

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKRAND VASANT MAHADEOKAR,
ACCOUNTANT MEMBER

I.T.A. No. 7346/Mum/2025
A.Y: 2014-15

Anirudh Bhimjibhai Dudhat, 1404, Rajeshree Tower-I, Royal Complex, Eksar Road, Borivali West, Mumbai. PAN – AGZPD1245K	Vs	Income Tax Officer Circle 42(1)(1), Mumbai.
(Appellant)		(Respondent)

Assessee by	Shri Jay V Shah
Revenue by	Shri Surinder Mohan (CIT-DR)

Date of Hearing	12.01.2026
Date of Pronouncement	12.01.2026

ORDER

PER: SHRI. AMIT SHUKLA, J.M.:

The present appeal has been preferred by the assessee assailing the order dated 14.09.2025 passed by the National Faceless Appeal Centre, Delhi, whereby the addition made by the Assessing Officer under section 68 of the Income Tax Act, 1961, in the assessment framed under section 143(3) for the assessment year 2014-15, has been sustained.

2. The controversy in the present appeal lies in a narrow compass. The Assessing Officer, while completing the

assessment ex parte, made an addition of ₹38,67,500/- under section 68 on account of unsecured loans allegedly received from five parties, the particulars of which stand recorded as under:

Sr. No.	Name of the Party	Amount (₹)
1	Gayadhar Mishra	27,000
2	Janaranjan Mishra	27,000
3	Kamla Ankur Venture	15,00,000
4	Rajiv Construction Co. Developers	23,00,000
5	Vimlaben Vasani	13,500
	Total	38,67,500

3. It is an admitted position on record that during the course of assessment proceedings, owing to non-compliance, the assessee could not place on record the requisite evidences to substantiate the identity, creditworthiness, and genuineness of the aforesaid loan transactions. In the absence of any material before him, the Assessing Officer proceeded to treat the entire amount of ₹38,67,500/- as unexplained cash credit under section 68 of the Act.

4. In the first appellate proceedings, the assessee furnished a complete set of additional evidences, including confirmations of accounts, copies of income tax returns, balance sheets, capital accounts, and bank statements of the respective creditors.

These additional evidences were admitted by the learned Commissioner (Appeals) and were forwarded to the Assessing Officer for examination and verification by calling for a remand report.

5. During the remand proceedings, the Assessing Officer issued notices under section 133(6) of the Act to the concerned creditors. It is borne out from the record that the said notices were duly responded to, and the creditors confirmed the transactions. However, despite the availability of confirmations, financial statements, bank statements evidencing the flow of funds through banking channels, and direct responses from the creditors themselves, the Assessing Officer, in the remand report, merely reiterated the observations made in the original ex parte assessment order, without undertaking any meaningful examination or recording any adverse finding with respect to the evidences placed on record.

6. What further compounds the infirmity is that the learned Commissioner (Appeals), while passing the impugned appellate order, failed to record any independent finding on the additional evidences so admitted. The appellate order neither analyses the confirmations, nor addresses the creditworthiness of the lenders, nor examines the genuineness of the transactions. Strikingly, the learned Commissioner (Appeals) has confirmed an addition of ₹40,85,006/-, which is demonstrably inconsistent with the addition of ₹38,67,500/- originally made by the

Assessing Officer. This arithmetical incongruity itself reflects a palpable non-application of mind.

7. It is well settled that once additional evidences are admitted, the appellate authority is duty-bound to examine the same on merits and render a reasoned finding thereon. An appellate order cannot rest on a mere reproduction of the remand report, particularly when the remand report itself does not deal with the evidences or rebut the confirmations furnished in response to statutory notices issued under section 133(6). The first appellate authority functions as a quasi-judicial forum and is obligated to independently evaluate the material on record and adjudicate the issue in accordance with law.

8. At the same time, this Tribunal is conscious of the fact that the assessment order was passed *ex parte* and that the primary onus under section 68 does lie upon the assessee to establish the three foundational requirements contemplated therein. Therefore, without entering into the merits of the additions at this stage, and in order to ensure that the matter is adjudicated on the basis of complete facts and proper appreciation of evidence, we are of the considered view that the ends of justice would be best served by restoring the issue to the file of the learned Commissioner (Appeals).

9. Accordingly, we set aside the impugned appellate order and remand the matter to the file of the learned Commissioner (Appeals) with a direction to adjudicate the issue afresh, after duly considering the additional evidences furnished by the

assessee, the responses received under section 133(6), and after granting adequate opportunity of being heard to the assessee as well as to the Assessing Officer. The learned Commissioner (Appeals) shall pass a speaking and reasoned order in accordance with law.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12/01/2026

Sd/-
**(MAKRAND VASANT
 MAHADEOKAR)**
(ACCOUNTANT MEMBER)

Sd/-
(AMIT SHUKLA)
(JUDICIAL MEMBER)

Mumbai:
 Dated: 12/01/2026
Karuna, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai