

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "C" BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 6541/MUM/2025(AY: 2012-13)**

Prime Omkar K K Consortium Building no. 1, Sukhadwala, 36 Dhanji Street, Mumbai-400003.	vs.	Income Tax Officer, Ward 25(3)(1) Income Tax Office, Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai -400051.
PAN/GIR No: AABAP7015N		
(Appellant)		(Respondent)

Appellant by	Shri Anant Pai
Respondent by	Shri Virabhadra Mahajan, Sr. DR
Date of Hearing	23.12.2025
Date of Pronouncement	09.01.2026

ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre [in short, 'CIT(A), NFAC'], Delhi, dated 24.09.2025 for the Assessment Year 2012-13.

2. The grounds of appeal raised by the assessee are as under:

"1. Ground no. 1:- On facts and circumstances of the case and in law, the learned Commissioner (Appeals) erred in sustaining the addition u/s 68 of Rs. 1,18,19,733/- made in the assessment order as peak credit value of an alleged bogus loan of Rs. 1,12,00,000/- taken by the Appellant from one, Arihant Exports.

The said addition had been made and sustained solely on basis of information received from the DIT (Inv), Mumbai and without considering credible documentary evidences and explanations submitted by the Appellant.

The addition of Rs. 1,18,19,733/- is erroneous and deserves to be deleted in appeal.

2. Ground no. 2:- Without prejudice to the above, the Commissioner (Appeals) also erred in sustaining the disallowance of interest of Rs. 5,11,216/- in respect of the aforesaid loan from Arihant Exports.

The disallowance of interest is erroneous and deserves to be deleted in appeal.

3. Ground no. 3:- Both the lower authorities erred in passing their respective orders without granting the Appellant an adequate opportunity of being heard.

The orders passed by them are in contravention of the principles of natural justice and require to be set right in this appeal.

4. The Appellant reserves the right to add to, alter or delete any of the above grounds of appeal.”

3. Facts of the case, in brief, are that the assessee filed revised return of income on 07.09.2012 declaring total income of Rs. 77,30,682/-. The case was taken up for scrutiny under CASS and various statutory notices u/s. 143(2) and 142(1) were issued. Information was received by the AO from the Investigation Wing, Mumbai that the assessee received unsecured loan for Rs. 1,12,00,000/- from M/s. Arihant Exports, which was a bogus entry provider entity controlled by Shri Bhanwarlal Jain group. A search and seizure operation u/s. 132 of the Act was carried out in case of Shri Bhanwarlal Jain and his concerns, which revealed activities of bogus entry carried out by the above group. Shri Bhanwarlal Jain himself admitted in his statement on oath recorded u/s. 132(4) of the Act that he

was indulged in providing accommodation entries and he also explained the complete modus operandi of providing such entries. In reply to the show cause notice, the assessee submitted ledger account confirmation, bank statement, ITR copy, PAN copy of Arihant Exports. The assessee also submitted its own bank statement and argued that the loan is genuine, obtained through a banking channel. It was also submitted that the assessee has paid interest on the said loan and deducted tax thereon. The explanation was not excepted by the AO due to admission of Shri Bhanwarlal Jain that he provides different types of accommodation entries including entry for unsecured loans. The AO observed that assessee had taken accommodation entry in the name of unsecured loan. The lender is not carrying out any business. Accordingly, he added peak value of unsecured loan of Rs. 1,18,19,733/- received from M/s. Arihant Exports as well as the interest on such loan of Rs. 5,11,216/-. The total income was determined at Rs. 2,00,61,630/- against the returned income of Rs. 77,30,682/-. Aggrieved, the assessee filed appeal before the CIT(A).

4. Before the CIT(A), the assessee filed written submission including ledger confirmation, ITR and bank statement of M/s. Arihant Exports. It also filed copy of the reply and affidavit of Arihant Exports to the AO confirming the impugned loan. The assessee also relied on the decision of the ITAT, Mumbai in case of Dharmesh B Shah ITA No. 4000/Mum/2017 dated 12.02.2019 for A.Y. 2013-14.

The submission of the appellant has been extracted in the appellate order by the CIT(A). The CIT(A) observed that the AO issued summons to M/s. Arihant Exports Traders on 23.03.2015 for its attendance on 27.03.2015 but the party failed to respond. The respondent had submitted that the summons were served on 06.04.2015 on Arihant Traders in response to which the said party had responded on 07.04.2015. The CIT(A) found discrepancy in the contention of the assessee and stated that the letter of Arihant Traders is 21.03.2015 whereas the summons is dated 23.03.2015, which is claimed to have been served on 06.04.2015. The CIT(A) further observed that there is no evidence to show that information was filed by the said party. The appellant has enclosed only a cover mentioning that intimation received on 04.04.2015 was the evidence for belated receipt of summons by the said party. The CIT(A) further observed that the cover does not contain the address of the recipient. Further, it mentions intimation and not summons. No date or stamp of postal authorities is available showing delivery of summons on 04.04.2015. All these discrepancies are mentioned in para 8.5 and 8.6 of the appellate order. In view of these facts, the CIT(A) did not accept the evidence and claim of the assessee that response from Arihant Exports to the summons was due to belated service of summons. Thereafter, the CIT(A) has elaborated on the search conducted in case of Bhanwarlal Jain group and the statements of various persons concerned. He also referred to the decision of the

ITAT Mumbai in case of Nimish Medical Corporation vs. ITO ITA No. 3578/Mum/2025 dated 30.07.2025, which in turn refers to the findings in Rajandra Sohanlal Jain vs. DCIT, IT(SS) No. 294 to 299/Ahd/2017 dated 26.11.2021, where certain part of statement of Shri Sachin Parik, Proprietor of Arihant Exports were extracted. Shri Parik admitted that he was working on remuneration with Shri Rajandra Kumar Jain. Therefore, the CIT(A) observed that Shri Sachin Parik, Proprietor of Arihant Exports has admitted during the course of search that he was acting on the direction of Shri Rajandra Kumar Jain, who was having control over the entire affairs. The CIT(A) further observed that there is no information on record that Shri Sachin Parik retracted from his statement. Further, the ITAT Mumbai has also rejected the retraction of statement of Shri Rajandra Kumar Jain. In view of the above, the CIT(A) held that Shri Parik is only an employee of Shri Rajandra Kumar Jain and the genuineness of transaction of loan is not established. M/s. Arihant Exports also did not respond to the summons issued by the payer. The CIT(A) also did not accept the explanation of the assessee that since the loan has been repaid to M/s. Arihant Exports in January 2013, the transaction is to be considered as genuine. He relied on the decision in case of J K Global vs. ITO ITA No. 3260/Mum/2023 dated 05.09.2024. The CIT(A) further observed that mere deduction of TDS does not make the loan genuine when the

other evidences show otherwise. Accordingly, he dismissed the appeal of the assessee.

5. Aggrieved by the order of CIT(A) the assessee filed appeal before the Tribunal. The Id. AR of the assessee has filed a paper book containing various details submitted before the lower authorities. It includes the account confirmation, bank statement, ITR etc. of Arihant Exports and copy of response filed by M/s. Arihant Exports to the AO in response to the summons issued u/s. 131 of the Act dated 21.03.2015. He submitted that the creditor has independently confirmed the loan given by it to the appellant. The Id. AR has also relied on the decisions in case of ACIT vs. Amal Corporation, ITA No. 674/Mum/2024 dated 14.10.2024 and ACIT vs. Shri Dhanpal B Shah ITA No. 4000/Mum/2017 dated 12.02.2019.

6. On the other hand, the Sr. DR for the revenue supported the order of lower authority. He submitted that adequate opportunity was granted by the AO and CIT(A) to the assessee but it has not satisfactorily discharge the onus placed on him to escape the mischief of the provisions of section 68 of the Act. He has relied on the decision in case of Sanjay Kumar Choudhary (HUF) vs. ACIT [2022] 136 taxmann.com 151 (Surat-Trib).

7. We have heard both the parties and perused the materials available on record. We have also deliberated on the decisions relied upon by both side. There

is no dispute that the appellant had received unsecured loan of Rs. 1,12,00,000/- from M/s. Arihant Exports (proprietor Shri Sachin Parik). During the search and seizure operation in case of Shri Bhanwarlal Jain group, it was found that the said group was engaged in providing accommodation entries in the garb of unsecured loan, bogus purchase etc. through various Benami concerns of 70 entities in the name of their employees and family members. The assessee had obtained unsecured loan of Rs. 1,12,00,000/- from M/s. Arihant Exports, which is one of the concerns managed and controlled by the Bhanwarlal Jain group. During the assessment proceeding, the assessee had submitted ledger account confirmation, bank statement ITR and PAN card of M/s. Arihant Exports. Subsequently, the AO issued summons u/s. 131 to M/s. Arihant Exports, which was not complied with. Therefore, the AO observed that the above function was not carrying out any business but the assessee had taken accommodation entry by way of unsecured loan. He added the unsecured loan and interest to the total income of the assessee. Before CIT(A), the assessee filed all the details which had been furnished before the AO and also submitted evidence regarding the response by Arihant Exports to the AO confirming the loan transaction. However, the CIT(A) found various discrepancies in the contention of the assessee that Arihant Exports has replied to the assessee on 07.04.2015.

7.1 We have again perused the details and explanation filed by assessee before the AO. It is the contention of the Id. AR that the summons issued by the AO was received by M/s. Arihant Exports only on 06.04.2015, i.e, after the order u/s. 143(3) was passed by AO on 30.03.2015. Due to late receipt of the summons, M/s. Arihant Exports replied on the next day i.e 07.04.2015 along with affidavit and documents for confirmation of the loan before AO. This assertion has not been accepted by the CIT(A) and he has dismissed the appeal. The Id. AR has also relied on the decisions in case of Amal Corporation (supra) and Dhanpal B Shah (supra). On the other hand, the revenue has relied on the decision in case of Sanjay Kumar Choudhary (HUF) (supra). The decisions were given on the basis of the particular fact situation of the cases. Therefore, the ratio cannot be applied without discussing the facts of the cases relied upon with those of the appellant. However, we find that the facts of the instant appeal were not completely available before the lower authorities. As discussed above, the Id. AR contended that the creditor had filed affidavit and confirmed the amount of loan given to assessee. On the other hand, the AO and CIT(A) have not acknowledged receipt of reply from Arihant Exports. In any case, there is not dispute that the affidavit, confirmation and other details from Arihant Exports were received only after the assessment order was passed. Considering the totality of the facts discussed above, we find that the decision was given without considering the confirmation, affidavit and

reply of the lender M/s. Arihant Exports. Therefore, in the interest of justice, we deem it proper to set aside the order of CIT(A) and restore the matter to his file for fresh adjudication after granting adequate and reasonable opportunity of being heard to the assessee. The assessee directed to be vigilant and diligent and file all the necessary details as may be required by the CIT(A). Accordingly, the grounds are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced on 09.01.2026.

Sd/-

(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-

(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

Anandi.Nambi(Steno)
MUMBAI

Date: 09.01.2026.

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI