsecured loans.

7.1. We have allowed ground no. 1 & 2 in the above para in favour of the assessee by directing the Id. AO to delete the addition made u/s 68 of the Act as unexplained cash credit. This being a consequential issue to ground no. 1& 2 as decided by us in above para. Accordingly, we set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition. The ground no. 4 is allowed.

8. Even on the legal issue, we note that the reopening of assessment made by the Id. AO based is upon the reasons recorded in A.Y. 2016-17, which in our opinion, is not permissible under the Act. In order to invoke the provisions of Section 147 of the Act by the Id. AO, the Id. AO has to record his satisfaction and reasons to believe independently for each assessment year separately. In our opinion, the reopening of assessment based upon the reasons recorded in A.Y. 2016-17, is incorrect and cannot be sustained. Therefore, even on this issue, the reopening of assessment as well as assessment framed by the Id. AO consequently, cannot be sustained.

A.Y. 2015-16

ITA No. 1879/KOL/2024

9. The issue raised in ground no. 1 of this appeal, is similar to ground no.1 and 2 as decided by us in ITA No. 1877/KOL/2024. Accordingly,

our decision would, mutatis mutandis, apply to ground no.1 of this appeal of assessee as well . Hence, ground no.1 of this appeal is allowed.

10. The issue raised in ground no.2 of this appeal, is similar to ground no. 3, as decided by us in ITA No. 1877/KOL/2024. Accordingly, our decision would, mutatis mutandis, apply to ground no.2 of this appeal of assessee. Hence, ground no.2 of this appeal is allowed.
11. The issue raised in ground no.3 of this appeal, is similar to ground no. 4, as decided by us in ITA No. 1877/KOL/2024. Accordingly, our decision would, mutatis mutandis, apply to ground no.3 of this appeal of assessee. Hence, ground no.3 of this appeal is allowed.

A.Y. 2016-17

ITA No. 1881/KOL/2024

12. The issue is against the confirmation of addition of ₹1,94,61,213/- by the Id. CIT (A) as made by the Id. AO on account of unexplained cash credit u/s 68 of the Act.

12.1. During the year, the assessee took unsecured loans from two parties namely; Hopewell Dealcom Pvt. Ltd. amounting to ₹60,00,000/- and from M/s Shresth Builders (P) Ltd. amounting to ₹1,11,63,213/-. However, while passing the order the Id. AO made additions in respect of certain loans from some parties from whom no loans were raised during the year and thus addition was made wrongly. For the sake of ready reference the table is extracted below:-

SL No.	Name of the Party	Pan		Principal Amt	Interest Added by the AO	Loan Refunded AY
--------	-------------------	-----	--	---------------	--------------------------	------------------

1.	Aanchal Tradelink Ltd.,	AAICA9766E	Nil	3,60,000 No Loan Taken	3,98,880 Correct amt is 3,60,000	2021-22
2.	Hopewell Dealcom Pvt. ltd.	AACCH5526P	0	60,00,000	6,00,000 Should be Nil	Not refunded
3.	BSR Finance and Constructions Ltd.,	AABCB0636K		12,78,000 No loan taken	14,16,204 Should be 12,78,000	2016-17
4.	Ishan Tie-up Pvt. Ltd.	AAACI5648F		0	50,080 Wrong .Interest already paid	2015-16
5.	Shresth Builders (P). Ltd.	AADCS7759J		1,11,63,213 Wrong actual loan was 1,00,00,000/-	17,21,627 Correct amt is 11,63,213/-	2020-21
6.	Multiplus Resources Ltd. and Dharapati Distributors Pvt. Ltd.,	AABCM7570K		4,56,000 No loan taken	5,05,248 Correct amt is 4,56,000	2021-22
7.	Dharapati Distributors Pvt. ltd.	AADCD6312J		2,04,000 No loan taken	2,26,032 Correct amt is 2,04,000	2021-22
	Total			1,94,61,213	49,18,071	

12.2. So far as the loan received from Hopewell Dealcom Pvt. Ltd. is concerned, we note that assessee has taken ₹60 lacs unsecured loan from the said party and during the course of assessment proceedings, the assessee has furnished all the evidences qua the loan such as address, PAN number, loan confirmation, bank statements, etc. However, the Id. AO in the assessment order noted that the loan creditor never responded to the summon issued nor assessee tried to produce the party before the Id. AO. As regards other unsecured loans added by the AO there was in fact no loans raised from these parties during the year as is apparent from the above table . As regards loan from Shresh Builders Pvt Ltd. is

concerned , the assessee filed all the evidences before the AO and laon was repaid also. The assessment framed by the AO was also confirmed by the Id. CIT (A).

12.3. We also note that the AO had made an addition of ₹3,60,000/- on account of unsecured loan taken from Aanchal Tradelink Ltd., which is factually incorrect as the loan was not taken loan during the year. It was the loan which was taken in the earlier assessment years and interest was provided amounting to ₹3,60,000/- for the same in the impugned assessment year. Therefore, this addition is wrong and cannot be sustained. Similarly, in respect of BSR Finance and Constructions Ltd., the Id. AO made addition of ₹12,78,000/- on account of loan taken. However, as a matter of fact no unsecured loan was raised from the said party and in fact paid the interest provided on the loan. We would like to mention that the Id. AO has disallowed the interest of ₹14,16,204/- to the said party while the correct amount of interest paid is 12,78,000/-. The loan raised from this party was refunded in the current assessment year. Therefore, we set aside the order of Id. CIT (A) on this issue and direct the Id. AO to delete the addition of ₹12,78,000/-.

12.4. Similarly, the loan raised from Shresth Builders (P). Ltd. during the year was ₹1 crores, whereas the Id. AO had taken the loan amount of ₹1,11,63,213/-, which is factually incorrect. In fact the Id. AO had taken interest provided on the said loan of ₹11,63,213/- as loan taken. Besides, the Id. AO disallowed the interest on the said loan of ₹17,21,627, which is also incorrect and the correct amount is ₹11,63,213/-. Therefore, the order of Id CIT(A) upholding the assessment order can not be sustained. We also note that the loan

was repaid in A.Y. 2020-21 , following our own decision in ITA no. 1877/KOL/2025 of ground no.1 and 2, we set aside the order of Id. CIT (A) on this addition and direct the Id. AO to delete the addition.

12.5. Similarly, in respect of Multiplus Resources Ltd. and Dharapati Distributors Pvt. Ltd., the Id. AO made an addition of ₹4,56,000/- and 2,04,000/- on account of unsecured loans. However, the assessee had not taken any loan from these entities during the year and were infact these amounts were paid towards interest provided on the unsecured loans taken in the earlier years. We note that the Id. AO has made an addition on account of interest of ₹5,05,248 and ₹2,25,032/-, which is incorrect and should be ₹4,56,000/- and ₹2,04,000/- respectively. We note that the loans raised from these parties in the earlier years were repaid in the subsequent financial year. Therefore, we set aside the order of Id. CIT (A) on this issue and direct the Id. AO to delete the addition.

13. The issue raised in ground no.2 of this appeal, is against the confirmation of addition of ₹5,85,338/- u/s 69C of the Act in respect of commission for arranging loans.

13.1. Since, we have already decided the issue in ground no.1, wherein we deleted the addition in respect of unsecured loans therefore, this being a consequential issue and accordingly, we set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition. The ground no.2 of this appeal is allowed.

14. The issue raised in ground No.3 of this appeal is against the confirmation of addition of ₹49,17,891/- by Id. CIT (A) as made by the Id. AO on account of interest disallowed on the above bogus loans.

14.1. We have discussed the facts of this case while deciding ground no.2, wherein we have held that the loans were either repaid or wrongly added by the Id. AO and thus, deleted the addition of ₹1,94,61,213/- in ground no.1. We also note that the Id. AO has disallowed the interest on the loans which were taken in the earlier assessment years. In our opinion, where the loan taken by the assessee in the earlier assessment year and were not held to be non-genuine or bogus and also stood repaid in the subsequent financial year. The interest thereon cannot be disallowed. Moreover, these being a consequential issue to ground no.1 and accordingly, we set aside the order of Id. CIT (A) on this issue and direct the Id. AO to delete the addition.

ITA Nos. 1878 & 1880/KOL/2024 (penalty appeal)

15. These are penalty appeals imposed by the Id. AO u/s 271(1)(c) of the Act and confirmed by the Id. CIT (A) in the appellate proceedings. Since, we have already deleted the addition in the quantum appeals (supra), therefore, these penalties do not survive and accordingly, we set aside the order of Id. CIT (A) and direct the Id. AO to delete the penalties.

16. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 19.11.2025.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 19.11.2025

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