

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

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

**ITA Nos. 1454, 1506 & 1590/KOL/2025
(Assessment Years: 2014-15 to 2016-17)**

**ITO, Ward-3(1),
P-7, Chowringhee Square, 4th
Floor, Room-12B, Kolkata-
700069, West Bengal**

(Appellant)

PAN No. AADCS6122K

**Sapphire Global Finance (P) Ltd.
1 Crooked Lane 2nd Floor, Room
No.230A, Kolkata-700069,
West Bengal**

Vs.

(Respondent)

Assessee by : Shri Somnath Ghosh, AR
Revenue by : Shri S.B. Chakraborty, DR

Date of hearing: 14.01.2026
Date of pronouncement: 20.01.2026

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the Revenue against the orders of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") even dated 21.04.2025 for the AYs 2014-15, 2015-16, 2016-17.

2. At the outset, we note that the appeals of the assessee are barred by limitation by 4, 11 & 18 days in ITA Nos. 1454, 1505 & 1590/KOL/2025 respectively. At the time of hearing the counsel of the assessee explained the reasons for the delay in filing these appeals. The Ld. D.R did not raise any objection in condoning the delay. After hearing the rival contentions and perusing the materials available on record, we

find that the delay is for bonafide and genuine reasons and hence, we condone the delay and admit the appeals for adjudication.

3. The common issue raised in all the appeals of Revenue is against the deletion of addition by the Id. CIT (A) as made by the Id. AO u/s 68 of the Income-tax Act, 1961 (the Act). As the facts and circumstances are exactly identical in all the three appeals hence, we will take first ITA No.1454/KOL/2025 for A.Y. 2014-15 as lead case and decide the issue accordingly.

A.Y. 2014-15

ITA No. 1454/KOL/2025

4. The facts in brief are that the assessee filed the return of income on 30.09.2014, declaring total income at ₹3,280/-. Thereafter, the case of the assessee was reopened by issuing notice u/s 148 of the Income-tax Act, 1961 (the Act) on 28.07.2022, after following the procedure laid down under the Act by passing order u/s 148A(d) of the Act on 28.07.2022, recording the reasons that assessee has received ₹67 lacs from certain entities which has escaped assessment. Accordingly, notice u/s 143(2) and 142(1) along with questionnaire were issued and assessee replied such questionnaire by filing all the details and evidences before the Id. AO. The Id. AO noted that the assessee has received money from other companies and passed on the funds to the beneficiaries, Khetan Tracon P. Ltd. of ₹17,00,000/- and Prateek Plastometals P. Ltd. of ₹50,00,000/-. The Id. AO issued show cause notice on 15.04.2023, calling upon the assessee as to why the said amounts should not be treated as unexplained cash credit and added to the income of the assessee. Finally, the addition was made to the income of the assessee u/s 68 of the Act.

5. The Id. CIT (A) after taking into account the submissions and contentions of the assessee allowed the appeal of the assessee by deleting the issue by observing and holding as under:-

"Ground Nos. 5 to 8:

These grounds raised by the appellant relate to the addition of Rs.67,00,000/- made by the AO u/s. 68 of the Act. After careful consideration of the assessment order and the appellant's submission, it is noticed that during the previous year, the bank account of assessee reflected receipt of Rs. 67 lakhs and AO treated it as unexplained credit and added u/s 68 of the Act. During the year under consideration,

i) The appellant disposed of investments amounting to Rs.11,00,000/- to M/s. Khetan Tracon Pvt. Ltd. of Room No. 3A, Ashirwad Appts, 171/12, Roy Bahadur Road, Kolkata - 700034 having PAN: AABCK9871F. It received total Rs.17,00,000 from the said party during the year itself and refunded the balance amount of Rs.6,00,000 (Rs.17,00,000 - Rs. 11,00,000). All the transactions took place through the banking channels only. Also, in response to notice under section 133(6) of the Act, the said Khetan Tracon Pvt. Ltd. officially confirmed the transaction.

ii) The appellant disposed of investments amounting to Rs.50,00,000/- to Prateek Plastometals Private Limited of P-64/65, Pagladanga Udyan Industrial Estate, Kolkata - 700015 having PAN: AAACP4953E. It received the total dues of Rs.50,00,000/- from the said party against such disposal. All the transactions took place through the banking channels only.

5.3.1 Firstly, it is pertinent to note that no sum was credited in the name of any party in the books of account of appellant. In fact, the company sold the shares held by it as investment and on receipt of such sale proceeds, Share sales a/c gets credited and bank book gets debited (though the sale proceeds were credited in the bank account of the appellant). This appears as credit in the account statement maintained by the bank. In short, the books of account of appellant was not credited, but debited on account of receipt of sale proceeds of shares. Subsequently, when the appellant company returned the advance through banking channel, only debit entry was made in the name of creditor. Thus, the whole exercise of making addition u/s 68 was a misnomer since no party account was credited in these transactions.

Even for the sake of argument, if one considers the application of sec. 68, the three major parameters as per the decisions of various courts are to be considered viz., identity of the creditor, genuineness of transaction and creditworthiness of the party advancing funds. In this case, the appellant company sold the shares and received the sale proceeds from M/s Khetan Tracon Pvt. Ltd. (Rs. 17 lakhs out of which sum of Rs. 6 lakhs received in excess was returned) and from M/s Prateek Plastimetals Pvt. Ltd. (Rs.; 60 lakhs). Assessing Officer has not doubted the identity of these purchasers of shares, their creditworthiness and genuineness of the transactions.

5.3.2 Secondly, it is an undisputed fact that as per the balance sheet filed by appellant company with various statutory authorities, it held those shares as on 01.04.2013 and was not holding such shares as on 31.03.2014 meaning thereby it had transferred-out such shares during the period 01.04.2013 to 31.03.2014 which is the previous year relevant for AY 2014-15. When such shares were sold during the previous year, it is quite natural that the seller receives the sale proceeds and in this case such sale proceeds were received through banking channels. Assessing Officer has not pointed out any infirmity such as the buyer of those shares were non-existent or it didn't have the capacity to buy such shares. Further, it is seen from the records particularly the order of the AO u/s. 148A(d) dated 28.07.2022, the appellant company had explained about the details of shares and the transactions, wherein, it was mentioned that M/s Nihon Impex Pvt Ltd. had issued shares of Rs.10 each at a premium of Rs. 4990 each & M/s Sonali Suppliers Private Limited had issued shares of Rs.10 each at a premium of Rs. 4990/-. The assessee company had applied for allotment of 6700 shares of Rs. 10 each issued by the Nihon Impex Pvt Ltd at a premium of Rs. 4990 each and 9220 shares of Rs 10 each issued by M/s Sonali Suppliers Private Limited at a premium of Rs 4990 each. The Assessee Company paid the share application money of Rs. 3,35,00,000 (Rs. 5000 x 6700 shares) & 4,61,00,000 (9220x 5000) by RTGS from the Bank Account maintained by the assessee company with IDBI Bank, Brabourne Road Branch. The assessee company's investment of Rs.3,35,00,000 in the shares of M/s Nihon Impex Private Limited & Rs.4,61,00,000 in the shares of M/s Sonali Suppliers Private Limited which are duly reflected in the assessee's Balance Sheet as on 31st March 2012. The copy of the audited Balance Sheet as on 31st March 2012 was furnished to the AO during the course of assessment proceedings which reflects these investments. The Income Tax Return for the Assessment Year 2012-13 filed by assessee company wherein the aforesaid transaction relating to purchase of 6700 shares of Nihon Impex Private Limited & 9220 shares of M/s Sonali Suppliers Private Limited was accepted in the assessment for the Assessment Year 2012-13.

5.3.3. Thirdly, through-out the assessment order on several occasions AO mentioned that as per the report received from Investigation wing, M/s Anjali Supplier Pvt. Ltd. whose directors are Shri Nishant Kothari and Shri Raj Kumar Dabriwal and authorized signatories Shri Navneet Upadhyaya & Shri Jay Kumar Thakur was involved in accommodation entry providing and that they were layering funds through intermediaries i.e. shell companies managed by entry operators and M/s Khetan Tracon Pvt. Ltd. & M/s Prateek Plastimetals Pvt. Ltd. were the ultimate beneficiaries. Further, the AO also relies heavily on the statement given by one Shri Devesh Upadhyaya to conclude that appellant is an entry provider. However, it is seen that AO did not attempt to afford the opportunity of cross examination of such witness in spite of a specific request to that effect from the appellant. This is clear violation of natural justice. In fact, whether name of appellant company is figuring in such statement and if so, whether appellant company is shown as intermediary or beneficiary etc. are still not clear since the statement was neither furnished to the appellant nor made part of the assessment order, even though heavy reliance was placed on it. Further, no attempt is seen to have been made by the AO to corroborate such statement of Shri Devesh Upadhyaya and hence no reliance can be placed on such dumb document.

5.3.4 Though this is the edifice of the assessment order, it is seen that

- a) *During the previous year appellant company did not receive any funds from M/s Anjali Supplier Pvt. Ltd. or its directors / authorized signatories (entry provider).*
- b) *Though M/s Khetan Tracon Pvt. Ltd. and M/s Prateek Plastimetals Pvt. Ltd. were shown as the ultimate beneficiaries, appellant in fact received sums from those companies on sale of shares held as investment.*
- c) *Though in page 31 of the assessment order, appellant is pictured as "intermediary" the whole credits were assessed in the hands of the appellant as against assessing only a commission which may be assessed in the hands of the intermediaries, in the usual course.*
- d) *The AO did not make any attempt to discuss the rationale in these decisions and distinguish them. Instead, AO made an analysis of the financial state of appellant company for FY 2010-11, 2011-12 and 2012-13 but there is no whisper about the financial statement for the previous year under consideration.*

Thus, the order of AO is contradictory in the basic fundamentals on which AO tried to build up the case for making addition u/s.68 of the Act.

5.3.5. *During the course of assessment proceedings itself appellant company relied on the following binding decisions namely:*

M/s. Andaman Timber Industries V Commissioner of Central Excise, Kolkata-II (SC); CIT vs M/s Odeon Builders Private Limited (SC) in Civil Appeal Nos. 9604-9605 of 2018 vide an order dated 21/8/2019) CIT V. Alpine Investment Ltd. (Cal) (ITA No. 620 of 2008); Orbit Commosale Pvt. Ltd. vs ITO (ITAT, Kol) in I.T.A. No. 1786/Kol/ 2017 ; Surya Prakash Toshiwal V. ITO (ITAT, Kol) in ITA No. 1213/KOL/2016 ; ITO Vs M/s Megasun Merchants Pvt. Ltd. (ITAT, Kol)in ITA No. 1038/Kol/2015; M/s. Bhagawati Oxygen Ltd. vs. DCIT (ITAT, Kol) in ITA Nos. 1473 and 1474/Kol /2019.

5.3.6. *In short, the contentious transactions have been substantiated by the appellant by furnishing corroborative documentary evidence during the course of assessment proceedings. No infirmity in the said documents could be pointed by the Assessing Officer and he could not state that the said documents are false / fabricated. All the transactions took place through the banking channels only. Complete details of the entities from whom the sums were received, have also been furnished, i.e., Name, complete postal address and PAN of the payers. Therefore, the transactions are to be treated as genuine as held in a number of judicial decisions. However, the AO made the addition u/s 68 after merely reproducing the submission of the appellant and simply stated that the reply of the appellant has been considered and the same has not been found acceptable. AO failed to state as to why the reply of the appellant is not acceptable. This tantamount to travesty of justice.*

Considering the above discussions, the addition made u/s 68 is hereby deleted and the grounds of the appellant are allowed.

5.4. *Ground Nos. 9 to 13:*

These grounds of the appellant relate to the levy of interest u/s. 234A, 234B, initiation of penalty proceedings u/s. 271(1)(c) and general grounds. As these grounds are consequential, these grounds are dismissed as infructuous.

5.5. *In the result, the appeal of the appellant is partly allowed. "*

6. After hearing the rival contentions and perusing the materials available on record, we find that the assessee company has disposed its investments amounting to ₹11,00,000/- to Khetan Tracon P. Ltd. and received ₹17 from the said party during the financial year itself. We note that the excess of ₹6 lacs was refunded back during the financial year itself. The transactions were done through banking channels. We also note that the Id. AO issued notice u/s 133(6) of the Act to Khetan Tracon P. Ltd., who confirmed the transactions with the assessee company. Similarly, the assessee disposed off his investments to Prateek Plastometals P. Ltd. amounting to ₹50 lacs. It is also undisputed that these investments/ shares were held by the assessee company since earlier years and we note that the assessee company has purchased these shares during the F.Y. 2011-12 and these investments were duly reflected in the balance sheet as on 31.03.2012. The case of the assessee was selected for scrutiny assessment and these investments comprising 6700/- shares of Nihon Impex P. Ltd. and 9220/- shares of Sonali Suppliers P. Ltd. were accepted in the assessment framed u/s 143(3) of the Act. Therefore, once the investments were accepted in the earlier years by the department how the same could be doubted during the year when these were sold. The case of the assessee is squarely covered by the decision of the Hon'ble Jurisdictional High Court in case of Principal Commissioner of Income-tax Central 1 vs. Tulsyan and Sons (P.) Ltd. [2025] 174 taxmann.com 37 (Calcutta)[16-04-2025], wherein the Hon'ble court has held as under:-

"3. The short issue which falls for consideration is whether the learned tribunal was right in affirming the order passed by the Commissioner of Income Tax (Appeals)-21, Kolkata [CIT(A)] dated 10.5.2023 by which the assessee's appeal was allowed and the addition made under section 68 of the Act was deleted. The Assessing Officer made the addition by invoking section 68 of the Act on the ground that the assessee failed to discharge its onus to establish identity, creditworthiness and genuineness of the transaction in respect of the money received through cash trail. The CIT(A) in course of hearing the appeal called for a remand report from the Assessing Officer and in the said remand report the Assessing Officer has in no uncertain terms accepted the receipt of the impugned sum on account of sale proceeds of investment. The Assessing Officer verified the investment sold which are shown in the balance-sheet for the financial year 2010-11 in Schedule-4 of the balance-sheet and after considering these facts it was stated that the assessee had sold shares held by way of the investment during the year to M/s. Shivshakti Communications and Investment Pvt. Ltd. and Carnation Tradelink Pvt. Ltd. and it is not a receipt of unsecured loan. This fact, apart from other factual details, were considered by the CIT(A) and by an elaborate order dated 10.5.2023 the appeal filed by the assessee was allowed. The tribunal on its part re-examined the factual position and took note of the findings rendered by the CIT(A) and concurred with the same. We also find that the tribunal has also examined the factual position and took note of the remand report as called for by the CIT(A) which confirmed the alleged sum is on account of sale of investment and not otherwise.

4. Thus, we find no question of law much less substantial question of law arises for consideration in this appeal. Accordingly, the appeal fails and the same is dismissed. Consequently, the connected application stands closed."

6.1. The said decision of the Hon'ble High Court has been followed by the co-ordinate Bench in case of DCIT Vs. Axis Overseas Limited in ITA No. 2425/KOL/2024 for A.Y. 2013-14 vide order dated 03.12.2025 which is also relied by the counsel of the assessee. Thus we do not find any infirmity in the order of Id. CIT(A) who has passed a very speaking and reasoned order. We therefore, respectfully following the above decisions, uphold the order of Id. CIT (A) by dismissing the appeal of the Revenue.

A.Ys. 2015-16 & 2016-17

ITA Nos. 1506 & 1590/KOL/2025

7. The issue raised in these appeals are similar to one as decided by us in ITA No. 1454/KOL/2025 for A.Y. 2014-15. Accordingly, our decision would, mutatis mutandis, apply to these appeals of assessee in ITA

Nos. 1506 & 1590/KOL/2025 for A.Y. 2015-16 & 2016-17 as well. Hence, the appeals of Revenue in ITA Nos. 1506 & 1590/KOL/2025 are dismissed

8. In the result, all the three appeals of the Revenue are dismissed.

Order pronounced in the open court on 20.01.2026.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 20.01.2026
Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata