

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

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No. 2125/Kol/2024
(Assessment Year 2014-2015)**

**I.T.A. No. 2144/Kol/2024
(Assessment Year 2015-2016)**

**DCIT, Central Circle 1(4),
Kolkata,**

Aayakar Bhawan Poorva,

110, Shanti Pally, Kolkata – 700107 **Appellant**

vs.

Educo Ventures Pvt. Ltd.,

15B Hemanta Basu Sarani,

Kolkata - 700001

[PAN: AACCE2487N]

..... **Respondent**

**I.T.A. No. 2025/Kol/2024
(Assessment Year 2020-21)**

**I.T.A. No. 2024/Kol/2024
(Assessment Year 2015-16)**

Educo Ventures Pvt. Ltd.,

15B Hemanta Basu Sarani,

Kolkata - 700001

[PAN: AACCE2487N]

..... **Appellant**

vs.

**DCIT, Central Circle 1(4),
Kolkata,**

Aayakar Bhawan Poorva,

110, Shanti Pally,

Kolkata – 700107

..... **Respondent**

Appearances by:

Assessee represented by : A.K. Tulsiyan, FCA
Rabin Maheshwari, AR

Department represented by : Sallong Yaden, Addl. CIT(DR)

Date of concluding the hearing : 30.10.2025
Date of pronouncing the order : 18.12.2025

ORDER

Per Rajesh Kumar, AM

This is a batch of four appeals filed by the revenue and the assessee arising from orders even dated 08.07.2024, passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), Kolkata-20 [hereafter "the Ld. CIT(A)].

ITA No. 2125/Kol/2024 A.Y. 214-15 (Revenue's Appeal).

02. The issue in Ground No. 1 is against the order of Ld. CIT(A) deleting the addition of Rs. 32,50,000/- as made by the AO on account of advance received from Quality Vinimay Pvt. Ltd. u/s 68 of the Act.

03. The facts in brief are that the assessee received Rs. 32,50,000/- from M/s Qaulity Vinimay Pvt. Ltd. by way of advance. The AO added the same u/s 68 of the Act as unexplained cash credit on the ground that the assessee could not prove the creditworthiness of M/s Quality Vinimay Pvt. Ltd. and the genuineness of the transaction. Therefore, treated the same as sham transaction despite the assessee filing all the evidences before the AO.

04. The Ld. CIT(A) in the appellate proceedings, allowed the appeal of the assessee after taking into consideration, the contentions and submissions of the assessee by observing and holding as under:

"5.2.1 I have carefully considered the facts of the case and the submission of the appellant. The AO in its assessment order has treated the advance receipt of Rs. 32,50,000/- taken from Mis. Quality Vinimay Pvt. Ltd. as bogus and sham transaction and thus he has made the addition of Rs 32,50,000/-u/s. 68 of the IT Act to the total income. Further, unsecured loan of Rs.2,90,00,000/- received from various parties has also been taken as bogus loan u/s 68 of the Act.

5.2.2 Advance of Rs.32,50,000/- from M/s. Quality Vinimay Pvt. Ltd.:

While making the addition the AO has stated in the assessment order that the impugned advances have been received from the paper/Jamakharchi Company whose identity, creditworthiness and genuineness of transaction is not established. Furthermore, the AO has analysed the financial health of the creditor company as per their IT returns and audited accounts and has reached to the conclusion that the above said company does not have financial capacity to give such a big amount of advance to assessee company. Thus the AO in para 8 of its assessment order has finally held that the identity and creditworthiness of the creditor as well as genuineness of the transactions in the form of advances of Rs. 32,50,000/- remains unexplained.

5.2.3 However, on perusal of the assessment order and other relevant facts of the case, I find various lacunae and short-coming in the decision of the AO. First of all, the AO in the reason to believe recorded for initiating the proceeding u/s 147 of the Act and at various other places in the Assessment Order has stated that survey proceedings u/s 133A of the Act was conducted on 04.11.2019 at the premises of the assessee group including the premise of the assessee company and in survey various incriminating documents/ materials were found and impugned. The A.O. has further stated that the assessment proceeding has been initiated on the basis of the findings of the survey. But, Ironically the AO did not refer to even a single impounded document/paper with its identity mark or relevant pages etc, either for the purpose of initiation of reassessment proceeding or for the purpose of making addition of Rs. 32,50,000/- to the total income. Thus, absence of reference of impounded material relating to the unsecured loan transaction in the assessment order of the AO is giving ample reason to suspect that nothing incriminating relating to loan transactions were found in the survey at the premises of the assessee.

5.2.4 While making the addition of Rs.3,22,50,000/- i.e. Rs.32,50,000/- in case of M/s. Quality Vinimay Pvt. Ltd. and of Rs.2,90,00,000/- in case of various parties u/s.68 of the Act, the A.O. in the concluding para 8 of its assessment order has held that the alleged advance received from the said two parties is being treated as bogus and sham transaction because the assessee failed to produce the substantive and necessary submissions regarding the creditworthiness and genuineness of the transactions. Now, the pertinent question arises here, is as what was material before the A.O. for arriving at this conclusion, 1. For the sake of clarity of on relevant facts the case following things related to this case must be kept in mind. As apparent from the concluding paras-8 of the assessment order, the A.O. has not made any adverse comment on the identity of the parties allegedly giving advance to the assessee, 2. There was no specific finding or material of survey u/s 133A which shows any kind of discrepancy or defect in the transaction of advance from the parties. There is no evidence found in the survey or any other enquiry conducted by the DDIT(Inv.) in the post survey period or by the A.O. in the assessment proceedings, where it can be alleged that the assessee has purchased cheques for cash or some kind of dubious transactions were made with the above-mentioned parties for the alleged bogus advances. The A.O. has merely raised his suspicion about the creditworthiness of the parties in advancing such a huge amount of fund and that to on the basis of his analysis of balance sheet and Profit & Loss A/c. for the past several years of the lending company. The A.O. on the basis of his studies and analysis of the financial records such as balance sheet and Profit & Loss A/c, I.T. returns which were regularly filed with Income Tax Department, has reached to the conclusion that the alleged transactions are not genuine.

5.2.5. The appellant in its submission has stated that M/s. quality Vinimay Pvt. Ltd. is an associate concern of the assessee company and hence, it has not taken advance/loan from some unknown concern, rather it has taken from an associate concern, whose director Mr. Raj Kumar Jha, is a close friend of Mr. Rishav Kajaria, the director of the assessee. These advances were taken for the purpose of establishing an International School named as "Oaktree International School at Diamond Harbour Road. Further, the appellant has stated that the assessee has not taken the advance from M/s. Quality Vinimay Pvt. Ltd. for the first time in this year.

Rather, the assessee has been receiving advance from this associate concern, an NBFC Company registered with RBI, from A.Y. 2010-11 onwards. The details given by the appellant of year-wise advance receipt are as under :-

AY	Opening Balance (Rs.)	Loan Taken (Rs.)	Loan Repaid (Rs.)	Closing Balance (Rs.)
2010-11	NIL	55,00,000/-	NIL	55,00,000/-
2011-12	55,00,000/-	1,26,00,000/-	NIL	1,81,00,000/-
2012-13	1,81,00,000/-	6,20,00,000/-	NIL	8,01,00,000/-
2013-14	8,01,00,000/-	1,40,00,000/-	NIL	9,41,00,000/-
2014-15	9,41,00,000/-	32,50,000/-	9,50,000/-	9,64,00,000/-
2015-16	9,64,00,000/-	85,00,000/-	25,00,000/-	10,24,00,000/-
2016-17	10,24,00,000/-	15,00,000/-	NIL	10,39,00,000/-
2017-18	10,39,00,000/-	9,50,000/-	NIL	10,48,50,000/-
2018-19	10,48,50,000/-	NIL	NIL	10,48,50,000/-

Furthermore, scrutiny assessment in the cases of the appellant has been conducted u/s.143(3) of the Act on regular basis. The A.O. had conducted enquiries and examined all the details including financial capacity of these lender companies in the earlier assessments and no adverse views were taken by the A.O. The details of the scrutiny assessment for A.Y. 2012-13 to A.Y. 2014-15 is given in the submission of the appellant are as under:

The assessee assessment for the following years were also completed u/s 143(3) of the Income Tax Act, 1961 as under:

Asst. Year	Order u/s	Date of Asst. Order
2012-13	143(3)	30.03.2015
2013-14	143(3)	17.03.2016
2014-15	143(3)	09.12.2016

5.2.6 So, from the facts narrated by the appellant in its submission, it is clear that the loan/advance taken in A.Y. 2020-11 and onwards has been accepted by the A.O. as no adverse view was for the A.Y. 2020-11 to 2012-13. It is also important to mention that the assessee company has received more than 75% of advance fund from M/s. Quality Vinimay Pvt. Ltd. in the period of A.Y. 2010-11 to A.Y. 2012-13 i.e. it has received Rs.8,01,00,000/- out of total advance fund of Rs. 10,48,50,000/- from the party in the aforementioned period. The A.O. has not raised any issue regarding genuineness of advance for the period A.Y. 2010-11 to A.Y. 2012-13 and suddenly he has started doubting the creditworthiness of the party and genuineness of transaction for the period from A.Y. 2013-14 to A.Y. 2018-19 a time period in which less than 25% of the transaction has happened. It is also a fact that nothing incriminating was found in survey or post survey enquiry regarding the loan transaction of the assessee.

Further, scrutiny assessment for A.Y. 2012-13 to A.Y. 2014-15 had already completed in the case of assessee and A.O. after conducting enquiry and after analysis of financial records of the lender company has accepted the transaction as genuine and bonafide. Therefore, the same A.O. cannot be justified in taking different view on same set of financial records of the lender company."

05. We have heard the rival submissions and perusing the material available on record. We find that the said advance was received by the assessee from M/s Quality Vinimay Pvt. Ltd. in the earlier assessment year and same has been accepted as genuine by the AO in the regular assessments framed u/s 143(3) of the Act from AY 2012-13 and AY 2013-14. Therefore, once the advance received is accepted as genuine in the earlier assessment years how the same can be treated as non-genuine in the current assessment year. Moreover, the provisions of section 68 of the Act are not applicable to the money received in the earlier assessment year as there is no credit in the books of accounts of the assessee. Accordingly, we uphold the appellate order on this issue by dismissing the Ground No. 1 raised by the revenue.

06. The issue in Ground No. 2 is against the order of Ld. CIT(A) deleting the addition of Rs. 2,90,00,000/- as made by the AO on account of advance received from various parties by treating the same as unexplained cash credit u/s 68 of the Act.

07. During the course of assessment proceedings, the AO noted that the assessee received advances against the sale of land during the instant financial year which was also repaid during the current year as the land did not materialise. According to the AO the advance is nothing but own money brought into the accounts despite the assessee furnishing all the evidences qua the three parties who paid money to the assessee three parties one M/s Bholenath Commonsale Pvt. Ltd., Anamika Dealmark Pvt. Ltd. and Eysore Tradecom Pvt. Ltd. However, the AO treated the same as unexplained cash credit on the ground that the assessee has failed to prove the creditworthiness of the creditors and genuineness of the transactions.

08. In the appellate proceedings, the Ld. CIT(A) deleted the addition after taking into consideration the reply and contention of the assessee by observing and upholding as under:

"5.2.7 Advance of Rs. 2,90,00,000/- from various parties:

I have carefully considered the facts of the case and the submission of the appellant on this ground. The AO in its assessment order has treated the unsecured loan of Rs. 2,90,00,000/- taken from the parties i.e. M/s. Anamika Dealmark Pvt. Ltd. (Loan of Rs. 35,00,000/-, Mis. Bholenath Commosale Pvt Ltd. (loan of Rs. 2,50,00,000/-) and Eyesore Tradecom Pvt. Ltd. (loan of Rs. 5,00,000/-) as bogus and sham transaction and thus he has made the addition of Rs. 2,90,00,000/- u/s. 68 of the IT Act to the total income of the assessee. While making the addition the AO has stated in the assessment order that the impugned unsecured loans have been taken from the paper/Jamakharchi Companies because as per Investigation Wing data base, the Company M/s Bholenath Commosale Pvt. Ltd. and M/s. Anamika Dealmark Pvt. Ltd. were controlled and managed by entry operator Pranaw Kumar Modi. As per AU, the said alleged entry operators have given statement before DDIT (Inv.), that these companies are Jamakharch companies and were used for giving accommodation entries to various companies/persons. Further the AO has stated that the identities of these companies were also not established as notices u/s 131/133(6) of the IT Act were either returned unserved or not complied with. Further, in the Income Tax Inspector enquiry report, it was found that the above mentioned companies are not existing at their respective addresses. The AO has analysed the financial health of the those loan creditor companies from their IT returns and audited accounts and has reached to the conclusion that the above said companies does not have financial worth to give such a big amount of unsecured loans to the assessee company. Thus the AO in para 8 of its assessment order has finally held that the identity and creditworthiness of these two loan creditor companies as well as genuineness of their transactions in the form of unsecured loans of Rs. 2,90,00,000/-remains unexplained.

5.2.8 However, on perusal of the assessment order and other relevant facts of the case, I find various legal flaws and short-coming in the decision of the AO. First of all the AO in the reason to believe for the initiation of the proceeding u/s 147 of the Act and at various other places in the Assessment Order has stated that survey proceedings u/s 133A of the Act was conducted on 04.11.2019 at the premises of the assessee group including the premise of the assessee company and in survey various incriminating documents/ materials were found. Assessment proceeding is initiated on the basis of the material found in the survey. But ironically the AO did not refer any impounded document/paper with its identity mark either for initiation of reassessment proceeding or for the purpose of making addition of Rs.2,90,00,000/-to the total income. Thus, absence of reference of impounded-material relating to the unsecured loan in the assessment order of the AO is giving ample reason to suspect that nothing incriminating relating to loan transactions were found in the survey against the assessee.

5.2.9 Furthermore, the AO has heavily relied on the statement of entry operators and data base of investigation wing, Kolkata in arriving at the conclusion that the above loan creditors were the Jamakharchi/Paper Companies and have been used for giving accommodation entries in the form of Bogus loans to the assessee. However, the AO has forgotten to evaluate evidentiary value of the statement of alleged entry operators and database of Investigation Wing for making addition in this case. First and foremost is that the database of Investigation Wing, Kolkata is neither a public documents nor a document duly certified by a court of law/Rules/Acts/Circular/ Instructions etc. for its use as an evidence in Income Tax matter. So these details or statements cannot be directly used for making addition

in a case. Rather, the AO should have taken the help of these data base for conducting further enquiry in these cases.

(i) The AO has relied on realising the fact that whether those statements of 3rd parties were taken in course of survey or assessment proceeding in the case of assessee or in the search/survey conducted on different parties in different context.

(ii) The AO should have brought in the fact if any, on record that whether the alleged entry operators have accepted in their statement that the above mentioned loan given to the assessee are fictitious and bogus, and they are just accommodation entries. No such categorical findings have been brought on record by the AO. Not only that the AO has even failed to justify its claim that the assessee has brought in its own unaccounted money into business in the form of unsecured loan by using these paper companies and sham transaction. The AO has not brought on record any evidence regarding circular transaction whether in the form of cash transaction or through banking channel.

5.2.10 Further, the impugned unsecured loans were taken for a very brief period in the normal course of business and same has been returned with interest through banking channel after deducting TDS on them. So, the assessee cannot be held as the beneficial owner of the money. The Hon'ble Gujarat High Court in the case of *Ambe Tradecorp (P) Ltd. Vs. PCIT [2022] 145 taxmann.com 27 (Gujarat)* has held that, when the assessee is not the beneficiary of loan as the same is repaid to the party in subsequent year. The said loan cannot be treated as bogus loan u/s 68 of the IT Act.

5.2.11 Further, the AO has used the statement of those third parties, (the alleged entry operators) at the back of the assessee as he did not provide the copy of those statements to the assessee for cross examination and rebuttal. The Hon'ble Calcutta High Court in the case of *CIT v. Eastern Commercial Enterprises (1994) 201 ITR 105 (Cal)* has held that, 'an adverse finding cannot be made against an assessee on the basis of such statements without allowing opportunity to assessee to cross examine the person on whose statement reliance is placed against the assessee.

Not only that, there is merit in the submission of the appellant, when it states that the 3rd parties, i.e. alleged entry operators were neither the directors nor were any way related to the loan creditors, So, their statement cannot be taken as so relevant in this case and that too without any corroborative material.

5.2.12 The AO has further stated that, summons u/s 131/notice u/s 133(6) of the Act were returned unserved/not complied with by those companies, Further, the Enquiry report of Income Tax Inspector also reveals that those companies were found non-existent at the given addresses. However, the AO has not given any details of those enquiries in the Assessment Order. The AO has not mentioned

(i) On which dates the summons u/s 131 or notice u/s 133(6) were issued?

(ii) Who were the persons against whom those summons were issued?

(iii) Whether those summons were issued in the post survey enquiry or in the assessment proceedings?

Further, only because notices u/s 133(6)/131 were not complied with, from the given address that too after almost 7-8 years of transaction cannot be the basis for arriving at the conclusion that the identity of the above companies are not established. The AO cannot deny the fact that both of these companies are registered with ROC, and they are regular filers of Income tax Returns. So, the AO's decision of taking the Identity of those two companies unexplained because of non compliance of its notices u/s 131/133(6) of the Act cannot be justified. Hon'ble ITAT,

Kolkata Bench in the case of Income Tax Officer, Wd-12(3)/Kol Vs. Mis Harshwardhan Gems Pvt. Ltd in ITA No.1337/Kol/2010 vide order dt.

03.02.2016, has held that:-

"In the instant case also facts and circumstances are identical as the assessed has prima facie proved the identity of the share subscriber, the genuineness of the transaction, namely, whether it has been transmitted through banking or other indisputable channels, the creditworthiness or financial strength of the share subscriber. The relevant details of the address or PAN identity of the share subscriber are furnished to the AO along with copies of the Shareholders Register, Shared Application Forms, Share Transfer Register etc. It would constitute acceptable proof or acceptable explanation by the assessee. The revenue would not be justified in drawing an adverse inference only because the share applicant failed to respond to notices."

5.2.13 Further, the AO has also analysed the financial status of these three companies and has concluded that these companies do not have creditworthiness to give such a big amount of loan. However, the appellant has stated in its submission that both of these companies are regularly assessed to tax, the loans have been given through banking channels. All the papers/details relating to loan transactions, such as account confirmations, statement of bank accounts. Audited Balance Sheets and Profit & Loss accounts were submitted to the AO in the assessment. The AO has not pointed out any discrepancies/defect in these documents. Further, the net worth of these companies in relevant Financial years were as under:

SL No.	Name of the loan creditor	PAN	AY	Net worth as on 31.03.2014	Net worth as on 31.03.2013
1	Anamika Dealmark Pvt. Ltd.	AAJCA6415F	2014-15	20.99 Cr	20.98 Cr.
2	Bholenath Commosale Pvt. Ltd.	AAECB6143Q	2014-15	45.18 Cr	45.17 Cr
3	Eyesore Tradecom Pvt. Ltd.	AACCE0020D	2014-15	9.18 Cr.	9.17 Cr

"So, with that much of net worth as on 31.03.2013 & 31.03.2014, the finding of the AO cannot be justified that the creditworthiness of the loan creditors were not established.

Further, I find merit in the submission of the appellant, when it states in para 4.9 & 4.10 of its submission as under-

4.9 Further, the statement of Mr Rishav Kajaria recorded during the course of survey whom the authorized officer had asked the genuineness of the loan had replied to question no-10 (as evident from AO's show cause notice) that "Sir, I admit that we had taken loans from the entities mentioned above, but we have taken the genuine loan through banking channel through brokers and in most of the cases we have repaid the loan

and interest after deduction of TDS as well....." His statement recorded in the course of survey also proves that the loans/advances taken by the group are genuine and loans have been repaid with interest and TDS. In the course of survey, the DDIT(Inv) had not put before him any incriminating documents found in the premises of the group showing noting of alleged accommodation entry or exchange of cash in lieu of cheques. Even in his statement, Mr. Kajaria never admitted any irregularity in the loan and claimed them as genuine loans.

4.10 Hence, there should not be any doubt on the identity of the lender company as the documents filed before the AO such as IT Acknowledgement are good enough to establish the identity of the lender company. The investment is reflected in respective files and the party had the creditworthiness to make such unsecured loan and the transaction was genuine. Further, Ld AO failed to appreciate the facts that the lender company is a body corporate, registered with the ROC. The unsecured loan was received through proper banking channels. Under the circumstances, the addition made by the AO is arbitrary, illogical and totally unjustified.

5.2.14 Therefore, In view of the above discussion and considering the relevant facts of the case, vis-a-vis relying on the cases cited above, I find no merit in the decision of AO in treating the short term loan of Rs.2,90,00,000/- taken during the course of normal business and paid back to the parties subsequently with interest after deduction of TDS as bogus loan u/s 68 of the Act. Hence, the addition of Rs. 2,90,00,000/- made by the AO as unexplained cash credit u/s. 68 of the Act is deleted."

09. After hearing the rival contentions and perusing the material available on record, we find that the assessee has received advances against the sale of land from three parties namely i) Anamika Dealmark Pvt. Ltd. of Rs. 35,00,000/-, ii) M/s Bholenath Commosale Pvt. Ltd. of Rs. 2,50,00,000/- and iii) Eyesore Tradecom Pvt. Ltd. Rs. 5,00,000/- which were treated as bogus and added u/s 68 of the Act as unexplained cash credit. However, the Ld. CIT(A) noted in the appellate order by recording a finding that these advances/loans were repaid along with interest after deduction of TDS at sources and thus deleted the addition. 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 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.

010. 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 Ground No. 2 of the revenues appeal.

011. The assessee raised in Ground No. 3 is against the order of Ld. CIT(A) deleting the addition of Rs. 27,00,000/- as made by the AO on account of interest expenses u/s 68 of the Act.

012. The facts in brief are that the assessee has raised unsecured loan of Rs. 1,25,00,000/- from Athak Investments Pvt. Ltd. in FY 2011-12 which was accepted as genuine by the AO during the regular assessments made in the earlier assessment years u/s 143(3) of the Act. The said loan was repaid in financial year 2015-16. The AO noted during the assessment that the assessee has paid interest on the said land in

cash which was not disclosed in the account and thus made the addition in very cryptic manner.

013. The Ld. CIT(A) after giving a very detailed finding deleted the addition by observing and holding as under:

" 6.2 Decision:

I have duly considered the facts of the case and the submission of the appellant. The A.O. has made the addition of Rs 27,00,000/- as interest paid in cash to Mis Athak Investment Pvt Ltd. On perusal of the relevant facts, it is found that the assessee has taken loan of Rs. 1,25,00,000/- from M/s Athak Investment Pvt Ltd. on 04-08-2011 and it has made payment of interest and TDS has also been deducted on such interest for different years to Mis Athak Investment Pvt Ltd. The interest is paid through banking channel. The details of these payments as per impounded documents are as under:-

Asst. Year	Amount of interest (Rs.)	TDS Deducted (Rs.)
2012-13	11,92,206/-	1,19,222/-
2013-14	15,00,000/-	1,50,000/-
2014-15	15,00,000/-	1,50,000/-
2015-16	1,12,500/-	11,250/-
Total	43,04,706/-	4,30,472/-

Therefore, I do not find merit in the addition of Rs. 27,00,000/- made by the A.O. as the interest payment in cash to M/s Athak Investment Pvt Ltd. Because the loan of Rs.1,25,00,000/- from M/s Athak Investment Pvt Ltd. is duly recorded in books of accounts of the assessee and interest on this loan has been paid in different years through banking channel. The assessee has deducted TDS on these interest payments. The interests have been claimed in P & L A/c. Contrary to this, the A.O. has not cited any corroborative evidence in support of its finding that interest amount of Rs. 27,00,000/- has been paid in cash to M/s Athak Investment Pvt Ltd. Hence, the addition of Rs.27,00,000/- is deleted."

014. After hearing the rival contention and perusing the material available on record, we do not find any infirmity in the order of Ld. CIT(A) who has correctly mentioned that as per the details mentioned in the books of accounts, the assessee has paid interest of Rs. 15,00,000/- and TDS of Rs. 1,50,000/- was deducted and deposited in the account of Athak Investment Pvt. Ltd. thereby deleting the addition of Rs. 27,00,000/- which was stated by the AO to be on account of interest

paid in cash without bring any material on record to corroborate the same. Therefore, we do not find any infirmity in the order of Ld. CIT(A) and accordingly Ground No. 3 is dismissed of the Revenue appeal by upholding the order of Ld. CIT(A) on this issue.

015. The appeal of the revenue is dismissed.

ITA No. 2025/Kol/2025 A.Y. 2020-21 (Assessee's Appeal)

016. The issue raised by the assessee in Ground No. 1 is against the confirmation of addition of Rs. 32,70,000/- as made by the AO u/s 69A of the Act on account of unaccounted cash receipts by the assessee.

017. The facts in brief are that during the course of assessment proceedings, the AO noted that during the course of survey u/s 133A of the Act on the premises of the assessee on 04.11.2019, it was found by the survey team that the assessee had entered into several cash transactions which were not recorded in the books of accounts. Based on the said, the AO noted that the same represented unexplained money u/s 69A of the Act and added the same to the income of the assessee.

018. In the appellate proceedings the Ld. CIT(A) dismissed the appeal of the assessee after taking into account the assessee's contentions by observing and holding as under:

"4.2 Decision

I have duly considered the facts of the case and the submission of the appellant. The A.O. has made addition of Rs.6,00,000/- u/s.69C of the Act as unexplained expenditure and Rs.32,70,000/- u/s.69A of the Act as unexplained money stating that incriminating evidence were found in survey relating to these unaccounted cash transactions. The appellant in its submission has stated that the A.O. has not asked any specific question regarding source of these transaction in the assessment proceedings and he made addition without giving opportunity to explain the

transaction. As per appellant the source of the income for cash payment is the sale of scrap from construction site and is part and parcel of the business operation of the assessee. Further, the appellant in its submission has accepted that these transactions are not recorded in the books of accounts and thus it has offered the net amount of Rs.26,70,000/- (Rs.32,70,000 Rs.6,00,000) for taxation with a request that the net amount may be treated as business income and allowed to be set off with returned loss. However, there is merit in appellant submission that when the A.O. has details of receipts and payments in cash in a particular case. He should have taken the cash payments of Rs.6,00,000/- as sourced from the cash receipt of Rs.32,70,000/-, He can not make the addition of both receipt and payments separately. Therefore, the entire cash receipt of Rs.32,70,000/- as found in survey is treated as unaccounted income of the assessee. However, the addition of Rs.6,00,000/- u/s.69C of the Act is deleted treating the same as expenditure incurred is sourced from the unaccounted income of Rs.32,70,000/-. Further, the appellant's submission that the income of Rs.32,70,000/- has been earned from the sale of scrap from business is found without merit as no any corroborative evidence is produced in support of this submission. Hence, the request of the appellant that this income may allowed to set off with the returned loss is found without merit and thus it is rejected. Accordingly, I confirm the addition of Rs.32,70,000/- made by the A.O. in this case and no set off is allowed of this income against the returned loss. Further, the addition of Rs.6,00,000/- u/s.68 of the Act is deleted."

