IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 62/GTY/2025
Assessment Year: 2017-18

DCIT, Central Circle-1,
Aayakar Bhawan, Christian Basti,
GS Road, Assam – 781005 **.....Appellant**

vs.

Satish Jalan,
Howeel Road, Lalban,
Shillong - 793004
[PAN: ADCPJ0750D] **..... Respondent**

Appearances by:
Assessee represented by : S.P. Bhati, FCA

Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 04.11.2025
Date of pronouncing the order : 17.11.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal is time barred by 19 days, for which an application has been filed by the Revenue for condoning of the said delay as under:

> *"With due respect, the undersigned begs to state that, due to the following reasons the filling of appeal in Ld. ITAT got delayed. The reasons are as follows*
>
> *1. Recently one inspector of income tax posted in the Central Circle-1, Guwahati has been transferred to Delhi on deputation. However no substitute was given to this office, resulting in delay of many time bound works of this office.*
>
> *2. At the time of giving appeal effect, a system related error occurred in ITBA which further delayed the filling of appeal before Hon'ble ITAT.*
>
> *3. There are currently more than 300 time barred assessment and 200 penalty cases are pending in this office. Due to shortage of manpower it was delayed in the filing of appeal before Hon'ble ITAT.*

> *4. In view of the above bona fide, unintended delay of 60 days caused by this office is sincerely regretted and it is most humbly prayed by the undersigned that, the delay may kindly be condoned by your honour and allow filling of the appeals before the Ld. ITAT."*

1.1 In light of the application, the delay is hereby condoned and the appeal is admitted for adjudication.

2. The present appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), dated 24.12.2024, passed by the Ld. Commissioner of Income Tax (Appeals), NER, Guwahati [hereafter "the Ld. CIT(A)].

2.1 During the assessment proceedings, the assessee allegedly did not provide any details in response to the notices issued by the Ld. AO, through which details of impugned transactions, such as purpose, loan agreement, contract, proof of source of such funds from the lender's side, creditworthiness of the lender, bank statements of the lender's accounts, etc. In the absence of any confirmation or evidence produced by the assessee regarding genuineness of such loan, the said amount of loan amounting to Rs.2,50,00,000/- credited in the books of the assessee was added by the Ld. AO as unexplained cash credit u/s 68 of the Act.

2.2 The assessee carried this matter before the Ld. CIT(A) who granted relief on the basis of following findings:

> *"c) The details/documents related to Mr AA have been perused. There is an Affidavit from Mr AA in which it is affirmed that his Books of account have been audited and the Unsecured loan advanced to the Appellant has got duly reflected in the accounts. In support of the same, the copies of relevant ledger extracts and bank statements have been submitted. Thus, the genuineness of the loan stands established from the aforesaid documents alongwith the creditworthiness of Mr AA to extend loans of such quantum.*
>
> *d) In the impugned assessment order, it has been mentioned that the Appellant had received Unsecured loan during the year amounting to Rs. 2,50,00,000/- from Mr AA The AO has not mentioned the source of information which states that the said amount was the outstanding balance at the end of the year. The basis of calculation of such an amount has not been explained. The bank statements of the concerned parties were not examined by the AO. Hence, the*

additions made on random observations & calculations cannot be sustained.

6.2.3. Considering the above, it can be concluded that the AO was not justified in treating the loan credited in the Books of account as deemed income of the Appellant within the meaning of the provisions of Section 68 of the Act. Thus, the addition u/s 68 amounting to Rs. 2,50,00,000/- made in the assessment order is hereby deleted. Ground No. 2 is allowed accordingly."

2.3 Aggrieved with this action of Ld. CIT(A), the Revenue is in appeal with the following grounds:

"1. The Ld. CIT(A) erred in deleting the addition of 2,50,00,000/- made by the Assessing Officer under Section 68 of the Income Tax Act, 1961, without properly appreciating the fact that the assessee failed to substantiate the genuineness and creditworthiness of the lender, Mr. Aloysius Arengh. The lender did not comply with summons issued under Section 131, and his financial capacity remained unverified.

2. The Ld. CIT(A) failed to appreciate that the lender, Mr. Aloysius Arengh, did not respond to notices issued under Section 133(6), and his non-filing of ITR for the relevant years raised serious doubts about the authenticity of the unsecured loan. The assessee could not satisfactorily prove the identity, creditworthiness, and genuineness of the transaction, thereby justifying the addition made by the Assessing Officer.

3. The Ld. CIT(A) erroneously relied on the assessment order for A.Y. 2016-17, where the unsecured loan was accepted. However, the facts in the current assessment year (A.Y. 2017-18) are materially different. In A.Y. 2017-18, fresh evidence and non-compliance by the lender were established, which justified the addition made by the Assessing Officer. The Ld. CIT(A) failed to consider that past acceptance of a loan does not automatically validate subsequent loan transactions.

4. The Ld. CIT(A) overlooked the fact that Mr. Aloysius Arengh was involved in suspicious financial activities, including pending proceedings under Section 276CC for non-filing of ITR. The unsecured loan transaction was merely a colorable device to introduce unaccounted money into the books of the assessee, which warranted the addition under Section 68.

5. The id. CIT(A) failed to appreciate that the assessee was given sufficient opportunities during the assessment proceedings to establish the genuineness of the unsecured loan, but he failed to do so. The non-verification of bank statements and financial details of the lender led to an unjustified conclusion by CIT (A) in favor of the assessee. The assessment order was passed based on material evidence, and its findings should not have been disturbed without valid justification.

6. The appellant craves leave to add, alter, modify or amend any of the grounds of appeal during course of proceedings before the Hon'ble ITAT."

3. Before us, the Ld. DR argued with the help of written submissions

dated 11.07.2025. It was averred that the assessee did not cooperate during assessment proceedings and new documents and new evidences were produced before the Ld. CIT(A) on the basis of which the assessee got relief. It was averred that the Ld. CIT(A) was persuaded by documents pertaining to the immediately preceding year (A.Y. 2016-17) and at no stage did he involve the Ld. AO for any kind of verification etc. Thereafter, the Ld. DR read out from the written submissions as under:

> *"(iv) Ld. CIT(A) opined that the AO was not justified in treating the loan credited in the Books of account as deemed income of the Appellant within the meaning of the provisions of Section 68 of the Act, since, the AO has not mentioned the source of information which states that the said amount was the outstanding balance at the end of the year (Page-9, para-6.2.2.d). The basis of calculation of such an amount has not been explained. The bank statements of the concerned parties were not examined by the AO. Hence, the additions made on random observations & calculations cannot be sustained.*
>
> *[v] Page-9, para-622. in Ld. CIT(A)'s order, it has been stated that" The Appellant furnished copies of the assessment orders of both the parties (the Appellant and the creditor) for AY 2016-17. The audited financials, affidavit and bank statements of Mr. AA were also submitted and subsequently draws his opinion.*
>
> *Ld CIT(A) deleted the addition despite assessee's failure to substantiate the identity. creditworthiness, and genuineness of the lender, Mr. Aloysius Arengh During assessment, the lender did not comply with summons issued u/s.131. Hence, his financial capacity remained unverified. Section 68 mandates the assessee to discharge the primary onus, which was not done In this regard, reliance is placed on -CIT v. P. Mohanakala (2007) 291 ITR 278 (SC), NRA Iron & Steel (P) Ltd. v. CIT (2019) 412 ITR 161 (SC)*
>
> *Further, the lender (Mr AA) ignored notices u/s 133(6) and did not file ITRs for the relevant years, casting serious doubt on the transaction's authenticity. The assessee also could not provide Bank statements of the lender. Source of funds, Proof of repayment terms during assessment. Hence, additions u/s.68 are justified when the lender's creditworthiness is unproven In this regard, reliance is placed on -(CIT v. Nova Promoters & Finlease (P) Ltd. (2012) 342 ITR 169 (Del))*
>
> *The Ld. CIT(A) wrongly relied on the AY. 2016-17 order where the loan was accepted Material differences exist in AY 2017-18 Fresh evidence of non-compliance by the lender, No response to statutory notices, Pending proceedings against the lender. In this regard, reliance is placed on Judicial precedent, past acceptance does not validate subsequent transactions (CIT v Divine Leasing & Finance Ltd. (2008) 299 ITR 268 (Del)).*
>
> *Further, the lender is facing proceedings under Section 276CC for non-filing of ITRS, indicating dubious financial dealings. The transaction is a colorable device to introduce unaccounted money. In this regard, reliance is placed on – Sumati*

Dayal v. CIT (1995) 214 ITR 801 (SC), where unexplained credits were treated as income.

During assessment, the AD provided multiple opportunities to prove genuineness, but the assessee failed. The Ld. CIT(A) ignored the AO's findings based on material evidence, including non-verification of lender's bank statements, lack of financial details. In this regard, humble submission that Lơ. CIT(A) cannot delete additions without cogent reasons (CIT v. Rai Foundation (2020) 425 ITR 50 (Dell)

In light of the above, the Revenue prays that the Hon'ble Tribunal Set aside the Ld CIT(A)'s order and restore the AD's addition of 2,50,00,000/- under Section 68 and uphold the Department's appeal."

3.1 Per contra, the Ld. AR relied on the findings of the Ld. CIT(A), specially at page 9 of the impugned order (supra). It was stated that this lender, who for the sake of convenience will be referred to as Mr. A.A., was a genuine lender and had advanced loan to the assessee in the immediately preceding year also, which had been accepted by the Department. It was averred that the allegations levied against the assessee and Mr. A.A. by the present AO were not borne out by the facts on record since neither was the lender an unidentified person, nor was he a man of poor means who could be doubted to be able to advance any loan to the assessee. It was also pointed out that the Revenue has not taken any specific ground regarding denial of opportunity to the Ld. AO for examining the new material presented before the Ld. CIT(A). The Ld. AR pointed out several documents from a paper book filed before us, in his support.

4. We have carefully considered the rival submissions and have gone through the documents before us. This is a case where a previous year's assessment has been used to justify the impugned transaction seen in the present year. At this stage we may digress a bit and reflect on the classical principle about *"res-judicata",* as that principle has a material bearing on the present case.

The expression *'res judicata'* is a Latin phrase, which the Chambers Twentieth Century Dictionary defines as a '*cause or suit already decided'*.

It is a principle of common law and aimed at according finality to proceedings and disputes already settled by a competent court. Section 11 of the Civil Procedure Code recognises this as a principle of jurisprudence applicable to all proceedings. This principle operates where the issues are substantially the same between the same parties and the issue has been settled by a competent court provided that the proceedings are neither collusive nor fraudulent. The question for consideration is whether the doctrine of *res judicata* applies to Income Tax proceedings or not in the context that the income-tax authorities are not courts except for certain limited purposes.

An assessment year under the Income Tax Act, 1961 is a self-contained assessment period and a decision in the assessment year does not ordinarily operate as *res judicata* in respect of the matter decided in any subsequent year, for the Assessing Officer is not a court and he is not precluded from arriving at a conclusion inconsistent with conclusions of another year. It is open to the Assessing Officer, therefore, to depart from a decision in one year while taking a decision in a subsequent year since the assessment is final and conclusive between the parties only in relation to the assessment for the particular year in which it is made. A decision made in one year would be a relevant factor in the determination of similar question in a following year but ordinarily there is no bar against investigation by the Assessing Officer of the same facts on which a decision of an earlier year was arrived at. We may draw strength from the cases of Joint Family of Udayan Chinubhai v. CIT [1967] 63 ITR 416 (SC) and Dwarkadas Kesardeo Morarka v. CIT [1962] 44 ITR 529 (SC).

In M.M. Ipoh v. CIT [1968] 67 ITR 106, the Supreme Court held that the rule of *res judicata* does not apply so as to make a decision on question of facts or law in a proceeding for assessment in one year binding in another year and that the assessment and the facts found are conclusive

only in the year of assessment, the findings on a question of fact may be good and cogent evidence in subsequent years but when the same question falls to be determined in another year, they are not binding and conclusive. In Karnani Properties Ltd. v. CIT [1971] 82 ITR 547, the Hon'ble Supreme Court held that the rule of *res judicata* does not apply to taxation proceedings and that the decision of a High Court in one assessment year based on the Tribunal's findings does not preclude consideration in a future assessment of the question whether those facts and circumstances were correctly found by the Tribunal. In Maharana Mills (P.) Ltd. v. ITO [1959] 36 ITR 350, the Hon'ble Supreme Court held that the plea that the written down value of an asset once fixed cannot be re-determined again, was not acceptable and that there is no *estoppel or res judicata* involved.

The Hon'ble Allahabad High Court examined the doctrine of *res judicata* in tax proceedings in Kamalapat Motilal v. CIT [1950] 18 ITR 812, and the Hon'ble Court observed:

> *"There can be no doubt that if any question of right or title, which is not peculiar to the year of assessment has been decided by a competent court, the decision may be treated as res judicata in subsequent years, but the law is well-settled that if the decision is of the income-tax authorities, that decision cannot operate as res judicata. The income tax authorities cannot be treated as Court deciding a disputed point, except for the purpose mentioned in section 37, and further there is no other party before them and there are no pleadings. An assessment is inherently of a passing nature and it cannot provide an estoppel by res judicata in later years by reason of a matter being taken into account or not being taken into account by the 170 in an earlier year of assessment Final decisions on questions of law or fact, even by courts of law, can have binding effect only to the same set of facts and circumstances and cannot operate as res judicata when the facts are different. The decision must be confined to the particular set of facts or to the particular transaction and cannot he made applicable to other facts even if those facts are similar. Where the decision is as regards the title or the rights of the parties in some property or about the nature of the property, and the decision has nothing to do with fluctuations of the income, nor is it confined to the ascertainment of the value of the income for any particular year, the decision would operate as res judicata.*

The Hon'ble Kerala High Court also examined very comprehensively

the doctrine of *res judicata* in CIT v. S. Murugappa Chettiar [1992] 197 ITR 575. The Hon'ble Court observed:

> *"It is now settled law that the decision on question of income tax and rating assessments constitute an important exception to the general rules as to res judicata and as such, decisions given in regard to one year's tax or rates do not give rise to estoppel binding the parties in respect of another year's tax or rates. It is so, because such decisions by the income-tax authorities (within the meaning of section 116 of the Income-tax Act) are made at an administrative level in that they are not made by a court or a Tribunal in a les between two parties. Yet another reason that should be borne in mind in this content is that the question of the liability of the taxpayer for the subsequent year's tax or rate is not to be regarded as the some question as that of his liability for the first. Taxation and rating assessments are decisions sui generis to which the principles ordinarily governing judgments inter partes are not applicable It, therefore, follows that the doctrine of res judicata or estoppel by record does not apply to the decision of the income-tax authorities since they are not courts, that means a finding or a decision of an income-tox authority in one year can be departed from in a subsequent year. In other words, to the decisions of the income tax authorities cannot be attributed that finality which is needed to set up the estoppel per rem judicatum that arises in certain contexts from legal judgments up courts of competent jurisdiction*

The Hon'ble Allahabad High Court held in Shyam Sunder Gupta v. CIT [1963] 49 ITR 641 that a finding in an earlier year is not altogether irrelevant. Although, the principles of *res judicata* do not apply to tax proceedings, the decision in an earlier year can be disturbed in subsequent years in certain circumstances as summed up by the Punjab and Haryana High Court in CIT v. Dalmia Dadri Cement Ltd. [1970] 77 ITR 410. The relevant portion is extracted below:

> *"...as a general rule, the principle of res judicata is not applicable to decisions of the income tax authorities. An assessment for a particular year is final and conclusive between the parties only in relation to the assessment for that year and the decisions given in un assessment for on earlier year are not binding either on the assessee or the department in a subsequent year. But this rule is subject to limitation, for there should be finality and certainty in all litigations including litigation arising out of the Income tax Act and an earlier decision on the same question cannot be reopened if that decision is not arbitrary or perverse, if it had been arrived at after due inquiry, if no fresh facts are placed before the Tribunal giving the later decision, and if the Tribunal giving the earlier decision has taken into consideration all material evidence"*

4.1 The above discussion reveals that while it is true that the principle of res-judicata would not apply to tax proceedings, it is also true that

material evidence collected in an earlier year will have evidentiary value. We find that ground of appeal number 3 does mention fresh evidence but because of the poor drafting this action of Ld. CIT(A) in not involving the Ld. AO in terms of verification of fresh evidence filed before him, has not been explicitly stated. However, it is an admitted fact that the assessee did not make substantial compliance to the notices issued by the Ld. AO and thus it is evident that the Ld. CIT(A) has been persuaded by new documents and evidences filed before him, which was not before the Ld. AO. We also have to take note of the submissions by the Revenue that the lender, Mr. A.A. is facing proceedings under Section 276CC of the Act for a variety of alleged infractions. Considering the totality of facts and circumstances of this case, we deem it fit to set aside the impugned order and remand this matter back to the file of Ld. AO for fresh assessment. It is expected that the assessee would produce whatever documents he has in his possession to prove the bonafides of the impugned transactions and the Ld. AO would be free to examine the same and conduct any enquiries as deemed fit and also to examine Mr. A.A. if so required. We direct accordingly.

5. In result, appeal of the Revenue is allowed for statistical purposes.

Order pronounced on 17.11.2025

Sd/-	Sd/-
[Manomohan Das]	**[Sanjay Awasthi]**
Judicial Member	**Accountant Member**

Dated: 17.11.2025
AK, Sr. PS

Copy of the order forwarded to:
1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches