

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

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

**ITA No.1291/KOL/2025
(Assessment Year:2011-12)**

DCIT
110, Shanti Pally,
Aayakar Bhawan Poorva,
Kolkata-700107, West Bengal

(Appellant)

GLIX Securities Private Limited
1st Floor 1, Grant Lane,
Kolkata-700012, West Bengal

Vs.

(Respondent)

PAN No. AABCG1844J

CO No. 66/KOL/2025

(Arising in ITA No. 1291/Kol/2025 for A.Y. 2011-12)

GLIX Securities Private Limited
1st Floor 1, Grant Lane,
Kolkata-700012, West Bengal

(Appellant)

Vs.

DCIT
110, Shanti Pally,
Aayakar Bhawan Poorva,
Kolkata-700107, West Bengal

(Respondent)

Assessee by : Shri Manish Tiwari, AR
Revenue by : Shri P.N. Barnwal, DR

Date of hearing: 14.10.2025
Date of pronouncement: 02.12.2025

ORDER

Per Rajesh Kumar, AM:

The appeal of Revenue and CO of the assessee are against the order of the Commissioner of Income-tax (Appeals), Kolkata-21, (hereinafter referred to as the "Ld. CIT(A)") dated 14.02.2025 for the AY 2011-12.

ITA No. 1291/KOL/2025

02. The issue raised in the various grounds is against the deletion of addition of ₹ 9,35,00,000/- comprising Rs. 2,25,00,000/- in respect of share capital / share premium and Rs. 7,10,00,000/- in respect of unsecured loans which were made by the AO as unexplained cash credit u/s 68 of the Act.
03. The facts in brief are that the assessee filed the return of income on 27.09.2011, declaring total income of ₹89,968/-. The Id. AO on the basis of information available observed that during the year the assessee has raised share capital and unsecured loan from shell companies. Accordingly, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act. In response the assessee filed the return of income on 16.04.2018, declaring total income of ₹25,72,455/-. Thereafter notice u/s 143(2) of the Act and 142(1) of the Act along with questionnaire were issued to the assessee. The Id. AO also issued notices to the subscribers of the share and loan creditors. However, according to the Id. AO same were not replied. The Id. AO noted that though the assessee has filed the evidences in respect of share subscribers and loan creditors comprises, names, addresses, pan numbers, audited accounts, bank statements evidencing the payments received from the subscribers/ loan creditors. However, according to the Id. AO the summon issued u/s 131 of the Act were not complied with by most of the subscribers/ lenders. Finally, the Id. AO after discussing the modus operandi of the shell companies came to the conclusion that the share capital/ unsecured loans were nothing but assessee's own money brought back in to the business in the form of share capital/ unsecured loans and also that there was no compliance to the summons issued u/s

131/ 133(6) of the Act and accordingly, added the amount of share capital of ₹2,25,00,000/- as well as the unsecured loans of ₹7,10,00,000/- aggregating to ₹9,35,00,000/- as unexplained cash credit u/s 68 of the Act.

04. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee after taking into account the contention and submission of the assessee along with the evidences filed by the assessee called for the remand report from the Id. AO which was duly filed by the Id. AO before the Id. CIT (A) but in the remand report again the Id. AO noted the non-compliance to summon u/s 131 of the Act by the subscribers/ loan creditors. The Id. CIT (A) controverted the conclusion drawn by the Id. AO that the share subscribers/ loan creditors were not having any operating income during the year by relying on the decision of CIT Commissioner of Income-tax vs. Ms. Mayawati [2011] 338 ITR 563 (Delhi)/[2011]. The Id. CIT (A) while deleting the addition dealt with each subscriber from page no.47 to 56 by discussing the credential of each subscriber. Similarly, the Id. CIT (A) discussed each and every loan creditors from page no. 56 to 59 of the Paper Book, while deleting the addition. The Id. CIT (A) relied on the decision of Commissioner of Income-tax- 1 vs. Gagandeep Infrastructure (P.) Ltd. [2017] 80 taxmann.com 272 (Bombay)/[2017] 247 Taxman 245 (Bombay)/[2017] 394 ITR 680 (Bombay)/[2018] 302 CTR 493 (Bombay)[20-03-2017], Vodafone India Services (P.) Ltd. vs. Union of India [2014] 50 taxmann.com 300 (Bombay)/[2015] 228 Taxman 25 (Bombay)/[2014] 368 ITR 1 (Bombay)/[2014] 271 CTR 488 (Bombay)[10-10-2014], wherein it has been held that source of source need not be established in the cases prior to A.Y. 2013-14 as amendment in the statute to Section 68 of the Act came into operation from A.Y. 2013-14. The Id. CIT (A) also relied on the

decision of Principal Commissioner of Income-tax vs. Sreeleathers [2022] 143 taxmann.com 435 (Calcutta)/[2022] 448 ITR 332 (Calcutta)[14-07-2022] while deleting the addition in respect of unsecured loans. The Id. CIT relied on the decision of Principal Commissioner of Income-tax vs. Ambe Tradecorp (P.) Ltd. [2022] 145 taxmann.com 27 (Gujarat)/[2023] 290 Taxman 471 (Gujarat)[05-07-2022] by recording a finding of fact that the loans raised by the assessee were duly repaid in the subsequent years.

05. After hearing the rival contentions and perusing the materials available on record, we find that in this case the Id. AO made an addition in respect of share capital/ share premium amounting to ₹2,25,00,000/- raised from eight subscribers and unsecured loans of ₹7,10,00,000/- from five loan creditors. During the course of assessment proceedings, we note that the assessee furnished before the Id. AO all the evidences/ documents qua the subscribers as well as loan creditors. We note that the summon u/s 131 of the Act and notice u/s 133(6) of the Act were issued. There was part compliance from the subscribers/ loan creditors. The Id. CIT (A) discussed the issue at length in the appellate order from page no.47 onwards discussing each and every subscriber as well as the loan creditors. We note that the assessee has filed all the evidences before the Id. AO and therefore, making the addition merely on the ground that the summons was not complied to and the subscribers have meagre income is not correct. The Id. CIT (A) has rightly deleted the addition in respect of share capital/ share premium of ₹2,25,00,000/- by relying on the decision of PCIT Vs. Sreeleather (supra) and Gagandeep Infrastructure (P.) Ltd. (supra). Therefore, we uphold the order of Id. CIT (A) on this issue.

06. So far as the second addition of Rs. 7,10,00,000/- in respect of unsecured loans is concerned, the facts are discussed hereinabove. We find that the Id. CIT (A) has recorded clear finding of fact that these loans were repaid in the subsequent years. 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 made in the subsequent financial years. 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, 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.*

07. Considering the facts of the case before us in the light of the above decisions , we are inclined to uphold the appellate order on this issue by dismissing the revenue appeal.

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08. The CO of the assessee is not pressed at the time of hearing, hence dismissed.

09. In the result, the CO of the assessee and Revenue's appeal are dismissed.

Order pronounced in the open court on 02.12.2025.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated:02.12.2025

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