019. After hearing the rival contention and perusing the material available on record, we find that in this case a survey action u/s 132A of the Act was conducted on 04.11.2019 . During the course of survey action, the documents were found which revealed that the assessee has made cash transactions of Rs. 6,00,000/- which were not recorded in the books of accounts. Similarly, the assessee has received unaccounted cash amounting to Rs. 32,70,000/- during the year under consideration which was also not offered to tax. We note that the in appellate proceedings, the Ld. CIT(A) dismissed the appeal after taking into consideration the reply and submission of the assessee. We note that it was submitted before the Ld. CIT(A) the assessee was not asked any specific question qua these cash transactions and source thereof during the assessment proceedings and thus no opportunity was given to explain the transactions which the assessee stated to have been received on account of sale of scrap which has to be reduced from construction expenses . The assessee admitted that these transactions are not arising from business operation and admitted that these were not recorded in the books of accounts. It was also admitted out of the receipts in cash , payment of expenses of Rs. 6,00,000/- were made and thus, there is net receipt of Rs. 26,70,000/-. The Ld. CIT(A) rejected the plea of

the assessee on the ground that no evidence was filed by the assessee qua these cash transactions. In our opinion the provisions of section 69A are not applicable to the cash transactions found recorded in some documents which are not recorded in the books of accounts. At the most these transaction represented unrecorded sales to which provisions of 69A of the Act are not applicable as these provisions are applicable to any money, bullion, jewellery or other valuable article found during the course of survey which are not recorded in the books of accounts. In our opinion, it would be reasonable if profit is estimated @7% on these cash transactions and brought to tax. Accordingly, we set aside the order of Ld. CIT(A) on this issue and direct the AO to assess the income @ 7% on net cash receipts of Rs. 26,70,000/- The appeal of the assessee is partly allowed.

ITA No. 2024/Kol/2025 A.Y. 2015-16 (Assessee's Appeal).

019. Ground No. 1, 2 and 3 are not pressed and accordingly dismissed as not pressed.

020. The issue is Ground No. 4 is against the confirmation of addition of Rs. 1,38,99,000/- by CIT(A) as made by the AO on account of unexplained expenditure u/s 69C of the Act in respect of payments made to M/s Devershi Civil Infrastructure.

021. The facts in brief are that the survey operation u/s 133A of the Act was conducted on 04.11.2019 during which certain incriminating documents were found. The case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 31.03.2021. In compliance, the assessee filed return of income declaring loss of Rs. 3,03,01,821/-. The AO observed on the basis of seized documents marked as ID mark MREL/HD/3 and others that the assessee has made cash payments to Devershi Civil Infrastructure Ltd. and JMD Construction. The AO noted that the assessee paid Rs. 1,38,99,000/- to M/s

Devershi Civil Infrastructure Ltd. and Rs. 1,64,02,821/- to M/s JMD Construction in cash. Consequently, the assessee was issued show cause notice. The AO noted these details in page 28 to 32 of the assessment order. It was submitted before the AO that these payments were duly accounted for in the books of accounts so far as the payment is JMD Construction of Rs. 1,64,02,281/- is concerned. These were accounted for under the capital work in progress for land development, With respect to payment to M/s Devershi Civil Infrastructure, the assessee denied to have any transactions with the said party and stated that these were rough notings. The AO rejected the plea of the assessee and added both these amounts to the income of the assessee u/s 69A of the Act as unexplained expenditure.

022. In the appellate proceedings, the Ld. CIT(A) partly allowed the appeal of the assessee by confirming the addition of Rs. 1,38,99,000/- being paid to Devershi Civil Infrastructure while the payment to M/s JMD Construction of Rs. 1,64,02,281/- was deleted by observing and upholding as under:

"6.3 Decision:

I have fully considered the facts of the case and the submission of the appellant. The A.O. has made the addition of Rs.3,03,01,821/- as unexplained expenditure u/s.69C of the Act. While making the above addition, the A.O. has stated that from impounded material ID mark MREL/HD/3, it was found that the assessee has made several cash payments to the parties M/s. Devershi Civil Infrastructure Ltd. and M/s. JMD Construction in the year under consideration. As per the A.O. the total payment made to M/s. Devershi Civil Infrastructure Ltd. was of Rs 1,38,99,000/- and to M/s. JMD Construction was of Rs. 1,64,02,821/- Before the A.O. the assessee stated that the amount paid to M/s. JMD Construction was properly accounted for and the total payments made during the assessment year was Rs.1,64,02,821/- and the same was made for land development and is shown in capital work in progress. Further, with respect to the payment made to M/s. Devershi Civil Infrastructure Ltd... the assessee denied to have any transaction with the above party and stated that it was only rough work of the accountant. All the payments shown in the name of Mis. Devershi Civil Infrastructure Ltd. are mere repetition of the payments made to M/s JMD Construction. The A.O. on the allegation that sources of the aforesaid payments could not be established by the assessee. The payment made and as its source is unexplained, hence plea of the assessee was not acceptable to AO and made the addition of the same u/s 69C of the Act of Rs. 3,03.01.821/- total of Rs. 1,38,99,000/-and Rs.1.64,02,821/-

Here, in appeal, the appellant has furnished the explanation stating that the payment to M/s. JMD Construction is appearing in the Books of accounts and the ledger accounts

of work in progress. In support of the claim, the assessee submitted copy of the ledger of M/s JMD Construction for FY 2014-15 showing payment of Rs 1,64,02,821/- including opening balance of Rs. 25,00,000/- means during the year actual payment to M/s JMD Construction is Rs.1,39,02,821/- (Rs.1,64,02,821 - Rs. 25,00,000), the said ledger is placed at page no. 273 & 274 of paper book and at page no. 275 of paper book copy of ledger of land development expenses for FY 2014-15 where the above expenses bill is debited to land development account. It is also submitted that Bank Statement placed at page no 276 to 301 of paper book showing there are substantial cash withdrawal time to time from the said bank account which was ultimately used for above cash payments. Further, it is also found that all the cash payments made to M/s. JMD Construction on different dates are exactly repeated same date-wise in the accounts shown in name of M/s. Devershi Civil Infrastructure Ltd. This date-wise repetition of same amounts in the excel sheet has substance in the claim and explanation of the appellant that the amount shown in the name of M/s. Devershi Civil Infrastructure Ltd. is mere repetition of the amount paid to M/s. JMD Construction. Further, the submission of the appellant that the payment made to M/s JMD Construction of Rs.1,64,02,821/- is duly reflected in the books of accounts is also found correct. So, there is merit in the submission of the appellant that the A.O. can not be justified in making addition u/s.69C of the Act as unexplained expenditure, when the expenses incurred for the payment to Mis. JMD Construction is already shown in the books of account. So far as excel sheet, payments to M/s Devershi Civil Infrastructure Ltd is concerned, the assessee claims that in the excel sheet it is the payment made to Mis. JMD Construction is wrongly being repeated the same amount except one payment on 23.02.2015 in the case of M/s Devershi Civil Infrastructure Ltd of Rs. 9.25,000/- and on the same date in the case of M/s JMD Construction is Rs. 9.28,821/-, all the payment date and amount is same as evident from the Assessment Order at Page no.28-32 where the abstract of the two excel sheets has been reproduced by the AO. All cash payments date wise as in the excel sheet has found to be appearing in the ledger account of M/s. JMD Construction, hence, so far as excel sheet payment of M/s JMD Construction there remains no doubt can be raised as payments are part and parcel of the books of account of assessee as claimed by it. But, no payment in the case of M/s. Devershi Civil Infrastructure Ltd is appearing in ledger of M/s. Devershi Civil Infrastructure Ltd place at page no. 302 of paper book which is only having opening and closing balance of Rs.1,29,69,827/-. The opening balance of said ledger tallies from the excel sheet in the case of M/s. Devershi Civil Infrastructure Ltd, the assessee claims that both M/s. JMD Construction and M/s. Devershi Civil Infrastructure Ltd belongs to the same person as such the assessee has in the excel sheet first shown payment against M/s. Devershi Civil Infrastructure Ltd whereas on insistent of party it was shown in the account of M/s JMD Construction, the assessee has also claimed that there is only one payment and no two time payment of same amount on same day to M/s JMD Construction and M/s. Devershi Civil Infrastructure Ltd. The veracity of these payments for land development can not be established. Further, the assessee failed to furnish any confirmation letter from M/s. Devershi Civil Infrastructure Ltd In support of this transaction. Hence, assessee claims of no payment was not proved with any evidence and payment to M/s. Devershi Civil Infrastructure Ltd is also not recorded in the books of account of assessee. However, the payments to M/s. JMD Construction have been properly shown in the books of accounts of the assessee. This facts of the case have not been controverted by the A.O. in its assessment order despite the fact that ledger accounts of M/s. JMD Construction was furnished to him by assessee in assessment proceeding. Therefore, I held that the A.O. was justified in making addition of Rs. 1,38,99,000/- u/s.69C of the Act, as recorded in excel sheet and not found in the books of the assessee to M/s. Devershi Civil Infrastructure Ltd. But as the payments made to M/s. JMD Construction in cash is duly reflected in the assessee's books of accounts as evident from ledger account if the said party in the books of the assessee. However, the appellants payment made to M/s. JMD Construction of Rs.1,39,02,821/- (Rs. 1,64,02,821- Rs.25,00,000 opening balance) afe in cash exceeding Rs.20,000/- where no TDS is deducted on it. The assessee claims these are pertaining to capital expenses, hence, Section 40A(3) and Section 40(a)(ia) does not attracts to it. Hence, no adverse view is taken on this and addition to the extent of Rs. 1,64,02,821/- on account of payment made to M/s. JMD Construction made u/s 69C of the Act is hereby

deleted. But, I find no merit in the submission of the appellant that there is no payments to M/s. Devershi Civil Infrastructure Ltd in absence of any confirmation provided by assessee, it is held that the payment of M/s. Devershi Civil Infrastructure Ltd of Rs. 1,38,99,000/-remained unexplained u/s. 69C and the addition to this extent is confirmed and balance payment of Rs. 1,64,02,821/ to M/s JMD Construction which is part of the books of account is deleted."

023. After hearing the rival contention and perusing the material available on record, we find that in this case, the assessee has denied the payments right from the beginning before the AO as well as before the CIT(A) that payments were not made M/s Devershi Civil Infrastructure and whatever is stated are rough notings of Rs. 1,38,99,000/- . It was submitted before us that Devershi Civil Infrastructure and JMD Construction Ltd. are related entities and in fact payments were made only on account of wall construction to JMD Construction. Now the issue before us is whether the payment of Rs. 1,38,99,000/- mentioned in the seized papers for which there was no confirmation from the third party to the effect that these payments were made to the said party Devershi Civil Infrastructure by the assessee. So far the assessee is concerned it has been denying any such payments. Therefore, under these circumstances this could only be considered at best to be the money received by the assessee out of scrap sales or other sales and it would be reasonable and fair if profit estimated on the said money/amount. Accordingly, we set aside the order of CIT(A) and direct the AO to assess the income on the said amount of Rs. 1,38,99,000/- @ 7%. The ground no. 4 of the assessee's appeal is partly allowed.

ITA No. 2144/Kol/2024 A.Y. 2015-16 (Revenue's Appeal)

024. The issue is Ground No. 1 is against the deletion of addition of Rs. 1,35,00,000/- as made by the AO on account of advances received from two parties namely Quality Vinimay Pvt. Ltd. of Rs. 85,00,000/- and M/s Swarnganga Vinimay Ltd. of Rs. 50,00,000/- by treating the same as unexplained cash credit.

025. The facts in brief are that during the course of assessment proceedings, the AO observed that the assessee has received advances from Quality Vinimay Pvt. Ltd. of Rs. 85,00,000/- and M/s Swarnaganga Vinimay Ltd. of Rs. 50,00,000/-. Accordingly, assessee was called upon to prove the creditworthiness and genuineness of the transactions. The assessee was filed before the AO all the evidences qua the advances received from these two parties. However, the AO treated the said advances as unexplained cash credit added u/s 68 of the Act and added to the income of the assessee.

026. In the appellate proceedings, the Ld. CIT(A) deleted the addition after taking into account the contention and submissions of the assessee by observing and upholding as under:

"5.2.1 I have carefully considered the facts of the case and the submission of the appellant. The AO in its assessment order has treated the advance receipt of Rs. 85,00,000/- taken from M/s. Quality Vinimay Pvt. Ltd. as bogus and sham transaction and thus he has made the addition of Rs.85,00,000/- u/s. 68 of the IT Act to the total income. Further, unsecured loan of Rs.50,00,000/- received from M/s. Swarnaganga Vinimay Pvt. Ltd. has also been taken as bogus loan u/s.68 of the Act.

5.2.2 Advance of Rs.85,00,000/- from M/s. Quality Vinimay Pvt. Ltd.: While making the addition the AO has stated in the assessment order that the impugned advances have been received from the paper/Jamakharchi Company whose identity, creditworthiness and genuineness of transaction is not established. Furthermore, the AO has analysed the financial health of the creditor company as per their IT returns and audited accounts and has reached to the conclusion that the above said company does not have financial capacity to give such a big amount of advance to assessee company. Thus the AO in para 8 of its assessment order has finally held that the identity and creditworthiness of the creditor as well as genuineness of the transactions in the form of advances of Rs. 85,00,000/- remains unexplained.

5.2.3 However, on perusal of the assessment order and other relevant facts of the case, I find various lacunae and short-coming in the decision of the AO. First of all the AO in the reason to believe recorded for initiating the proceeding u/s 147 of the Act and at various other places in the Assessment Order has stated that survey proceedings u/s 133A of the Act was conducted on 04.11.2019 at the premises of the assessee group including the premise of the assessee company and in survey various incriminating documents/ materials were found and impugned. The A.O. has further stated that the assessment proceeding has been initiated on the basis of the findings of the survey. But, Ironically the AO did not refer to even a single impounded document/paper with its identity mark or relevant pages etc. either for the purpose of initiation of reassessment proceeding or for the purpose of making addition of Rs.85,00,000/- to the total income. Thus, absence of reference of impounded material relating to the unsecured loan transaction in the assessment order of the AO is giving ample reason to suspect that nothing incriminating relating to loan transactions were found in the survey at the premises of the assessee.

5.2.4 While making the addition of Rs.1,35,00,000/- i.e. Rs.85,00,000/- in case of M/s. Quality Vinimay Pvt. Ltd. and of Rs.50,00,000/- in case of M/s. Swarnaganga Vinimay Pvt. Ltd. u/s.68 of the Act, the A.O. in the concluding para 8 of its assessment order has held that the alleged advance received from the said two parties is being treated as bogus and sham transaction because the assessee failed to produce the substantive and necessary submissions regarding the creditworthiness and genuineness of the transactions. Now, the pertinent question arises here, is as what was material before the A.O. for arriving at this conclusion. For the sake of clarity on relevant facts, following things related to this case must be kept in mind. 1. As apparent from the concluding paras-8 of the assessment order, the A.O. has not made any adverse comment on the identity of the parties allegedly giving advance to the assessee. 2. There was no specific finding or material in survey u/s.133A which shows any kind of discrepancy or defect in the transaction of advance from the parties. There is no evidence found in the survey or any other enquiry conducted by the DDIT(Inv.) in the post survey period by the A.O. in the assessment proceedings, where it can be alleged that the assessee has purchased cheques for cash or some kind of dubious transactions were made with the abovementioned parties for the alleged bogus advances. The A.O. has merely raised his suspicion about the creditworthiness of the parties in advancing such a huge amount of fund and that too on the basis of his analysis of balance sheet and Profit & Loss A/c. for the past several years of the lending company. The A.O. on the basis of his studies and analysis of the financial records such as balance sheet and Profit & Loss A/c, I.T. returns which were regularly filed with Income Tax Department, has reached to the conclusion that the alleged transactions are not genuine.

5.2.5 The appellant in its submission has stated that M/s. Quality Vinimay Pvt. Ltd. is an associate concern of the assessee company and hence, it has not taken advance/loan from some unknown concern, rather it has taken from an associate concern, whose director Mr. Raj Kumar Jha, is a close friend of Mr. Rishav Kajaria, the director of the assessee. These advances were taken for the purpose of establishing an International School named as "Oaktree International School" at Diamond Harbour Road. Further, the appellant has stated that the assessee has not taken the advance from M/s. Quality Vinimay Pvt. Ltd. for the first time in this year. Rather, the assessee has been receiving advance from this associate concern, an NBFC Company registered with RBI, from A.Y. 2010-11 onwards. The details given by the appellant of year-wise advance receipt are as under :-

Quality Vinimay Pvt Ltd started financing the assessee as under:

AY	Opening Balance (Rs.)	Loan Taken (Rs.)	Loan Repaid (Rs.)	Closing Balance (Rs.)
2010-11	NIL	55,00,000/-	NIL	55,00,000/-
2011-12	55,00,000/-	1,26,00,000/-	NIL	1,81,00,000/-
2012-13	1,81,00,000/-	6,20,00,000/-	NIL	8,01,00,000/-
2013-14	8,01,00,000/-	1,40,00,000/-	NIL	9,41,00,000/-
2014-15	9,41,00,000/-	32,50,000/-	9,50,000/-	9,64,00,000/-
2015-16	9,64,00,000/-	85,00,000/-	25,00,000/-	10,24,00,000/-
2016-17	10,24,00,000/-	15,00,000/-	NIL	10,39,00,000/-
2017-18	10,39,00,000/-	9,50,000/-	NIL	10,48,50,000/-
2018-19	10,48,50,000/-	NIL	NIL	10,48,50,000/-

Furthermore, scrutiny assessment in the cases of the appellant has been conducted u/s.143(3) of the Act on regular basis. The A.O. had conducted enquiries and examined all the details including financial capacity of these lender companies in the earlier assessments and no adverse views were taken by the A.O. The details of the scrutiny assessment for A.Y. 2012-13 to A.Y. 2014-15 is given in the submission of the appellant are as under:

The assessee assessment for the following years were also completed u/s 143(3) of the Income Tax Act, 1961 as under:

Asst. Year	Order u/s	Date of Asst. Order
2012-13	143(3)	30.03.2015
2013-14	143(3)	17.03.2016
2014-15	143(3)	09.12.2016

5.2.6 So, from the facts narrated by the appellant in its submission, it is clear that the loan/advance taken in A.Y. 2020-11 and onwards has been accepted by the A.O. As no adverse view was taken for the A.Y. 2020-11 to 2012-13. It is also important to mention that the assessee company has received more than 75% of advance fund from M/s. Quality Vinimay Pvt. Ltd. in the period of A.Y. 2010-11 to A.Y. 2012-13 i.e. it has received Rs.8,01,00,000/- out of total advance fund of Rs.10,48,50,000/- from the party in the aforementioned period. The A.O. has not raised any question on genuineness of advance for the period A.Y. 2010-11 to A.Y. 2012-13 and suddenly he has started doubting the creditworthiness of the party and genuineness of transaction for the period from A.Y. 2013-14 to A.Y. 2018-19 a time period in which less than 25% of the transaction has happened. It is also a fact that nothing incriminating was found in survey or post survey enquiry regarding the loan transaction of the assessee. Further, scrutiny assessment for A.Y. 2012-13 to A.Y. 2014-15 had already completed in the case of assessee and A.O. after conducting enquiry and after analysis of financial records of the lender company has accepted the transaction as genuine and bonafide. Therefore, the same A.O. can not be justified in taking different view on same set of financial records of the lender company.

5.2.7 Advance of Rs.50,00,000/- from M/s. Swarnaganga Vinimay Pvt. Ltd.:-

The appellant in its submission has stated that as against the allegation of the A.O. that the assessee has received bogus advance of Rs.50,00,000/- from M/s. Swarnaganga Vinimay Pvt. Ltd. in the current year, the said advance were received from M/s. Excellent Barter Pvt. Ltd. and M/s. Vidhata Consultancy Pvt. Ltd. in the year 2013-14 (A.Y. 2014-15) and not from M/s. Swarnaganga Vunumay Ltd.. The said companies got merged with M/s. Swarnaganga Vinimay Ltd. vide order of High Court of Kolkata dated 03-06-2014. As per appellant, the assessee company has not received any advance from M/s. Swarnaganga Vinimay Ltd. in the current year i.e. F.Y. 2014-15 (A.Y. 2015-16). All these advance amount have been received from regular banking channel and are duly reflected in the regular books of accounts. The appellant has further stated that the said advance has also been repaid in the F.Y. 2014-15 & 2016-17 as the deal was not materialised.

5.2.7 The appellant furnished details of documents pertaining to these transactions. The same were duly produced before the A.O. in the assessment as well. On perusal of the details furnished by the appellant, it is found that the assessee has received advances for sale of land of Rs.40,00,000 from M/s Excellent Barter Pvt Ltd on 17.04.2013 and Rs.60,00,000/- from M/s Vidhata Consultancy Pvt Ltd on 17.04.2013.

Both the advances were received during the FY 2013-14 (AY 2014-15). No advance was received during the current year i.e AY 2015-16. Later, both the companies got merged with M/s Swarnanga Vinimay Ltd vide the order of the Hon'ble Calcutta High Court dated 03.06.2014(Copy enclosed).

Consequent to the order of amalgamation, the assessee company transferred the remaining balance of advance of Rs. 50,00,000/- from M/s Excellent Barter Pvt Ltd and M/s Vidhata Consultancy Pvt Ltd to the ledger of M/s Swarnanga Vinimay Pvt Ltd during the FY 2014-15 (AY 2015-16). No actual amount of advance was received from M/s Swarnanga Vinimay Limited. The said advance of Rs. 50,00,000/- was refunded during the FY 2014-15 and FY 2016-17.

5.2.7 So, from the details furnished by the appellant, no advance has been received by the assessee from M/s Swarnanga Vinimay Pvt. Ltd. in the current year. Further, what ever advance against the sale of land were received by the assessee company from the erstwhile merged companies namely M/s Excellent Barter Pvt. Ltd. and M/s Vidhata Consultancy Pvt Ltd. were returned to M/s Swarnanga Vinimay Pvt. Ltd. in F.Y. 2014-15 and F.Y. 2016-17. Therefore, no addition can be made u/s.68 of the Act, when the advance/loan has not been received in the year under consideration. Further, the Hon'ble Gujarat High Court in the case of DCIT Vs. Rohini Builders (2002) 256 ITR 360 (Guj) held as under:

"That the tribunal having deleted the addition under s. 68 accepting the genuineness of loans which were received and repaid by assessee by account payee cheques, assessee having established the identity of the creditors by giving their complete addresses, GIR numbers/PAN as well as confirmations along with the copies of their assessment orders wherever readily available, no substantial question of law arises; appeal under s. 260A dismissed."

5.2.8 Therefore, considering the above facts of the case as well as the submission of the appellant, the A.O. can not be justified in making the addition of advance of Rs. 85,00,000/- u/s.68 of the Act, received from M/s. Quality Vinimay Pvt. Ltd. in the year under consideration, when transaction with the said party has been held as genuine in earlier assessment years of A.Y.2010-11 to A.Y.2012-13 and the A.O. had no convincing fresh evidence/material to doubt the creditworthiness of the party in the current year. Further, in case of advance of Rs.50,00,000/- from M/s Swarnanga Vinimay Pvt. Ltd., it is established that no advance has been received in the year under consideration. Hence, no addition can be made of this transaction in this year as well. In view of the above discussion and facts of the case, the addition made of Rs.1,35,00,000/- (Rs.85,00,000 + Rs.50,00,000/-) is deleted."

027. After hearing the rival contention and perusing the material available on record, we find that the Ld. CIT(A) while allowing the relief to the assessee recorded a finding of the fact that the said loans/advances were accepted by the assessee in the earlier assessment years. The Ld. CIT(A) further noted that no incriminating documents were found during the course of survey. The Ld. CIT(A) further noted in the scrutiny assessments already completed by the AO in the earlier assessment years after making enquiry and after analysing financial record of the lender companies accepted the transactions as genuine and bonafide. Therefore, the AO cannot take a different view in the subsequent year

on the same set of facts qua the lender companies. Similarly, in respect of M/s Swarnnganga Vinimay Ltd., the AO noted that the money was received in earlier year from M/s Excellent Barter Pvt. Ltd. and Vidhata Consultancy Pvt. Ltd. and not from Swarnnganga Vinimay Limited. The said companies got merged with the Swarnnganga Vinimay Limited vide Hon'ble High Court of Calcutta, order dated 03.06.2014. The Ld. CIT(A) recorded a clear cut finding that the assessee has not received money from Swarnnganga Vinimay Limited in the current year and whatever has been received in the earlier assessment year was duly shown in the books of accounts. The Ld. CIT(A) also noted that the said money has been received by the assessee during FY 2014-15 and 2016-17. Considering the above facts has noted by the Ld. CIT(A), in our opinion, there is no need to interfere with the order of Ld. CIT(A) which is very reasoned and comprehensive on this issue. Accordingly, the order of Ld. CIT(A) is upheld by dismissing the Ground No. 1 of the revenues appeal.

028. The issues in Ground No. 2 against the order of Ld. CIT(A) deleting the addition of Rs. 1,64,02,281/- as made by the AO on account of unexplained cash payment to JMD Construction u/s 69C of the Act.

029. The issue has already discussed in the assessee's appeal supra. The Ld CIT(A) in the appellate order has given a categorical findings that the payments to JMD Construction were fully accounted for in the books of accounts by the assessee. The Ld AR furnished before us all the evidences corroborating the fact that these payments were fully accounted for by the assessee which were paid to the JMD Construction amounting to Rs. 1,64,02,281/-. Therefore, we do not find any reason to interfere with the finding of Ld. CIT(A) on this issue. Consequently, the order of Ld. CIT(A) is upheld and Ground No. 2 of the revenue's appeal is dismissed.

030. In result, these appeals filed by the assessee are partly allowed and the revenue are dismissed.

Order pronounced on 18.12.2025

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 18.12.2025
AK,Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches