

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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**आयकर अपील सं/ITA No.1944/KOL/2025
(निर्धारण वर्ष / Assessment Year : 2011-2012)**

Maithan Ceramic Limited, 9, Ideal Centre, AJC Bose Road 6 th Floor, Kolkata-700017	Vs	ACIT, Circle-7(1), Kolkata
PAN No. :AADCG 6018 J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by		Shri P.K.Himmatsinghka, AR
राजस्व की ओर से /Revenue by	:	Shri Sandeep Lakra, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01/01/2026
घोषणा की तारीख/Date of Pronouncement	:	01/01/2026

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 14.07.2025 for the assessment year 2011-2012.

2. It was submitted by the Id.AR that the assessee had taken a loan of Rs.1 crore from M/s Nidhi Agro P. Ltd. during the impugned assessment year. Ld. AR drew our attention to page No.90 of the paper book which showed the confirmation of accounts and the loan having been taken on 02.07.2010, the same reads as follows :-

representing secured loan and unsecured loan. In Schedule "D" representing unsecured loan, the loss is shown consolidated as loan from companies of Rs.5 crores, which reads as follows :-

maithan
CERAMIC LIMITED

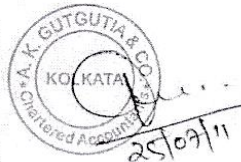
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SCHEDULE " C " Secured Loan

PARTICULARS	As At 31st March-11 ₹	As At 31st March-10 ₹
Working Capital Loan From State Bank of India	215,679,134	214,695,681
Buyers' Credit Loans (in Foreign Currency)	26,779,100	-
Total	242,458,234	214,695,681

SCHEDULE " D " Unsecured Loan

PARTICULARS	As At 31st March-11 ₹	As At 31st March-10 ₹
From Companies	50,000,000	10,000,000
Interest Accrued & due thereon	3,277,477	1,080,000
Total	53,277,477	11,080,000



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4. Ld.AR further drew our attention to page No.37 of the paper book which shows the particulars of loan/deposit taken/repaid during the year. It was the submission that this is apart of the tax audit report representing the details of loan and interest paid and the TDS, the same reads as follows :-

Maithan Ceramic Limited (ANNEXURES TO FROM 3CD FOR THE YEAR ENDED 31.03.2011)										
ANNEXURE - E										
PARTICULARS OF LOAN/DEPOSIT TAKEN/REPAID DURING THE YEAR IN EXCESS OF LIMIT U/S 269SS/269T OF THE INCOME TAX ACT 1961 (Refer para 24 of Form 3CD for the year ended 31.03.2011)										
Name, Address & P.A. No.	Opening Balance	Date	Amount Received	Amount Repaid	Mode	Interest	TDS	Whether Squared up	Maximum Outstanding Amount	
Ashiana Properties Pvt Ltd 1, R.N.Mkukherjee, 5th Floor Kolkata-700 001 PA No. AACCA 2514J	-	30.06.2010	5,000,000	-	Chq	-	-	No	10,675,616	5,000,00
		02.07.2010	5,000,000	-	Chq	-	-			10,000,00
		31.03.2011				750,685	75,069			10,675,61
Harvard Trading Pvt Ltd 1, R.N.Mkukherjee, 5th Floor Kolkata-700 001 PA No. AAACH 6268E	-	22.06.2010	4,000,000	-	RTGS	-	-	No	4,279,123	4,000,00
		31.03.2011	-	-	-	310,137	31,014			4,279,12
Minaxi Suppliers Pvt Ltd 6B, Bentinck Street, Aloka House Kolkata - 700 001 PA No. AACCM 0476B	11,080,000	01.04.2010		1,080,000	Chq			Yes	11,080,000	10,000,00
		25.06.2010	-	5,000,000	Chq					5,000,00
		25.06.2010	-	5,000,000	Chq					-
		25.06.2010	-	254,466	Chq	282,740	28,274			-
Nidhi Agro Pvt Ltd 6B, Bentinck Street, Aloka House Kolkata - 700 001 PA No. AACN 8759L	-	02.07.2010	10,000,000	-	RTGS	-	-	No	10,673,150	10,000,00
		31.03.2011				747,945	74,795			10,673,15
R.A.Trading Pvt Ltd 1, R.N.Mkukherjee, 5th Floor Kolkata-700 001 Pan No: AABCR 2816D	-	12.08.2010	4,000,000	-	RTGS			No	10,570,575	4,000,00
		13.08.2010	4,000,000	-	RTGS					8,000,00
		13.08.2010	2,000,000	-	RTGS					10,000,00
		31.03.2011				633,973	63,398			10,570,57
Usha Polychem India Pvt Ltd 1, R.N.Mkukherjee, 5th Floor Kolkata-700 001 Pan No: AAACU 3194J	-	23.06.2010	2,500,000		RTGS			No	17,079,013	2,500,00
		24.06.2010	3,500,000		RTGS					6,000,00
		30.06.2010	5,000,000		Chq					11,000,00
		12.07.2010	2,500,000		RTGS					13,500,00
		13.07.2010	2,500,000		RTGS					16,000,00
	31.03.2011				1,198,904	119,891			17,079,01	

Note: 1) 'Chq' indicates 'Cheque' & 'RTGS' indicate 'Real Time Gross Settlement' through banking channel
2) We are unable to comment whether the cheques were account payee or not as necessary evidences in respect thereof are not in possession of assessee.



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5. Ld.AR further drew our attention to page No.58 of the paper book which is a copy of the notice issued u/s.142(1) of the Act dated 30.04.2013, which reads as follows :-

NOTICE UNDER SECTION 142(1) OF THE INCOME TAX ACT, 1961

PAN : AABCM7759A

Office of the :	Dy. Commissioner of Income Tax, Central Circle-VI, Kolkata
Dated :	30.04.2013

To
M/s Maithan Ceramics Ltd
9, A.J.C. Bose Road,
Kolkata-700017.

Sir,

In connection with the assessment for the assessment year 2011-12 you are required to :

(a) ** prepare a true and correct return of your income/the firm's income/family's income/the local authority's income/the company's income/income of the A.O.P./income of the body of individuals / income of _____ in respect of which you are assessable under the Income Tax Act, 1961 during the previous year relevant to the assessment year mentioned above. The return should be in the appropriate form as prescribed in Rule 12 of the Income Tax Rules, 1962. A blank return form is enclosed. It should be duly verified and signed in accordance with the provisions of Section 140 of the said Act and delivered at my office on or before _____.

(b) ** produce or cause to be produced before me at my office at 3rd Floor, 110, Shanti Pally, Aayakar Bhawan Poorva, Kolkata - 700107, on 16.05.2013 at 01:15 P.M. the accounts and / or documents specified overleaf. "AS PER ANNEXURE - A ENCLOSED "

(c) **furnish in writing and verified in the prescribed manner information called for as per annexure and on the points or matters specified therein before me at my office at 3rd Floor, 110, Shanti Pally, Aayakar Bhawan Poorva, Kolkata - 700107, on 16.05.2013 at 01:15 P.M.

Yours faithfully,
ASSESSING OFFICER



(Handwritten Signature)

Name संजित कुमार दास
..... **SANJIT K.R. DAS**

Designation **उप आयकर अधिकारी**
..... **Dy. Commissioner of Income Tax**

..... **कोलकाता-VI, केंद्र**

..... **Central Circle-VI, Kolkata**

** Strike out items not Applicable



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6. Ld.AR further drew our attention to page No.59 of the paper book which is the details of documents called for in the said notice u/s.142(1) of the Act. It was the submission that in the item No.5 the details of unsecured loan raised during the financial year 2010-2011 indicating the names, complete postal address and PAN numbers of the creditors were called for, the same reads as follows :-

Annexure - A 59

M/s Maithan Ceramics Ltd
PAN : AABCM 7759 A
Assessment Year : 2011-12

Documents/information to be produced

1. A write up on your business activities,
2. List of all the Directors of the Company as on 31.03.2011 as well as 31.03.2013, indicating name, complete postal address and Permanent Account Number of each Director,
3. Details of share capital raised during the financial year 2010-11, indicating the name(s) , complete postal address and PAN(s) of the shareholders alongwith copies of respective share application forms,
4. Documents justifying the claim made in computation of income that Bonus amounting to Rs.42,61,336/- pertaining to earlier year was actually paid during the relevant financial year,
5. Details of unsecured loans raised during the financial year 2010-11, indicating the name(s) , complete postal address and PAN(s) of the loan creditors,
6. A write up on the expenditure debited to the profit & Loss account which is relatable to income that does not form part of total income,
7. Details of expenses debited under the heads 'Packing & Forwarding Charges', 'Rent', 'Travelling & Conveyance', 'Brokerage & Commission', 'Bad Debts / Sundry Balances Written off', 'Repairs & Maintenance' and 'Miscellaneous Expenses' along with details of tax deducted and deposited on such expenditure, wherever applicable.
8. In respect of expenditure under the head 'Travelling & Conveyance', please specify the expenditure of foreign travels, if any and the purpose for which such travel was made,
9. Detail of interest debited to the accounts, indicating the details of tax deducted thereon and deposited in the Govt. account.
10. Detail of securities pledged against bank guarantees/ bank loans,
11. A statement on addition to fixed assets during the year and the date with effect from which, the same were put to use,
12. Reconciliation statement of gross receipt with reference to Form 26AS,
13. A write up on the reasons for high claim of refund out of TDS,
14. Details of current liabilities as on 31.03.2011, indicating the name(s), complete postal address and PAN(s) of the parties concerned,
15. Details of all the bank accounts held as on 31.03.2011 as well as on date and printed statements of all the bank accounts r 31.03.2013.
16. Computation of taxable wealth for the assessme of filing of return of taxable wealth, if applicable



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7. Ld.AR further drew our attention to page No.60 of the paper book which is the letter dated 17.12.2013 from Nidhi Agro Private Limited to the DCIT, Central Circle-VI, Kolkata confirming the details of the loan. The same reads as follows :-

Nidhi Agro Private Limited

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Aloka House, 1st Floor
6B, Bentinck Street, Kolkata - 700 001
Phone : 91-33-2243 0271
Fax : (033) 40661036

Dated 17th December 2013

To,
The D. C. I. T.,
Central Circle – VI,
3rd Floor, Aayakar Bhawan Poorva,
110, Shanti Palli,
Kolkata – 700 107

Sir,

Sub: Furnishing of Information/document in respect of M/S Maithan Ceramic Ltd. for the Financial Year 2010-11 relevant to the Assessment Year 2011-12.

Ref: Your letter U/Sec. 133(6)

With reference to your above captioned letter on the subject mentioned hereinabove, we furnish the following information/document:

1. Opening Balance as on 01.04.2010 :
Rs. Nil
2. Amount of Loan advanced during the F.Y. 2010-11 & date & mode of payment :
Rs. 1,00,00,000/- on 02.07.11 through RTGS from Karnataka Bank.
3. Amount of Repayment received during the F.Y. 2010-11 & date & mode of receipt :
Rs. NIL
4. Explanation with supporting document in respect of source of loan advanced :
Please note the above amount given as a loan from our own capital fund, please find enclosed the copy of the bank statement.
5. Amount of Interest Received along with Tax deducted thereon:
Interest credited as at year end Rs. 7,47,945/- & TDS thereon Rs. 74,795/-
6. Closing Balance of loan as on 31.03.2011:
Rs. 1,06,73,150.00
7. Copy of PAN Card & Assessing Officer having jurisdiction over our case:
Copy of PAN Card enclosed. We are assessed by ITO 8(2) Kolkata.

We hope the above will serve your purpose.

Thanking you,
Yours faithfully,

NIDHI AGRO PRIVATE LIMITED

Handwritten signature

Director



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8. Ld.AR further drew our attention to page No.76 of the paper book which is a copy of the assessment order passed u/s.143(3) of the Act on 28.03.2024. It was the submission that no addition in respect of said unsecured loan have been made by the Assessing Officer. The Id. AR subsequently drew our attention to page Nos.81 to 89 of the paper book which are the copies of the reasons recorded for the reopening of the assessment. The reads as under :-

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Reason to Believe

M/s. Maithan Ceramics Limited **A.Y: 2011-12**



- The assessee was engaged in carrying on the business of Manufacturing & Dealing of Refractory Goods during the previous year relevant to the A.Y 2011-12 and had filed its return of income for the assessment year 2011-12 on 29-09-2011, declaring total income of Rs. 8,82,17,350/-.
- Subsequently, an information from **DDIT (Inv) U-1(3), Kolkata** has been received by this office, which states that:-

** One Suspicious Transaction Report was received from FIU-IND, New Delhi regarding suspicious transaction made by one paper company, M/s Vista Dealcom Pvt. Ltd in bank account no. 129005000024 maintained with ICICI Bank, Central Avenue Kolkata Branch, 112, C R Avenue, Kolkata. The directors of the company are Samir Das and Sunny Singh. During course of investigation, it was unearthed that Bank account of the said company was utilized for layering fund and providing accommodation entry to the beneficiaries. In this regard, statement of Dummy Directors namely Samir Das, Chandan Chakraborty, Naveen Jain, Hrudha Nanda Behera, Arindam Dutta who were also directors in the companies used for layering of Fund, Entry operation Sri Mayank Daga and Sri Suresh Kumar Jain were recorded wherein they admitted that they were engaged in providing accominodation entry to the beneficiaries.*

M/s. Maithan Ceramics Ltd is one beneficiary company which was provided accommodation entry of Rs. 1 Crore from FY 2009-10 to 2012-13. The said beneficiary company having transaction with these shell/paper companies namely Vista Dealcom Pvt. Ltd/ Dolphin Vintrade Pvt. Ltd/ Maxworth Vinimay Pvt. Ltd/ Carnation Distributors Pvt. Ltd / Gaurav Dealers Pvt. Ltd. / Ranjoli Vintrade Pvt. Ltd / Avon Vanijya Pvt. Ltd / Flaxo Tie- up Pvt. Ltd / Naveen Dealcom Pvt. Ltd / Rudraksh Dealers Pvt. Ltd/ Satyatej Vyapaar Pvt. Ltd.

*Payment made by any of these above shell companies to M/s Maithan Ceramics Ltd shows that the actual unaccounted money belongs to M/s Maithan Ceramics Ltd which was routed back to its books of accounts.**

2.1 Since, the above information furnished by the Investigation Wing, Kolkata is only indicative in nature and not specifically assessee-wise, separate investigation and verification for each assessee, as alleged in the report is necessary. Further, on the basis of above report this office had re-opened the case of the assessee for A.Y 2010-11, wherein during the re-assessment proceedings, bank statement of M/s. Vista Dealcom Pvt. Ltd. was called for from ICICI Bank, Central Avenue Kolkata Branch. On perusal of the bank statements, cash was found deposited on regular basis and in turn funds in the form of RTGS/Cheques, were found rotated among the companies mentioned in the report such as Maxworth Vinimay Pvt. Ltd, Gaurav Dealers Pvt. Ltd., Flaxo Tie- up Pvt. Ltd, etc., against the matching amount of cash deposits.

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3. Further, an another information from the office of **Investigation Unit-2(1), Kolkata** is received regarding M/s. Maithan Ceramics Ltd, which is re-produced below:-

"During the course of investigation, it is seen that there were several bank accounts maintained with ICICI Bank in which high value cash were deposited regularly (just below Rs. 10,00,000/-) (hereinafter these accounts refer as "**Layer I accounts**") followed by transfer to the other bank accounts through RTGS/TRF. The details of such accounts are as given below:

Layer - I

S. No.	Name of the entity	A/c No.	Bank Name	Cash Deposit (Rs. In crore)
1	Excel Enterprises	627705054268	ICICI BANK	12.63
2	Sanjay Kumar	627705054262	ICICI BANK	16.75
3	Lalit Sharma	627705054261	ICICI BANK	11.45
4	Ajay Trading Co.	627705054263	ICICI BANK	18.56
5	Baba Lokenath Enterprises	106505000391	ICICI BANK	28.34
6	Lokenath Enterprises	106505500070	ICICI BANK	3.24
7	Prabhu Yadav	106505000387	ICICI BANK	7.85
8	Harish Verma	054301513143	ICICI BANK	6.14
9	Ankita Enterprise	627705054218	ICICI BANK	15.45
10	S M Traders	627705054299	ICICI BANK	12.01
11	Mukta Enterprises	106505000338	ICICI BANK	53.09
12	Kishore Agarwal	106505500117	ICICI BANK	4.63
13	Tirumala Enterprises	106505000333	ICICI BANK	16.73
14	Ambica Trading	106505500122	ICICI BANK	4.40
15	Joydeep Ghosh	054301513142	ICICI BANK	6.05
16	Sunny Trading Co.	627705054219, 129005500002	ICICI BANK	23.17
17	RK Traders	106505500075	ICICI BANK	1.11
18	Bhagta Agency		ICICI BANK
19	Universal Enterprises		ICICI BANK
	TOTAL			241.50 (+)

There were also several additional bank accounts in different banks where large value cash were deposited regularly and from whom the funds were coming to the account of the above mentioned parties. The above bank accounts were closed in very short span of time after making high value cash transaction. On perusal of above bank statement, it is seen that the funds deposited into cash were immediately transferred to other bank (herein after referred as **Layer-II accounts**) maintained with five different banks. To understand the nature of transactions, Layer II Accounts are being divided into five parts:

Layer-II

S No.	Name of the entity	A/c No.	Bank Name	Part No.	Amount (Rs.)
1	Maxworth Vinimay Pvt. Ltd.	106505500120	Karnataka Bank	Part A	80.83 cr
2	Zedco Corporation, Jagdamba Enterprises & Janki Trading Co	1823717414, 3065731706 & 1823716817	Central Bank of India	Part B	94.44 cr
3	Srijan Vyapaar Pvt. Ltd. & Scope Vyapaar Pvt	411010200003650 &	Axis Bank	Part C	33.03 cr



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	Ltd	411010200004435		83	
4	Mani Shankar Tradecom Pvt. Ltd.	301601010930656	Union Bank Of India	Part D	22.90 cr
5	Scope Vyapaar Pvt. Ltd	000605020149	ICICI Bank	Part E	63.33 cr

Part A (Maxworth Vinimay Private Limited), Karnatka Bank

From the above mentioned Layer-I accounts, funds to the tune of approximately Rs. 80.83 crores were transferred into the bank account of M/s Maxworth Vinimay Private Limited (opened on 06.10.2010 and closed on 16.01.2012) which was followed by transfer to the bank accounts of Dolphin Vintrade Private Limited, G.P.M Portfolio Management Private Limited etc. maintained with Karnatka Bank herein after referred as Layer A1 accounts details of which are as follows:

Layer-A1

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	Impression Suppliers Pvt. Ltd	4342000100075901	Karnataka Bank	20.47
2	Avon Vanijya Pvt. Ltd.	4342000100075101	Karnataka Bank	23.95
3	Dolphin Vintrade Pvt. Ltd	4342000100075601	Karnataka Bank	19.47
4	Ratnakar Vincom Pvt. Ltd.	4342000100082501	Karnataka Bank	7.47
5	G.P.M Portfolio Management Pvt. Ltd.	4342000100079301	Karnataka Bank	7.00
	TOTAL			78.36

On perusal of bank statements of these layer A1 accounts, it was observed that part of the amount was rotated within layer A1 accounts and rest amounts were transferred to some other bank account (hereinafter referred as Layer-A2 Accounts). The details of credited amount into the Layer-A2 accounts from Layer-A1 Accounts are as below:

Layer-A2

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	Satyatej Vyapaar Pvt. Ltd.	4342000100075001	Karnataka Bank	84.26
2	Dolphin Vintrade Pvt. Ltd.	4342000100075601	Karnataka Bank	35.74
3	G.P.M Portfolio Management Pvt. Ltd.	4342000100079301	Karnataka Bank	33.94
4	Ratnakar Vincom Pvt. Ltd.	4342000100082501	Karnataka Bank	33.20
3	Nidhi Agro Pvt. Ltd.	4342000100086501	Karnataka Bank	47.16
4	Deepak Pens & Plastic Pvt. Ltd.	4342000100086401	Karnataka Bank	42.73
5	Puneet Oils & Chemicals Pvt. Ltd.	4342000100080301	Karnataka Bank	11.57
6	Avon Vanijya Pvt. Ltd.	4342000100075101	Karnataka Bank	23.02
7	Minaxi Suppliers Pvt. Ltd.	4342000100073401	Karnataka Bank	28.94
8	Tanish Tradecom Pvt. Ltd	4342000100080201	Karnataka Bank	8.91
	TOTAL			349.47



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(The credit amount in Layer-A2 Accounts had been increase as because additional funds were credited from that account which has either not come under above layers or due to rotated same funds within Layer-A2.)

Now the funds credited into the Layer-A2 were transfer to the bank account of beneficiaries. Details of which are as below:

Layer-A3

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>Remarks</u>
1	Spirit Global Constructions Pvt. Ltd.	4342000100075001	Axis Bank	52.67	Beneficiary
2	Spirit Infradevelopers Pvt. Ltd.	4342000100075601	Axis Bank	8.50	Beneficiary
3	Spirit Infrastructure Pvt. Ltd.	4342000100086501	Axis Bank	10.00	Beneficiary
4	KJS Cement (I) Ltd.	4342000100086401	Axis Bank	46.68	Beneficiary
5	Kamal Sponge Steel and Power Ltd.	4342000100080301	Axis Bank	36.01	Beneficiary
6	Kamaljeet Singh Ahluwalia			13.61	Beneficiary
7	Others Beneficiaries as per annexure - A attached			166.76	Beneficiary
	Total				

(Note: The details of Beneficiaries are given in annexure-A.)

On the analysis of the master data of Companies of Layer-A2 from MCA Database, it is seen that most of the layer-A2 companies have now become sister concerns of beneficiaries. It appears that some of the Layer-A2 companies have been purchased by the beneficiary company from entry operators. Hence, assessing officer is requested to examine accordingly and do necessary action as per the provision of IT Act, 1961.

Part B (Zedco Corporation, Janki Trading Co and Jagdamba Enterprises):

In the similar manner as explained above in Part-A, the funds which were credited into the bank account of Part-B i.e. Zedco Corporation (A/c No - 1823717414), Janki Trading Co (A/c No. 1823716817) and Jagdamba Enterprises (A/c No. 3065731706) maintained with Central Bank of India were transferred to the bank account of beneficiaries after layering through layer-B1, Layer-B2, Layer-B3. The details of Layer-B2, Layer-B3 and Beneficiaries are as follows:

As mentioned above, the cash credit in Layer-I account was transferred through RTGS in Part B to M/s Zedco Corporation, M/s Janki Trading Co & M/s Jagdamba Enterprises of Rs. 94.44 crore The entire amount credited in these bank account were transfer immediately to concerns mentioned in the table below where the amount shown in column 5 is only from Zedco Corporation (here after these accounts are refered as Layer-B1).

Layer-B1

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	SMART INVESTMENTS	1823717899	CBI	5.36
2	DREAMLINE INVESTMENTS	1823718123	CBI	5.45
3	RUPA STOCK DEALERS	1823718112	CBI	5.02
4	ARIHANT STOCK	3081085434	CBI	13.29



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5	GOODLUCK HOLDINGS	3081841992	CBI	7.52
6	BHAIRAV SECURITIES	1823717888	CBI	4.40
7	SAHA TRADERS	3081234705	CBI	5.91
8	BMG SECURITIES	3081842408	CBI	6.42
9	TOPLINE SECURITIES	1823718134	CBI	2.10
	TOTAL			54.97

On perusal of bank statements of these layer B1 accounts, it was observed that part of the amount was rotated within layer B1 accounts and rest amounts were transferred to some other bank account (here after these accounts are referred as Layer-B2 Accounts). The details of credited amount into the Layer-B2 accounts from Layer-B1 are as below :

Layer-B2

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	CAMPUS IMPEX PVT LTD	1823718269	CBI	13.65
2	ZED DEALCOMM PVT LTD	1823725425	CBI	46.23
3	MANORATH COMMERCIAL PVT LTD	3065154295	CBI	17.62
4	FORCE AGENCY PVT LTD	3065051119	CBI	85.22
3	GOODLUCK HOLDINGS	3081841992	CBI	1.69
4	RUPA STOCK	1823718112	CBI	0.50
5	UNICON MANAGEMENT PVT LTD	1823725708	CBI	48.23
6	NEXCARE AGENCY	3064950649	CBI	63.83
7	AMCO AGENTS	3065154375	CBI	21.28
8	ADVENT DEALCOM PVT LTD	3072685126	CBI	28.61
	TOTAL			326.86

On perusal of bank statements of these layer B2 accounts, it is seen that the funds were transferred partly within Layer B2 Account, partly to beneficiary and partly to other bank account (here after referred as Layer-B3 Accounts). The details of credited amount into the Layer-B3 accounts from Layer-B2 are as below :

Layer - B3

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>Remark</u>
1	ANUDEEP CONSULTANTS PVT LTD	1823720040	CBI	66.91	
2	TRINCASS VYAPAAR PVT LTD	3064950399	CBI	30.81	
3	DHOOMKETU MARKETING PVT LTD	3067074327	CBI	14.70	Beneficiary
4	ROHINI VYAPAAR PVT LTD	910020008549077	AXIS BANK	16.65	
3	PUNSUNI AGENTS PVT LTD	072010200001588	AXIS BANK	10.26	
4	MANORATH COMMERCIAL PVT LTD	3065154295	CBI	17.63	
5	RAMNIK COMMERCIAL PVT LTD	910020016470912	AXIS BANK	7.54	
6	FIX FIT SECURITIES PVT LTD			12.19	Beneficiary
7	BNK SECURITIES PVT LTD			45.74	Beneficiary
8	ASHDIL TRADING PVT LTD			10.00	Beneficiary
9	ASHOK KUMAR KAYAN	00080140000088	HDFC	24.80	
	TOTAL			257.23	



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On perusal of bank statements of these layer B3 accounts, it was observed that the almost entire amounts were transferred to some other bank account (here after referred as Layer-B3 Accounts). The details of credited amount into the Layer-B4 accounts from Layer-B3 are as below.

Layer – B4

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>Remark</u>
1	BHUVEE PROFILES			23.80	Beneficiary
2	EVIKA VINCOM PVT LTD			43.00	Beneficiary
3	DHOOMKETU MARKETING PVT LTD		J&K Branch, Delhi	14.70	Beneficiary
4	NAVODAY CONSULTANTS LIMITED			9.27	Beneficiary
3	SHREE SHIPPING			29.70	Beneficiary
4	BNK SECURITIES PVT LTD			16.02	Beneficiary
5	K RAJ CONSTRUCTION PVT LTD		MUMBAI	7.54	Beneficiary
6	ALTOP COMMODITIES PVT LTD			10.00	Beneficiary
7	LEENA POWERTECH ENGINEERS PVT LTD			7.90	Beneficiary
	TOTAL			161.93	

Part C and E (Scope Vyapaar Pvt Ltd and Srijan Vyapaar Pvt Ltd):

In the similar manner as explained above in Part-A, the funds which were credited into the bank account of Part-C i.e. Scope Vyapaar Pvt Ltd (A/c No - 411010200004435) and Srijan Vyapaar Pvt Ltd (A/c No. 3065731706) of Axis Bank and Scope Vyapaar Pvt Ltd (A/c No. 000605020149) of ICICI Bank were transferred to the beneficiaries account after layering through layer-CE1, Layer-CE2. The details of Layer-CE2, Layer-CE2 and Beneficiaries are as follows:

Layer – CE1

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	Sajendra Mookim	910020002778367	AXIS	33.89
2	Sunview Retail Pvt Ltd	411010200007962	AXIS	14.24
3	Gateway Financial Services Ltd.	0015-553311-050	IndusInd Bank	13.58
4	K Prasad & Co	910020002175687	AXIS	10.55
5	Silverlake Traders Pvt Ltd	3081841992	ICICI	11.05
6	Shyamlal Sultania	411010200004794	AXIS	5.23
7	Nitin Hire Purchase Pvt Ltd	910020029205851	AXIS	3.82
8	Sankalp Vincom Pvt Ltd	411010200004398	AXIS	3.67
9	Zigma Commotrade Pvt Ltd	910020004177904	AXIS	3.28
	TOTAL			99.31

On perusal of bank statements of these layer CE1 accounts, it was observed that part of the amount was rotated within layer CE1 accounts and rest amounts were transferred to some other bank account (here after referred as Layer-CE2 Accounts). The details of amounts credited into the Layer-CE2 accounts from Layer-CE1 are as below :



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Layer - CE2

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>REMARKS</u>
1	COMMIT MARKETING PVT LTD	411010200005807	AXIS BANK	73.82	
2	NITIN HIRE PURCHASE PVT LTD	910020029205851	AXKIS BANK	29.56	
3	FLY HIGH EXPORTS PVT LTD	910020028487250	AXIS BANK	50.00	
4	SUNVIEW RETAIL PVT LTD	411010200007962	AXIS BANK		
3	AYUSHMAN VINTRADE PVT LTD	910020004053413	AXIS BANK	16.65	
4	HANDSOME SALES PVT LTD	411010200005814	AXIS BANK	35.24	
5	DESIRE VINCOM PVT LTD	411010200008129	AXIS BANK	40.52	
6	GRAVITY BARTER PVT LTD	411010200008006	AXIS BANK	70.58	
7	SANKALP VINCOM PVT LTD	411010200004398	AXIS BANK	44.54	
8	ZIGMA COMMOTRADE PVT LTD	910020004177904	AXIS BANK	77.91	
	TOTAL			438.82	

On perusal of bank statements of these layer CE2 accounts, it is seen that the funds were transferred partly within Layer CE2 Account, partly to beneficiary and partly to other bank account (here after referred as Layer-CE3 Accounts). The details of credited amount into the Layer-CE3 accounts from Layer-CE2 are as below :

Layer - CE3

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>REMARKS</u>
1	Marsh Steel Trading Ltd	1823718269	IDBI	13.65	
2	Jasmine Steel Trading Ltd	1823725425	IDBI	46.23	
3	Vision Steel Ltd	3065154295	IDBI	17.62	
4	Diyajyoti Steel Ltd	3065051119	IDBI	85.22	
3	Sapphire Media & Infrastructure Ltd	05571101100	ANDHRA BANK		CSE listed
4	Hari Darshan Sales Pvt Ltd	00080340010178	IDBI		
5	Adhunik Steels Ltd			1.00	BENEFICIARY
6	Concast Bengal Industries Ltd			1.00	BENEFICIARY
7	Concast Steel & Power Limited			8.50	BENEFICIARY
8	Girish Reddy Althuru			17.56	BENEFICIARY
	TOTAL			326.86	



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On perusal of bank statements of these layer-CE3 accounts, it was observed that almost entire amount were transferred to some other bank account (here after referred as Layer-CE4 Accounts). The details of amount credited into the Layer-CE4 accounts from Layer-CE3 are as below.

Layer – CE4

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>REMARKS</u>
1	Bhushan Power & Steel Ltd			442.51	BENEFICIARY
2	Aarti Singhal			21.25	BENEFICIARY
3	Sanjay Singhal			1.50	BENEFICIARY
4	Mentor Capital Limited	00012320006969	HDFC Bank	69.97	BENEFICIARY(NBFC)
5	Other			92.06	BENEFICIARY
	TOTAL			627.29	

Details list of beneficiary is provided in Annexure C.

Part D (Manishankar Tradecom Pvt Ltd).

In the similar manner as explained above in Part-A, the funds which were credited into the bank account of Part-D i.e. Maniratnam Tradecom Pvt Ltd maintained with Union Bank of India were transferred to the beneficiaries account after layering through layer-D1, Layer-D2. The details of Layer-D1, Layer-D2 and Beneficiaries are as under:

Layer – D1

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	Kasi Vishwanath Tradecom Pvt Ltd	301601010930657	UBI	21.47
2	Concord Infra Projects Pvt Ltd	01900210002728	UCO	5.22
3	Hemant Sarwagi		HDFC	1.72
4	Chubside Dealcom Pvt Ltd	0515-AA1821-050	IndusInd	0.32
	TOTAL			28.73

On perusal of bank statements of these layer D1 accounts, it was observed that part of the amount was rotated within layer D1 accounts and rest amounts were transferred to some other bank account (here after referred as Layer-D2 Accounts). The details of credited amount into the Layer-D2 accounts from Layer-D1 are as below :

Layer – D2

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>
1	Harsharatna Finance & Services Pvt Ltd	01900210004173	UCO	1.36
2	Darkin Distributors Pvt Ltd	01900210002155	UCO	1.11
3	Viksit Trexim Pvt Ltd	01900210002070	UCO	1.00
4	Prime Vyapaar Pvt Ltd	01900210004265	UCO	1.13
5	Ridhi Siddhi Vintrade Pvt	01900210002902	UCO	1.16



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	<i>Ltd</i>				
6	Vasundhra Commodities Pvt Ltd	01900210004159	UCO		1.16
7	Honesty Dealers Pvt Ltd	01900210002414	UCO		2.40
8	Intime Management Services Pvt Ltd	01900210001974	UCO		1.41
	TOTAL				11.73

On perusal of bank statements of these layer D2 accounts, it is seen that the funds were transferred partly to within Layer D2 Account, partly to other beneficiary bank accounts (here after referred as Layer-D3 Accounts). The details of credited amount into the Layer-D3 accounts from Layer-D2 are as below:

Layer - D3

<u>S No.</u>	<u>Name of the entity</u>	<u>A/c No.</u>	<u>Bank Name</u>	<u>Amount in crore (Rs.)</u>	<u>Remarks</u>
1	Bramhani Industries Ltd	-	-	5.08	Beneficiary
2	Golechha Global Finance Ltd	-	-	0.50	Beneficiary
3	Mudita Properties Pvt Ltd	-	-	1.00	Beneficiary
4	Grace Industries Ltd	-	-	33.55	Beneficiary
5	Cauvery Iron & Steel (India) Ltd	-	-	0.87	Beneficiary

In view of the above facts and circumstances and in the light of the detailed discussion made above, it is evident that several beneficiaries brought back unaccounted money into their books of accounts using banking channel after layering the funds through bank accounts of the inexistence entity and Shell Company. The bank statements of the above mentioned companies have been analysed and a "cash trail/money trail" tracing out several beneficiary has been provided, wherein it is found that the jurisdiction of some of the beneficiary lies with you. The details of which are as follows:-

<u>S. No</u>	<u>Name of the Beneficiary</u>	<u>PAN</u>	<u>Transferee Company/Shell Company</u>	<u>Amount(Rs.)</u>	<u>F.Y</u>
1	Malthan Ceramics Ltd	AABCM7759A	NIDHI AGRO PVT LTD	1,00,00,000	2010-11

4. Therefore, on the basis of the above reports as well as the finding from the records available in this office in respect of the said assessee **M/s Malthan Ceramics Ltd.**, I have sufficient reason to believe that the assessee company has furnished inaccurate particulars of income and income chargeable to tax has escaped assessment for the assessment year 2011-12 within the ambit of the provisions contained in section 147 of the Act and as such, I am personally satisfied that it is a fit case for reopening u/s 147 of the IT Act; by way of issuance of notice u/s 148 of the IT Act.



(Gyaneshori Irengbam, IRS)
DCIT, Circle-7(1), Kolkata

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9. Ld. AR further drew our attention to page 92 of the paper book which is a copy of the assessment order for the assessment year 2010-2011 in the case of the assessee. It was the submission that in the said assessment order the Assessing Officer had recognized that the bank account of ICICI bank by M/s Vista Dealcom Pvt. Ltd. was opened only on 01.11.2010 which was subsequent to the providing of the loan by Nidhi Agro Pvt. Ltd. to the assessee. Ld. AR also drew our attention to page No.54 of the paper book which is a copy of the loan repayment details, which reads as follows :-

Maithan Ceramic Limited
(ANNEXURES TO FROM 3CD FOR THE YEAR ENDED 31.03.2012) 54

ANNEXURE - E
PARTICULARS OF LOAN/DEPOSIT TAKEN/REPAID DURING THE YEAR IN EXCESS OF LIMIT U/S
269SS/269T OF THE INCOME TAX ACT 1961 (Refer para 24 of Form 3CD for the year ended 31.03.2012)

Name, Address & P.A. No.	Opening Balance	Date	Amount Received	Amount Repaid	Mode	Interest	TDS	Whether Squared up	Maximum Outstanding Amount
Ashiana Properties Pvt Ltd 1, R.N. Mukherjee, 5th Floor Kolkata-700 001 PA No. AACCA 2614J	10,675,616	21.06.2011	-	675,616	Chq			No	10,675,616
		31.03.2012		900,000	Chq	1,000,000	100,000		
Harvard Trading Pvt Ltd 1, R.N. Mukherjee, 5th Floor Kolkata-700 001 PA No. AAACH 6268E	4,279,123	21.06.2011	-	279,123	Chq			No	4,279,123
		31.03.2012		360,000	Chq	400,000	40,000		
Nidhi Agro Pvt Ltd 6B, Bentinck Street, Aiooka House Kolkata - 700 001 PA No. AACN 8759L	10,673,150	21.06.2011	-	673,150	Chq			Yes	10,673,150
		23.01.2012		10,000,000	Chq				
		27.03.2012		730,327	Chq	811,475	81,148		
R.A. Trading Pvt Ltd 1, R.N. Mukherjee, 5th Floor Kolkata-700 001 Pan No. AABCR 2816D	10,570,575	21.06.2011	-	570,575	Chq			Yes	10,570,575
		28.03.2012		10,000,000	RTGS				
		31.03.2012		890,164	Chq	989,071	98,907		
Ush: Ulychem India Pvt Ltd 1, R.N. Mukherjee, 5th Floor Kolkata-700 001 Pan No. AAACU 3194J	17,079,013	21.06.2011	-	1,079,013	Chq			No	17,079,013
	31.03.2012		1,440,000	Chq	1,600,000	160,000			

Note: 1) 'Chq' indicates 'Cheque' & 'RTGS' indicate 'Real Time Gross Settlement' through banking channel

2) We are unable to comment whether the cheques were account payee or not as necessary evidences in respect thereof are not in possession of assessee.



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10. It was the submission that Nidhi Agro Pvt. Ltd. had repaid on 23.01.2012 and TDS had also been deducted. It was submitted by the Id.AR that at the outset, the reasons recorded clearly showed that the Assessing Officer was doing fishing and roving enquiry which is not permissible for the purpose of reopening. It was also the submission that in view of the first proviso to the provisions of Section 147 of the Act, as the Assessing Officer has not mentioned any failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment, therefore, the reopening of the assessment is liable to be treated as invalid. It was also submitted that the assessee having already provided all the details in the course of original assessment, therefore, the reopening of the assessment was only on the basis of a change of opinion. It was also submitted that the assessee is only required to disclose all material facts and is not obligated to assist the Assessing Officer in drawing inferences. It was also the submission that non-disclosure of secondary facts is irrelevant for the purpose of invoking reassessment. Ld.AR placed reliance on the decision of the Hon'ble Supreme Court in the case of NDTV Ltd., reported in (2020) 424 ITR 607 (SC).

11. Ld. AR also drew our attention to the decision of the Hon'ble Jurisdictional High Court in the case of Allom Extrusions, passed in ITA No.268 of 2024 dated 17.12.2024 to submit that the loans having been repaid, the genuineness should not be questioned any further.

12. We have gone through the judgment of the Hon'ble Jurisdictional High Court in the case of Allom Extrusions, referred to supra, and it must

be mentioned here categorically that this is not the finding of the Hon'ble Jurisdictional High Court. It is an interpretation made by the Id.AR to the said decision of the Hon'ble Calcutta High Court. The Hon'ble High Court has dismissed the appeal on the ground that there was no error in the order of the Tribunal and no question of law much less substantial question of law arises for consideration. Consequently, this decision is not of any help to the assessee.

13. Ld.AR also placed reliance on the decision of Hon'ble Jurisdictional High Court in the case of Simplex Concrete Piles (India) Ltd. & Geo Miller & Co. Ltd., reported in 262 ITR 605 (Cal-HC) to submit that the proviso to section 147 of the Act provides that no action shall be taken after the expiry of four years unless the contingencies provided as satisfied. Ld.AR also filed his brief synopsis which reads as follows :-

MAITHAN CERAMIC LIMITED

PAN: AABCM7759A

Asst. Yr. 2011-12

Brief Synopsish before ITAT, Kolkata

(1) Submission in Respect of Loan Transaction - A.Y. 2011-12

The assessee is engaged in the business of manufacturing and dealing in refractory goods. For the Assessment Year 2011-12, the assessee filed its return of income under Section 139(1) of the Income-tax Act, 1961, declaring a total income of 28,82,17,350/-, The return was duly accompanied by audited financial statements and a tax audit report. The case was selected for scrutiny, and the assessment was completed under Section 143(3) vide order dated 28.03.2014. (Page-76 to 79)

During the relevant financial year, the assessee availed a loan of ₹1 crore from M/s. Nidhi Agro Pvt. Ltd. (PAN: AAACN8759L) on 02.07.2010 through proper banking channels. The loan was raised to meet the financial requirements of the business. Interest of

₹7,47,945/- was paid on the said loan, on which TDS of 274,795/- was duly deducted under Section 194A of the Act. (Page-90)

During the course of the assessment proceedings, notice/s 142(1) issued seeking details of unsecured loan raised during the financial year 2010-11, indicating the name(s), complete postal address and PAN(s) of the loan creditors, the assessee furnished the loan confirmation and produced its bank statements to substantiate the receipt of the loan. Further, the Assessing Officer initiated independent verification by issuing notice under Section 133(6) to the lender. In response, M/s. Nidhi Agro Pvt. Ltd., vide its letter dated 17.12.2013, confirmed the loan transaction, owned up the payment of loan, and furnished all relevant supporting documents. (Page-60). The assessment was finally framed u/s 143(3) vide order dated 28-03-2014 (Page-76 to 79)

The said loan was returned / repaid on 23-01-2012 much prior to re-opening of the case u/s 148 dated 23-03-2018 through banking channel, disclosed in Tax Audit Report (Page -54).

(2) Reopening of Assessment under Section 148 – A.Y. 2011-12

Subsequently, the Ld. Assessing Officer issued a notice under Section 148 of the Income-tax Act, 1961 dated 23.03.2018 for the Assessment Year 2011-12, based on information received from the Director of Income Tax (Investigation), Unit-1(3), Kolkata. The reasons recorded for reopening the assessment are summarized below: (Page-81 to 89)

"One Suspicious Transaction Report was received from FIU-IND, New Delhi regarding suspicious transaction made by one paper company, M/s. Vista Dealcom (P) Ltd. in bank account no. 129005000024 maintained with ICICI Bank, Central Avenue branch, Kolkata, 112, CR Avenue, Kolkata. The directors of the company are Samir Das and Sunny Singh. During course of investigation, it was unearthed that Bank account of the said company was utilized for layering fund and providing accommodation entry to the beneficiaries. In this regard, statement of Dummy Directors namely Samir Das, Chandan Chakraborty, Naveen Jain, Hrudha Nanda Behera, Arindam Dutta who were also directors in the companies used for layering of Fund, Entry operation Sri Mayank Daga and Sri Sureshj Kumar Jain were recorded wherein they admitted that they were engaged in providing accommodation entry to the beneficiaries.

M/s. Maithan Ceramics Ltd is one beneficiary company which was provided accommodation entry of Rs. 1 Crore from F.Y. 2009-10 to 2012-13. The said beneficiary company having transaction with these sale/paper companies namely

Vista Dealcom Pvt. Ltd.

*Dolphin Vintrade Pvt. Ltd.
 Maxworth Vinimay Pvt. Ltd.
 Carnation Distributors Pvt. Ltd.
 Gaurav Dealers Pvt. Ltd.
 Ranjoli Vintrade Pvt. Ltd.
 Avon Vanijya Pvt. Ltd.
 Flaxo Tie-Up Pvt. Ltd.
 Naveen Dealcom Pvt. Ltd.
 Rudraksh Dealers Pvt. Ltd.
 Satyatej Vyapaar Pvt. Ltd.*

Payment made by any of these above shell companies to Ms Maithan Ceramics Ltd shows that the actual unaccounted money belongs to M/s Maithan Ceramics Ltd which was routed back to its books of accounts.

Since, the above information furnished by the Investigation Wing, Kolkata is only indicative in nature and not specifically assessee-wise, separate investigation and verification for each assessee, as alleged in the report is necessary, Further, on the basis of above report this office had re-opened the case of the assessee for A.Y 2010-11, wherein during the re-assessment proceedings, bank statement of M/s. Vista Dealcom Pvt. Ltd. was called for from ICICI Bank, Central Avenue Branch, Kolkata. On perusal of the bank statements, cash was found deposited on regular basis and in turn funds in the form of RTGS/Cheques, were found rotated among the companies mentioned in the report such as Maxworth Vinimay Pvt. Ltd, Gaurav Dealers Pvt. Ltd., Flaxo Tie- Up Pvt. Ltd, etc., against the matching amount of cash deposits.

Therefore, on the basis of the above reports as well as the finding from the records available in this office in respect of the said assessee M/s Maithan Ceramic Ltd., I have sufficient reason to believe that the assessee company has furnished inaccurate particulars of income and income chargeable to tax has escaped assessment for the assessment year 2011-12 within the ambit of the provisions contained in section 147 of the Act and as such, I am personally satisfied that it is a fit case for reopening u/s 147 of the IT Act, by way of issuance of notice u/s 148 of the IT Act."

(3) Submission: Invalid Reopening Based on Suspicious, Arbitrary and Vague Reasoning-A.Y. 2011-12

The notice under Section 148 dated 23.03.2018 for A.Y. 2011-12 was issued solely on the basis of a Suspicious Transaction Report (STR) generated by the FIU-IND, New Delhi, in respect of M/s. Vista Dealcom Pvt. Ltd., maintaining ICICI Bank Account No. 129005000024 at Central Avenue Branch, Kolkata. The report alleged that cash was regularly deposited into the said account and subsequently routed through RTGS/cheque transfers to companies

like M/s. Maxworth Vinimay Pvt. Ltd., Gaurav Dealers Pvt. Ltd., and Flaxo Tie-Up Pvt. Ltd. The Ld. AO concluded that the assessee, M/s. Maithan Ceramics Ltd., was a beneficiary of accommodation entries amounting to 1 crore during FYs 2009-10 to 2012-13.

The recorded reasons are vague, arbitrary, ambiguous, suspicious, doubtful and lack any specific or direct nexus with the assessee. The reopening has been initiated merely to conduct a fishing and roving enquiry (para 2.1 of page 81 of reason record specify - since information furnished by the Investigation Wing, Kolkata is only indicative in nature and not specifically assessee-wise, separate investigation and verification for each assessee, as alleged in the report is necessary, which is impermissible in law. The reasons fail to specify the exact date or nature of the alleged transaction, and do not establish any live link between the information received and the income alleged to have escaped assessment.

Key submissions in support of invalidity of reopening:

a. No Transaction with Vista Dealcom Pvt. Ltd.

The assessee has never had any financial transaction or business dealing with M/s. Vista Dealcom Pvt. Ltd. This is evident from the assessee's books of accounts and confirmed by enquiry conducted by the AO for A.Y. 2010-11.

b. Bank Account of Vista Dealcom Pvt. Ltd. was Opened After the Alleged Transaction Date

The ICICI Bank Account No. 129005000024 of Vista Dealcom Pvt. Ltd. was opened only on 01.11.2010, as confirmed by ICICI Bank in response to a notice issued under Section 133(6) by DCIT, Circle 7(1), Kolkata during the reassessment proceedings for A.Y. 2010-11.

In contrast, the assessee had taken a loan of ₹1 crore from M/s. Nidhi Agro Pvt. Ltd. on 02.07.2010, i.e., much before the opening of the alleged account.

Therefore, the alleged accommodation entry through Vista Dealcom could not have been the source of the said loan.

c. Reopening on Identical Grounds Already Dropped for A.Y. 2010-11

A similar reopening was initiated for A.Y. 2010-11 based on the same investigation report and allegations. However, after due verification, the Ld. AO dropped the reassessment proceedings under Section 147 vide order dated 31.12.2017. The relevant portion of the said order is reproduced below:

"...the account in question, through which suspicious transaction was reported, was opened only on 01.11.2010. Therefore, the assessee's submission of not having any transaction with Vista Dealcom Pvt. Ltd. during FY 2009-10 is found correct. Hence, no adverse inference is drawn..."(page-94 of paper book) This finding is binding and directly applicable to the current year under appeal, as the very same allegation and parties are involved.

d. No Tangible Material Indicating Income Escapement

The reopening is based on a generic investigation report without any specific or incriminating material against the assessee. It lacks any independent application of mind by the AO to form a belief that income has escaped assessment. This is contrary to settled judicial principles laid down by the Hon'ble Supreme Court in PCIT v. GKN Driveshafts (India) Ltd. [2003] 259 ITR 19 (SC) and ITO v. Lakhmani Mewal Das [1976] 103 ITR 437 (SC).

The Hon'ble Delhi High Court in the case of Commissioner of Income-tax, IV v. Insecticides (India) Ltd [2013] 357 ITR 330 (Delhi) upheld the order of the ITAT Delhi Bench in ITA Nos. 2332-2333/Del/2010 held that

"The AO did not mention the details of transactions that represented unexplained income of the assessee company. The information on the basis of which the AO has initiated proceedings u/s 147 of the Act are undoubtedly vague and uncertain and cannot be construed to be sufficient and relevant material on the basis of which a reasonable person could have formed a belief that income had escaped assessment." The assessee had not taken loan from alleged company M/S. Vista Dealcom (P) Ltd. The loan taken by appellant was from M/S Nidhi Agro (P) Ltd., the transaction of said loan was examined and verified by AO in a scrutiny proceeding /s 143(3), order framed and were accepted.

Hon'ble jurisdictional Kolkata ITAT judgement in Pradip Kr. Jajodia HUF vs. ITO Ward 44(1), Kolkata ITA 190 to 192/Kol/2024 dated 30-12-2024 held

"The reasons to believe regarding the escapement of the income should be based on certain tangible material and it should not be mere pretence of the Assessing Officer. The reasons to believe does not mean reason to suspect. Reopening of the assessment is not permitted for making fishing and roving enquiries. Reopening is not permissible on the basis of borrowed satisfaction of the Assessing Officer That such reasons to believe must have a material bearing on the question of escapement of Income. It does not mean a purely subjective satisfaction of the assessing authority, such reason should be held in good faith and cannot merely be a pretence. The reasons to believe must have a rational connection with or relevant bearing on the formation of the belief. Rational

connection postulates that there must be a direct nexus or live link between the material coming to the notice of the Assessing Officer and the formation of belief regarding escapement of income. The powers of Assessing Officer to reopen an assessment, though wide, are not plenary. The words of the statute are "reason to believe" and not "reason to suspect". Such an action of the Assessing Officer regarding formation of belief of escapement of assessment and thereby in starting proceedings u/s 147 is open to challenge in a court of law. The entire law as to what would constitute "reason to believe" has been summed up by the hon'ble Supreme Court in the case of "Income Tax Officer v Lakhmani Mewaldas" (1976) 103 ITR

Reliance in this respect can also be placed on the decision of the Hon'ble Punjab & Haryana High Court in the case of 'CIT vs Paramjit Kaur (2008) 311 ITR 38 (P&H), wherein, making identical observations. Hon'ble High Court has held that in the absence of sufficient material to form satisfaction of the Assessing Officer that income of the assessee had escaped assessment, the issuance of notice w/s 148 of the Act was not valid.

Reliance in this respect can also be placed on the decision of the Hon'ble Delhi High Court in the case of PCTT Vs. Meenakshi Overseas ltd. 395 ITR 677 (Del.) and of the Hon'ble Bombay High Court in the case of Hindusthan Lever Lad. Vs. R. B. Wadkar, Asst. CIT reported in 268 ITR

e. Loan Transaction Already Verified in Scrutiny Assessment

The loan of 21 crore from M/s. Nidhi Agro Pvt. Ltd. was thoroughly examined during the original assessment under Section 143(3) and was accepted after verification, including confirmation, bank statements, TDS deduction, and the lender's response under Section 133(6).

Hon'ble Supreme Court has laid down the test in the CIT v Kelvinator India Ltd. 320 ITR 561, whether the A.O had tangible material to come to the conclusion that there is an escapement of income from assessment. The Supreme Court has held that the 'reason to believe' that any income chargeable to tax has escaped assessment cannot be in the nature of power to review

(4) No quantification of escaped income in the reason recorded by the AO - Notice issued u/s 148 dated 23.03.2018 is barred by time limitation

SEND

L'd AO at para -4 (page-84 of paper book) in the reason recorded concluded as under

"Therefore, on the basis of the above reports as well as the finding from the records available in this office in respect of the said assessee M/s Maithan Ceramic Ltd., I have sufficient reason to believe that the assessee company has furnished inaccurate particulars of income and income chargeable to tax has escaped assessment for the assessment year 2011-12 within the ambit of the provisions contained in section 147 of the Act and as such, I am personally satisfied that it is a fit case for reopening u/s 147 of the IT Act, by way of issuance of notice u/s 148 of the IT Act."

Upon plain reading of the above reason, it is evident that AO has not quantified the amount of escaped income. Sec. 149 of the pre-amended provision debar the revenue to initiate reopening proceedings beyond the period of four(4) years from the end of relevant asst. year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupee or more. The appellant would like to quote sec. 149 of income tax act as existed prior to substitution by Finance Act 2021 as under:

Sec. 149 Time Limit for notice-

(1) No notice under section 148 shall be issued for the relevant assessment year,-

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;

Upon reading of the above provision, no notice u/s 148 can be issued beyond the period of four (4) years from the end of relevant assessment years unless income found to have escaped assessment amounts to one lakh or more. In the present case, notice u/s 148 has been issued on 23.03.2018 and the relevant four-year limitation period under the Section 149 expired on 31.03.2016. The notice dated 23.03.2018 is therefore time-barred being issued beyond the period of 4 years from the end of relevant asst. year 2011-12.

Hon'ble ITAT Kolkata relied on Delhi ITAT in Bir Bahadur Singh Sijwali vs.

ITO ITA 3814/Del/2011 dt. 20-01-2015

"It is well settled in law that reasons, as recorded for reopening the reassessment, are to be examined on a standalone basis. Nothing can be added to the reasons so recorded, nor anything can be

deleted from the reasons so recorded. Hon'ble Bombay High Court, in the case of *Hindustan Lever Ltd. vs R.B. Wadkar* ((2004) 268 ITR 332], has, inter alia, observed that "It is needless to mention that the reasons are required to be read as they were recorded by the AO. No substitution or deletion is permissible. No additions can be made to those reasons. No inference can be allowed to be drawn on the basis of reasons not recorded. It is for the AO to disclose and open his mind through the reasons recorded by him. He has to speak through the reasons." Their Lordships added that "The reasons recorded should be self-explanatory and should not keep the assessee guessing for reasons. Reasons provide link between conclusion and the evidence". Therefore, the reasons are to be examined only on the basis of the reasons as recorded. The next important point is that even though reasons, as recorded, may not necessarily prove escapement of income at the stage of recording the reasons, such reasons must point out to an income escaping assessment and not merely need of an inquiry which may result in detection of an income escaping assessment. Undoubtedly, at the stage of recording the reasons for reopening the assessment, all that is necessary is the formation of prima facie belief that an income has escaped the assessment and it is not necessary that the fact of income having escaped assessment is proved to the hilt. What is, however, necessary is that there must be something which indicates, even if not establishes, the escapement of income from assessment. It is only on this basis that the Assessing Officer can form the belief that an income has escaped assessment. Merely because some further investigations have not been carried out, which, if made, could have led to detection to an income escaping assessment, cannot be reason enough to hold the view that income has escaped assessment. It is also important to bear in mind the subtle but important distinction between factors which indicate an income escaping the assessments and the factors which indicate a legitimate suspicion about income escaping the assessment. The former category consists of the facts which, if established to be correct, will have a cause and effect relationship with the income escaping the assessment. The latter category consists of the facts, which, if established to be correct, could legitimately lead to further inquiries which may lead to detection of an income which has escaped assessment. There has to be some kind of a cause and effect relationship between reasons recorded and the income escaping assessment. While dealing with this aspect of the matter, it is useful to bear in mind the following observations made by Hon'ble Supreme Court in the case of *ITO Vs Lakhmani Mewal Das* [(1976) 103 ITR 437], "the reasons for the formation of the belief must have rational connection with or relevant bearing on the formation of the belief. Rational connection postulates that there must be a direct nexus or live link between the material coming to the notice of the ITO and the formation of this belief that there has been escapement of the income of the assessee from assessment in the particular year because of his failure to disclose fully and truly all material facts. It is no doubt true that the Court cannot go into

sufficiency or adequacy of the material and substitute its own opinion for that of the ITO on the point as to whether action should be initiated for reopening assessment. At the same time we have to bear in mind that it is not any and every material, howsoever vague and indefinite or distant, remote and farfetched, which would warrant the formation of the belief relating to escapement of the income of the assessee from assessment."

(5) Notice under Section 148 dated 23.03.2018 is barred by limitation, bad in law, and liable to be quashed under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year.

As per the unamended provision of Section 147 (applicable for the relevant assessment year), where an assessment has been completed under Section 143(3), no reassessment can be initiated after four years from the end of the relevant assessment year unless the income has escaped assessment due to failure on the part of the assessee to:

File a return under Section 139, or Disclose fully and truly all material facts necessary for the assessment.

The assessee acted bonafide in disclosing all materials facts during original assessment conducted u/s 143(3) of IT Act. The reason recorded by the A/O nowhere alleged that there was failure on the part of assessee to disclose fully & truly all material facts necessary for assessment which consequently lead to escapement of income. Proviso to Sec. 147 provides a complete bar for reopening an assessment, which has been made initially u/s 143(3) of the act, after the expiry of four years from the end of relevant assessment year where there was no failure on the part of the assessee to disclose fully & truly all material facts necessary for assessment. Thus in order to re-open an assessment which is beyond the period of four years from the end of the relevant assessment year, the condition that there has been a failure on the part of the Assessee to truly and fully disclose all material facts must be concluded with certain level of certainty. In the instant case notice u/s 148 has been issued in 23.03.2018 i.e. after the lapse of 4 years from the end of relevant assessment year 2011-12. Therefore, the conditions specified in sec. 147 is not complied. The re-opening proceeding in the instant case was not in consonance of law.

CBDT circular no. 549 dt. 31-10-1989 182 ITR (ST) 29 on income escaping assessment, sub para (iv) 7.1 which reads as under after the amendment of sec. 147 w.e.f. 01-04-1989.

"A proviso to the new section provides that an assessment, which has been completed under section 143(3) or section 147, ie, a

scrutiny assessment, can be reopened after the expiry of four years from the end of the relevant assessment year only if income has escaped assessment due to the failure on the part of the assessee to file a return of income or to disclose fully and truly all material facts necessary for his assessment."

c. No Allegation of Failure to Disclose Material Facts

On a plain reading of the recorded reasons, nowhere has the Assessing Officer alleged any failure on the part of the assessee to fully and truly disclose all material facts necessary for the assessment. The AO has not even made a casual remark or whisper in this regard. Thus, the mandatory jurisdictional condition under the first proviso to Section 147 not adhered.

This legal position has been consistently upheld by multiple High Courts and the Hon'ble Supreme Court:

d. Judicial Precedents

(i) NDTV Ltd. v. DCIT (2020) 424 ITR 607 (SC):

The Hon'ble Supreme Court held that once the assessee has disclosed all primary facts, it is not obligated to assist the AO in drawing inferences. Non-disclosure of secondary facts is irrelevant for the purpose of invoking reassessment.

"The assessee had disclosed all primary facts before the AO and it was not required to give any further assistance to AO by disclosing of other facts. It was for the AO at this stage to decide what inference should be drawn from the facts of the case. The Hon'ble court relied on the decision in the case of Calcutta Discount Co. Ltd. vs. ITO 41 ITR 191 wherein it was held that non disclosure of other facts which may be termed as secondary fact is not necessary."

(ii) Tao Publishing Pvt. Ltd. v. DCIT (2015) 370 ITR 135 (Bom HC):

"The reasons supplied do not disclose that there was any failure on the part of the Petitioner to provide all the material facts... Once this was not the basis for issuance of notice, it cannot be held against the Petitioner"

(iii) Sound Casting Pvt. Ltd. v. DCIT (2012) 250 CTR 119 (Bom HC):

"The Bombay High Court quashed reopening where the AO did not allege any failure to disclose material facts."

(iv) CIT v. Orient Craft Ltd. (2013) 354 ITR 536 (Del HC):

The Delhi High Court held:

"There is no whisper in the reasons recorded, of any tangible material which came to the possession of the AO subsequent to the assessment, It reflects an arbitrary exercise of power under Section 147,"

(v) Jurisdictional Calcutta High Court in Simplex Concrete Piles (India) Ltd.'

(2) Geo Miller & Co. Ltd. v. Dy. CIT & Ors. 262 ITR 0605 (Cal-HC)

"The proviso to section 147 provides that no action shall be taken after the expiry of four years unless the contingencies provided are satisfied. It is contended on behalf of the respondent that none of the conditions provided in the proviso to section 147 as submitted could be attracted in the present case. Therefore, the period of four years' embargo provided in the proviso cannot be stretched even though this provision might be subject to sections 148 to 153. Even after making the provision of section 147 subject to sections 148 to 153 a proviso has been added by which an exception has been carved out. The principal section cannot be read without the proviso, which qualifies the principal section. The qualification is expressed in mandatory form. It has used the expression "no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year"

(a) Limitation Period Expired

The original assessment was completed under Section 143(3), vide order dated----- and the relevant four-year limitation period under the first proviso to Section 147 expired on 31.03.2016 (31.03.2012+4 years) The notice dated 23.03.2018 is

therefore time-barred being issued beyond the period of 4 years from the end of relevant asst. year 2011-12.

The impugned reassessment notice:

Was issued after expiry of 4 years from the end of the relevant assessment year;

Does not allege any failure by the assessee to disclose fully & truly all material facts necessary for its assessments Is based on information already considered in original proceedings;

Therefore, fails to meet the jurisdictional conditions under the law.

Accordingly, the reassessment proceedings are without jurisdiction, barred by limitation, and are liable to be quashed ab initio.

(6) Mechanical Approval under Section 151 - Impermissible and Invalid

The reopening of assessment under Section 147 of the Income Tax Act suffers from a fundamental jurisdictional defect, as the mandatory sanction under Section 151 was granted in a mechanical and perfunctory manner, without due application of mind. The reason recorded by the AO is general in nature without quantifying the amount of escaped income.

Furthermore, the approval obtained under Section 151 appears to have been granted-in a purely mechanical fashion, without any independent application of mind by the sanctioning authority. The Hon'ble Supreme Court in Union of India v. Rajeev Bansal [469 ITR 46 (SC)] has laid down the principle that:

"Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assesseees from harassment resulting from the mechanical reopening of assessments."

Grant of sanction by the appropriate authority is a pre-condition for assessing officer to assume jurisdiction u/s 148 to issue a re-assessment notice.

A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction. There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment. An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction. Thus, the power of assessing officers to reassess is limited and based on the fulfilment of certain preconditions.

In the present case, the reasons recorded for reopening are based solely on the alleged deposit of suspicious cash in the bank account of M/s. Vista Dealcom Pvt. Ltd. (ICICI Bank A/c No. 129005000024). However, this entity has no financial or business nexus with the assessee. It is pertinent to note that the said bank account was opened in November 2010, whereas the alleged transaction between the assessee and M/s. Nidhi Agro Pvt. Ltd. took place in June 2010 -nearly 4-5 months prior. Thus, there is a complete absence of any live link or tangible material connecting the assessee with the alleged suspicious cash deposits. L'd AO had initiated the reopening proceedings in the immediate previous year 2009-10 (asst. year 2010-11) on the same allegation that suspicious cash were deposited in M/s. Vista Dealcom Pvt. Ltd. ICICI Bank a/c 129005000024. L'd AO conducted the enquiry from ICICI bank and dropped the reopening proceeding for asst. year

2010-11(as explained supra) since impugned bank a/c was opened in Nov. 2010, not found live link with assessee financial transaction.

Initiating reassessment proceedings solely on the basis of third-party transactions, with which the assessee has no business connection, amounts to an arbitrary exercise of power and is contrary to settled judicial principles.

In view of the above, the reopening of assessment suffers from lack of valid jurisdiction owing to:

- (a) Mechanical grant of approval without application of mind, and
- (b) Absence of any tangible nexus between the assessee and the alleged transaction.
- (c) Receipt of loan Rs. 1 crore from M/s. Nidhi Agro Pvt. Ltd. was accepted after verification in an earlier scrutiny proceeding framed u/s 143(3).

Accordingly, the reassessment proceedings are liable to be quashed as bad in law.

(7) Once loan is repaid, there can be no adverse inference

Since the subjected loan from Nidhi Agro (P) Ltd. was repaid on 23-01-2022 (Page -4 of paper book) through banking channel, TDS was also deducted upon payment of interest, the AO had examined the loan transaction by issuing notice u/s 133(6) in a initial scrutiny proceeding made u/s 143(3), no adverse information can be taken about the genuineness of loan amount and reverse can not initiate re-opening proceeding on the basis of vague and suspicious.

Judicial precedent

(a) Delhi F Bench ITAT, Real Innerspring Technologies (P) Ltd. vs. ACIT 647/Del/2023 dated 22-03-2025 held :-

"The addition were made only on the basis of alleging that the loan taken by the assessee from the above said two companies are only accommodation entries and assessee's own money was routed through these companies with the help of accommodation entry providers. On careful note, the accommodation entries are taken which will remain in the books account and they will ultimately written off over the period of time. These loans were normally not repaid.

From the above, it is clear that the assessee has repaid the loan even before the assessment was reopened. When the assessee takes the loan, the assessee has only

utilised the loan for the purpose of business and repaid the same. Merely because some operator has managed the affairs and all the transactions can not be labelled as non-genuine. Every transaction has to be evaluated on its merit rather than on the basis of suspicion. Therefore, in this case, the assessee has submitted all the documents in support of the transaction before the AO and he has merely rejected the same on the basis of information available with him as the same on the basis of suspicion. Therefore, we are inclined to allow the grounds raised by the assessee.

(b) Gujrat High Court Ameer Mahasukhlal Parekh vs. ITO Spl Civil application 18254 of 2022 (23-09-2024)

(c) Gujrat High Court Vijay Ramanlal Sanghvi vs. ACIT 330 ITR 424/146 taxmann.com 55(Guj.) (HC)

(8) Submission on Merits

(a) Loan Transaction - Fully Verified and Accepted in Original Assessment

The assessee had taken a loan of ₹1,00,00,000/- through banking channels on 02.07.2010 from M/s. Nidhi Agro Pvt. Ltd. This transaction was duly disclosed in Form 3CD (Tax Audit Report) for the financial year ended 31.03.2011 with transaction of Nidhi Agro Pvt. Ltd. duly highlighted for ready reference. Relevant supporting documents including loan confirmation and bank statements were submitted to the Assessing Officer (AO) during the regular scrutiny assessment u/s 143(3) of the Act. Ld. AO issued notice u/s 142(1) dated 30-04-2013 asking details of loan taken.

The AO, in the course of assessment, also conducted enquiries u/s 133(6) with the lender. M/s. Nidhi Agro Pvt. Ltd. confirmed the loan transaction to the Assessing Officer

vide reply letter dated 17.12.2013 (copy at Page-60 enclosed. The loan was subsequently repaid along with interest (net of TDS) through banking channels on the following dates:

<i>Date</i>	<i>Amount</i>
<i>21.06.2011</i>	<i>6,73,150</i>
<i>23.01.2012</i>	<i>1,00,00,000</i>
<i>27.03.2012</i>	<i>7,30,327</i>

These repayments were also disclosed in the Tax Audit Report for year ending 31-03-2012 (copy at Page-54). After thorough verification and examination, the Ld. AO accepted the genuineness of the loan transaction in the original assessment enclosed (at Page -76 to 79)

(9) Loan Repaid in F. Y. 2011-12-No Addition Justified u/s 68

It is respectfully submitted that no addition under section 68 of the Income Tax Act is warranted in the present case, as all loan transactions were duly repaid during the Financial Year 2011-12. This position is firmly supported by judicial precedents:

(a) Hon'ble Calcutta High Court (Jurisdictional High Court) in PCIT vs. Alom Extrusion Ltd., ITA/268/2024 dated 17.12.2024, held as under:

"The Tribunal, after thoroughly examining the factual details and relying upon the findings of the CIT(A), categorically observed that all the loans had been repaid. The CIT(A)'s order was detailed and comprehensive, having considered all relevant facts. The Tribunal not only referred to the pertinent portions of the CIT(A)'s findings but also independently assessed and affirmed the correctness of such findings.

We therefore find no error in the Tribunal's decision and are of the view that no question of law, much less a substantial question of law, arises for consideration in this appeal."

This judgment clearly reinforces that where loans have been duly repaid and such findings have been concurrently affirmed by both the CIT(A) and the Tribunal, no addition under section 68 is sustainable.

(b) Hon'ble Gujarat High Court in PCIT vs. Ambe Tradecorp Pvt. Ltd., R/Tax Appeal No. 318 of 2022 dated 11.07.2022, similarly held:

"When the Books of Accounts clearly recorded the identity of the lender, the source of the fund, and the fact that the loan was received and subsequently repaid, the Assessing Officer was not justified in doubting the creditworthiness of the creditor. The AO had in fact ignored relevant and material evidence on record."

In view of the above submission, various case laws relied upon the notice issued u/s 148 dated 23-03-2018 is without jurisdiction, illegal, bad in law, liable to be quashed. Reassessment order passed u/s 147/143(3) dated 30.12.2018 is also liable to be annulled. The addition of ₹1 crore made u/s 68 is also liable to be deleted.

14. It was further submitted by the Id.AR that as per the proviso to Section 149(1)(b) of the Act, the Assessing Officer has to specify the quantum of the income escaping the assessment if he proposes to reopen

the assessment. It was the submission that the reasons recorded does not specify the quantum of escapement.

15. On this point, it was informed to the Id.AR that the reason recorded clearly showed in the las paragraph being para 4 that the Assessing Officer has specifically mentioned that he has sufficient reason to believe that the assessee company has furnished inaccurate particulars of income and income chargeable to tax as escaped assessment for the assessment year 2011-2012 is within the ambit of the provisions of Section 147 of the Act. It was then informed to him that this clearly shows that the Assessing Officer has complied with the proviso to Section 147 of the Act.

16. in regard to the submission that this is a fishing and roving enquiry, it was brought to the attention of the Id.AR that the Assessing Officer has specifically mentioned in para 2.1 that the Assessing Officer had reopened the case of the assessee for the assessment year 2010-2011 wherein during the reassessment proceedings the bank statement of M/s Vista Dealcom Pvt. Ltd. had been verified and the funds are found to be protected through and it is therefore not a fishing and roving enquiry but a very clear cut finding and the result of the investigation done by the AO.

17. In regard to the claim of the assessee that the quantum of income escaping assessment has not been brought out. It was informed to the Id.AR that in para 2 the Assessing Officer has specifically mentioned that the assessee is one of the beneficiary company which was provided accommodation entry of Rs.1 crore from the assessment year 2009-2010 to 2012-2013. It was then informed to the Id. AR as to whether he desires

to argue on merits. On this point, Id. AR submitted that he was not ready to argue on merits. It was then informed to the Id. AR that the arguments in the case having been made and the same cannot be treated as part-heard and if he so desired, he could argue on merits. However, Id. AR though initially sought adjournment and when it was informed to him that arguments have already been mentioned and no adjournment shall be granted, then he requested that the matter may be kept at 4.00 PM so that he could be able to argue on merits. Consequently, the matter is treated as part-heard and posted for hearing at 4 PM today. Ld.AR was specifically informed that non-appearance at 4 PM will lead to the completion of the hearing and the order being completed in the open court.

18. The matter was heard at 4 PM as requested by the Id.AR and it was submitted by the Id. AR that he has not been able to obtain any paper to substantiate his case on merits and, therefore, he is relying on the legal issue as raised.

19. In reply, Id. Sr. DR vehemently supported the orders of the Id. Assessing Officer and Id.CIT(A) and submitted that both the authorities below have passed reasoned order which should be upheld.

20. We have considered the rival submissions as made by both the sides and we are of the view that the reopening as done by the Assessing Officer is validly done, insofar as the proviso to Section 147 of the Act does not come to the rescue of the assessee. It is also noticed that the decision relied upon by the Id. AR in the case of NDTV Ltd., referred to supra, does not apply to the facts as mentioned by the assessee. The assessee admittedly

has not proved that the loan taken from M/s Nidhi Agro Pvt. Ltd. was a genuine loan. This being so, we uphold the order of the Id. Assessing Officer and that of the Id. CIT(A) and dismiss the appeal of the assessee.

21. In the result, appeal of the assessee is dismissed.

Order dictated and pronounced in the open court on 01/01/2026.

**Sd/-
(RAKESH MISHRA)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 01/01/2026

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata