

**IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member  
and Shri Ratnesh Nandan Sahay, Accountant Member**

**I.T.A. No.436/Ran/2024**

Assessment Year: 2015-16

ACIT, CC, Jamshedpur.....Appellant

vs.

**Benko Traders Pvt. Ltd.....Respondent**

119, 4<sup>th</sup> Floor, Block D, White House,

Park Stree, WB – 700016.

**[PAN: AABCB1888R]**

**Appearances by:**

Shri Akshay Ringasia, AR, appeared on behalf of the appellant.

Shri Khubchand T. Pandya, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 07, 2025

Date of pronouncing the order : December 17, 2025

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-3, Patna for the assessment year 2015–16 dated 25.09.2024 passed u/s 250 of the Income Tax Act (the ‘Act’).

2. Brief facts of the case are that the assessee filed its return of income under section 139 of the Act declaring a total income as Nil. The return was processed under section 143(1). Subsequently, the case was selected for scrutiny and an assessment under section 143(3) was completed on 28.11.2017 determining the total income at ₹9,88,28,406. Based on information received from the Investigation Wing, Mumbai, relating to alleged use of stock exchange platform (BSE/NSE) for generating fictitious long-term/short-term capital gains through certain scripts and alleged accommodation entries, the Assessing Officer recorded reasons under section 147 of the Act. A notice under section 148 was issued the assessee filed its return declaring the same income

as earlier. Assessee had filed objections to reopening but rejected. Statutory notices under sections 143(2) and 142(1) were issued and complied with. According to the AO, income of ₹1,64,60,100 representing sale proceeds of shares was to be treated as unexplained cash credit under section 68 of the Act, along with commission expenditure of ₹3,29,202 @2% under section 69C, and unsecured loans of ₹59,00,000 received from two corporate entities were also to be treated as unexplained under section 68 of the Act. The AO completed reassessment under section 147 determining the total income at ₹2,26,89,300.

3. Aggrieved, the assessee preferred an appeal before the CIT(A), who deleted the additions observing as under:

*“Appellate findings:*

*I have heard the rival submissions and perused the orders of the Ld.AO and the material available on record.*

*In his written submission the Ld. AR stated that the Ld. AO has grossly erred in adding the profit derived in derivative transaction amounting to Rs. 1,64,60,100/-, which had already been included in profit & loss account of the assessee, in total disregard of the settled principal of Act & law that there cannot be double taxation of any particular income.*

*On perusal of material available on record, it is noticed that, the assessee has done the impugned transaction in derivative through recognized platform of BSE/NSE Registered Broker "M/s. Maverick Brokers Pvt Ltd registered with SEBI. The assessee company had received in total Rs.8.83.29.656/- from the same broker. M/s Maverick Share Brokers Limited - a substantially lot more than that has been alleged as a bogus trading receipt of Rs 1.64,60,100/- through an unnamed broker M/s. Maverick Share Brokers Limited, which it has been shown as profit in the profit & Loss account for the year ending 31.05.2015 and all the derivative transactions were done through bank account and have duly recorded in the books of accounts The profit eamed from trading of derivative is also shown in profit and loss account being part of the audited report by the independent auditor for the year ending 31.03.2015 under proper head. It is also noticed that the profit made from derivative transaction is offered for taxation and the tax has duly been paid on the same And all the derivative transactions were supported by valid Contract Notes received from registered Broker The transaction with broker is evidenced with ledger copies. All the transactions have been routed through banking channel supported by bank statement.*

*These trades were executed on the anonymous platform of the exchange without any knowledge of counter party of price ranges that were permitted by the Exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the Exchange. Therefore, the view of the Ld*

AO to treat the profit from trading to the tune of Rs 1,64,60,000/- which the assessee had already declared in its return of income for AY 2015-16 as fictitious/bogus and add the same to the total income of the assessee is not justifiable. The assessee has submitted all the documentary evidence like copies of contract notes bank account etc to prove all the genuineness of the transactions during the course of reassessment proceeding Further the Ld. AO has not made any queries from the appellant in regard to the identity and genuineness of the reversal trading and the Ld. AO has not came out any independent inquiry to look into the matter of premeditated and coordinated reversal trading of which the appellant is alleged to be indulging in leading to fictitious profit and the Ld. AO was also failed to show any nexus between the assessee and counter party.

In view of the above discussion it is clear that the profit derived in derivative transaction amounting to Rs 1.64.60,000/- has been fully and truly disclosed by the assessee during the year under consideration and the assessee has declared the alleged fictitious profit under revenue from business in the profit and loss account for the FY ending 31.03.2015 and has paid taxed thereon. Hence, it is treated as genuine transaction and no adverse inference can be drawn on this issue. With this observation, the addition of Rs. 1,64,60,000/- made by the AO is hereby deleted.

In regard to addition at Rs.3,29,202/- on account of commission @ 2% paid on the fictitious profit from future derivative trading amounting to Rs. 1,64,60,000/- u/s.69C of the Act.

The Ld. AR in his written submission stated that the Ld. AO was not justified in adding the sum to the extent of Rs.3,29,202/- on the alleged ground of commission paid even though the impugned addition. It was based on surmises and conjectures.

The AO has alleged that the assessee has paid commission of Rs.3,29,202/- determined @2% of the profit booked by the assessee at Rs. 1,64,60,000/- over and above the STT charges paid by the assessee to the brokers. However, during the course of reassessment proceedings the Ld. AO has not carried out any independent inquiry/verification to validate the allegation that undisclosed commission were paid to the broker over and above the STT charges & other charges paid by the assessee to the brokers which is shown in the ledger of the assessee company as well as in the contract notes issued by the brokers. Hence, it is clear that the AO has failed to provide any evidence showing the payment of such commission by the assessee to the broker to affect the fictitious trading. In view of the above discussion, the addition of Rs.3,29,202/- made by the AO is hereby deleted.

Accordingly, the above-mentioned grounds are hereby allowed.

I have carefully considered the written submission made by the Ld. AR. In his written submission the Ld. AR stated that the Ld. AO was not justified to made the addition of Rs.59,00,000/- on account of loan from shell entities treated as unexplained cash credit u/s.68 of the IT Act as it was based on surmises and conjecture.

On perusal of material available on record, it is noticed that during the year under consideration the assessee's company has received unsecured loan aggregating to Rs.59,00,000/- during the FY 2014-15 from two corporate entities M/s. Bangbahumi Highrise Private Ltd and M/s. TallandDatasoft private ltd.

*The action of the Ld. AO to treat the unsecured loan amounting to Rs 59,00,000/- in total from two corporate entities as unexplained cash credit on the ground that these companies were shell companies having no creditworthiness to advance such credit to the assessee is not acceptable. Since, during the course of re-assessment proceedings, the assessee has furnished identity details of the lenders in the form of loan confirmation, ledger of the lender in its books of accounts, their ITRs along with its bank account statement which reflected the receipts of the credit from the two lenders. As such, the assessee had discharged the primary onus cast upon him. If the AO had any doubt about the sufficiency of the documents submitted by the assessee, the onus then shifted upon the AO to bring contrary material to disprove it. As the AO had information about the identity of the two companies through their PAN & Corporate Identity Number (CIN), the bank accounts of the lenders as well as the assessee reflecting the transactions and the loan confirmation statements also with the balance sheet as on 31.03.2015 being part of the audited accounts of the assessee reflecting the mentioned transactions, the AO should have made proper enquiry about cash credit. However, the AO has not carried out any independent inquiry or verification to verify the genuineness of the financial transaction and the creditworthiness of the two business entities namely, M/s. Bangbhumi Highrise Pvt Ltd and M/s. TallandDatasoft Pvt Ltd, and has not made third party inquiry of the transaction under section 133(6) of the IT Act. Further, it is also noticed that the AO has not made inquiries with the bank to get the cash trail to arrive at the conclusion that the assessee has received funds of rs.59,00,000/- during the year from dubious entities namely M/s. Bangbhumi Highrise Pvt Ltd and M/s. TallandDatasoft Pvt Ltd wherein the funds, in turn, had been received from cash deposited in M/s. Shiv Traders and then rotated via various layers. Hence, in the absence of proper enquires, the addition of Rs.59,00,000/- u/s 68 of the IT Act is no sustainable. In view of the above, the addition of Rs.59,00,000/- made by the AO is hereby deleted. With these observations, the above made ground is hereby allowed.*

4. Dissatisfied with the above order the Revenue is in appeal before us. At the time of hearing, the ld. DR relied on the A.O's order and argued that the ld. CIT(A) erred in deleting the addition and failed to consider various judicial precedents on bogus LTCH and fictitious share transactions. Therefore, the impugned order is liable to be set aside.

5. On the other hand, The learned AR supported the CIT(A)'s order and submitted that the entire amount of ₹1,64,60,100 was trading receipt, duly recorded in the books and routed through the assessee's registered broker, Maverick Brokers Pvt. Ltd., registered with SEBI and the corresponding profit from these transactions was already offered to tax in the profit & loss account by the assessee, all transactions were carried out through banking channels, supported by contract notes, demat statements, and broker ledger. Whereas the Ld. AO made addition without conducting any independent enquiry, despite the assessee

furnishing full documentation. He further stated that when the entire amount of ₹1,64,60,100 was trading receipt treating sales already offered to tax as unexplained cash credit amounts to double taxation, prohibited in law. Therefore the Ld. CIT (A) rightly allowed relief to the assessee and there is no need to interfered in the order passed by CIT(A).

6. We have considered the rival submissions and examined the record. It is an admitted fact that the sum of ₹1,64,60,100 represents gross sale proceeds, the transactions are duly recorded in books, the AO has not disputed that the corresponding profit was already included in the assessee's taxable income, all transactions were executed through a registered broker and through banking channels. In the present case of the assessee the AO has not conducted any independent verification or brought any material on record to controvert the assessee's evidence. Once the trading receipts are recorded in books and the profit has already been taxed, the same amount cannot again be taxed as unexplained credit under section 68 of the Act. Doing so results in double addition, which is impermissible in law. While passing the order the ld. CIT(A) correctly appreciated these facts and deleted the addition. We therefore do not find any infirmity in his order. Accordingly, this ground of the Revenue is dismissed.

7. The next issue relates to the addition of 3,29,200 made by the Assessing Officer on account of alleged commission paid at 2% over the impugned addition of ₹1,64,60,100. The CIT(A) deleted this addition. According to the Revenue, the Ld. CIT(A) erred in doing so, and therefore the deletion made by the CIT(A) deserves to be set aside by restoring the addition made by the Assessing Officer.

8. On the other hand, the learned AR submitted that the AO was not justified in making the addition of ₹3,29,200 on a mere presumption that the assessee must have paid commission at 2% on the trading profit of ₹1,64,60,100. It was argued that the assessee had already paid STT and

other her statutory charges to the broker, as duly reflected in the ledger account and contract notes issued by the broker. Despite this, the AO, without carrying out any independent enquiry or verification, concluded that commission was paid over and above the statutory charges. The AR submitted that the AO has not brought on record any material to show that any such commission was actually paid. Therefore, Ld. CIT(A) rightly deleted the same.

9. We have considered the rival submissions and examined the material available on record. We notice that while completing the reassessment, the Assessing Officer made an addition of ₹3,29,202 by estimating commission @2% on the trading receipts of ₹1,64,60,100, alleging that such commission was paid for obtaining accommodation entries. However, during the course of assessment proceedings, the AO did not carry out any independent enquiry or verification to validate the allegation. No summons were issued to the broker, no statement was recorded, and no evidence was gathered to suggest that the assessee made any payment over and above the STT and statutory charges already disclosed in the books and appearing in the contract notes. The Ld. CIT(A), in his order, has clearly recorded a finding that the AO failed to bring any evidence whatsoever showing payment of such alleged commission by the assessee to the broker. In the absence of any corroborative material, the addition was based purely on surmises and conjectures. It is a settled proposition of law that suspicion, however strong, cannot take the place of evidence. In view of these facts, we find that the CIT(A) was justified in deleting the addition of ₹3,29,202. We do not find any infirmity in the well-reasoned order of the CIT(A). Accordingly, this ground of appeal raised by the Revenue is dismissed.

10. Another issue relates to the addition of ₹59,00,000 made by the Assessing Officer under section 68. During the financial year 2014-15, the assessee had received loan amounts aggregating to ₹59 lakhs from

two entities-M/s Bangabhumi Highrise Pvt. Ltd. and M/s Talland Datasoft Pvt. Ltd. The AO alleged that these funds were sourced from cash deposits routed through multiple layers of shell entities, and therefore treated the loans as unexplained cash credits. The learned DR supported the AO's action and contended that the deletion made by the Ld. CIT(A) was erroneous.

11. On this issue, the Id. AR submitted that the assessee had received the said loans in the ordinary course of business, duly recorded them in the books of accounts, and had repaid the same during the year itself. The assessee had also deducted TDS on the interest paid under section 194A of the Act and deposited it in the government account. Complete details regarding the lenders including confirmations, PAN, audited financial statements, ITR acknowledgments, and bank statements reflecting the loan transactions were furnished before the Ld. AO as well as CIT(A). It was therefore argued that the identity and creditworthiness of the lenders as well as the genuineness of the transactions stood conclusively established. The AR submitted that the AO made the addition merely on suspicion without any supporting evidence.

12 We have heard the rival submissions and perused the material on record. It is an admitted fact that the assessee received ₹59 lakhs from the two lenders during the relevant financial year and duly deducted TDS on the interest paid. There is no dispute regarding the receipt of the credit or its subsequent repayment. The Ld. CIT(A) has recorded a clear finding that during the reassessment proceedings, the assessee furnished all primary evidences, including loan confirmations, ledger accounts, PAN and CIN details of the lenders, bank statements showing the loan entries, and their audited balance sheets as on 31.03.2015. These documents formed part of the assessee's audited financial statements. Thus, the assessee discharged the primary onus cast upon it under section 68 of the Act. Once the assessee had produced the

primary evidence, the onus shifted to the AO to bring on record material to disprove the assessee's claim. However, despite having access to PAN, CIN, and bank details of both the companies, the AO did not issue any notice under section 133(6), nor conducted any third-party enquiry to verify the genuineness of the loan transactions. No independent investigation was made and no contrary material was brought on record. The addition was made merely on assumptions without establishing any nexus with the assessee's transactions. In these circumstances, the CIT(A) correctly held that the addition of ₹59 lakhs under section 68 of the Act was bad in law and unsustainable. We find no infirmity in the findings of the CIT(A). Accordingly, the deletion of ₹59,00,000 is upheld, and the ground raised by the Revenue is dismissed.

13. In the result, the appeal filed by the Revenue is dismissed.

***Kolkata, the 17<sup>th</sup> December, 2025.***

Sd/-  
**[Ratnesh Nandan Sahay]**  
**Accountant Member**

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 17.12.2025.

RS

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches