

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A'
BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKARAND VASANT MAHADEOKAR,
ACCOUNTANT MEMBER**

**ITA No.5915/Mum/2025
(Assessment Year :2013-14)**

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| ACIT CC 7(4), Mumbai | Vs. | Aayush Infotech Private Limited 10, Apoorva Industrial Estate Makwana Road Off. Andheri-Kurla Road Andheri East Mumbai- 400 069 |
| PAN/GIR No.AAFCA0496C | | |
| (Appellant) | .. | (Respondent) |

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|----------------------------------|--------------------------------|
| Assessee by | Shri Rakesh Joshi |
| Revenue by | Shri Surendra Mohan, Sr. DR |
| Date of Hearing | 13/01/2026 |
| Date of Pronouncement | 28/01/2026 |
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आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal has been filed by the Revenue against the order dated 14.07.2025 passed by the learned Commissioner of Income Tax (Appeals)-49, Mumbai, arising out of the assessment framed by the Assessing Officer

under section 143(3) read with section 147 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), vide order dated 22.03.2016, for the assessment year 2013-14.

2. The Revenue, being aggrieved by the relief granted by the learned CIT(A), has raised the following grounds of appeal:

1. *On facts and circumstances of the case and in law the Ld CIT(A) erred in deleting the addition of Rs. 157,00,000/- made u/s 68 of the Act on account of cash credit without considering the fact that the assessee failed to provide a satisfactory explanation or credible evidence to prove the genuineness of the transaction with M/s Rupkar Tradelink Pvt. Ltd. And M/s Rupnarayan NiketanPvt.Ltd.*

2. *On facts and circumstances of the case in law, the Ld. CIT(A) failed to appreciate that the Assessing officer had correctly invoked section 68 of the Income tax Act, which provided that any sum credited in the books of the assessee without a satisfactory explanation regarding its nature and source must be treated as income of the assessee.*

3. *“On facts and circumstances of the case and in law, the Ld CIT(A) failed to appreciate that the notices issued u/s 133(6) to the alleged lenders were returned unserved and further, the lenders did not comply with the summons issued by the Investigation Wing thereby proving that the entities*

were non-existent /benami concerns engaged in providing accommodation entries.

4 “On facts and circumstances of the case and in law, the Ld CIT(A) erred in disregarding the categorical statements of Shri Satish Saraf and Shri Vishal Bhuwania recorded during search proceeding wherein the modus operandi of Providing accommodations entries and the names of the entry providing companies as well as the beneficiaries were specifically confirmed.

5 “On facts and circumstances of the case and in law Ld CIT(A) erred in deleting the addition of Rs. 3,14,000/- made u/s 69C of the Act towards commission expenditure incurred for obtaining accommodation entries without appreciating that once the loan transactions were held to be non-genuine accommodation entries the corresponding commission was rightly estimated by the Assessing officer in line with the modus operandi of such operators.

3. Briefly stated, the assessee filed its return of income for the assessment year 2013-14 on 20.09.2013 declaring total income of ₹54,160/-. Subsequently, information was received by the Assessing Officer from the office of the DDIT (Investigation)-II, Mumbai, pursuant to a search conducted under section 132 of the Act in the case of the Satish Saraf Group, wherein it was alleged that the said group was engaged in providing accommodation entries through a web of companies controlled and managed by it. Based on the said information, it was alleged that the assessee had

obtained accommodation entries in the form of unsecured loans from M/s Rupkar Tradelink Pvt. Ltd. and M/s Rupnarayan Niketan Pvt. Ltd., and accordingly, the assessment was reopened under section 147 of the Act.

4. During the course of the assessment proceedings, the Assessing Officer observed that the assessee had raised unsecured loans aggregating to ₹1,57,00,000/- from the aforesaid two companies during the year under consideration. Relying upon the investigation inputs, the Assessing Officer called upon the assessee to explain as to why the said loan transactions should not be treated as unexplained cash credits under section 68 of the Act. The assessee was also informed that notices issued to the lender companies under section 133(6) of the Act had been returned unserved.

5. In response, the assessee participated in the assessment proceedings and furnished extensive documentary evidence in support of the loan transactions, including confirmations from the lenders, copies of their income-tax returns, audited financial statements, bank statements evidencing disbursement and repayment of loans through banking channels, and affidavits of the principal officers affirming the genuineness of the transactions. The assessee also furnished updated addresses of the lenders and demonstrated that the loans,

along with interest, were repaid in subsequent years. It was specifically contended that there was neither any allegation nor any material to suggest that unaccounted cash had moved from the assessee to the lenders or vice versa.

6. The Assessing Officer, however, was not persuaded to accept the explanation furnished by the assessee. Relying primarily on the statements recorded during the search proceedings in the case of the Satish Saraf Group, the alleged non-service of notices under section 133(6), and the general modus operandi unearthed during the investigation, the Assessing Officer concluded that the lender companies were accommodation entry providers. Accordingly, the unsecured loans aggregating to ₹1,57,00,000/- were treated as unexplained cash credits under section 68 of the Act. A further addition of ₹3,14,000/- was also made under section 69C of the Act towards alleged commission expenditure.

7. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A). After examining the material on record and the submissions made, the learned CIT(A) recorded a categorical finding that the assessee had discharged the onus cast upon it under section 68 of the Act by establishing the identity of the lenders, their creditworthiness, and the genuineness of the transactions. The learned CIT(A) noted that the loans were routed

through banking channels, duly reflected in the books of account of both the assessee and the lenders, and were fully repaid in subsequent years. It was further observed that the Assessing Officer had not carried out any independent enquiry or brought on record any material to dislodge the documentary evidence furnished by the assessee. The additions made under sections 68 and 69C were accordingly deleted.

8. The Revenue is in appeal before us against the said order. The learned Departmental Representative supported the assessment order and placed reliance on the judgment of the Hon'ble Supreme Court in *PCIT v. NRA Iron & Steel (P) Ltd.* reported in 412 ITR 161 (SC). Per contra, the learned Authorised Representative for the assessee supported the order of the learned CIT(A) and relied upon the judgments of the Hon'ble Gujarat High Court in *PCIT v. Ambe Tradecorp (P) Ltd.* [145 taxmann.com 27], *PCIT v. Ojas Termale (P) Ltd.* [156 taxmann.com 75], *PCIT v. Merrygold Gems (P) Ltd.* [164 taxmann.com 764], and the Hon'ble Bombay High Court in *PCIT v. Bairagra Builders (P) Ltd.* [164 taxmann.com 162 (Bom.)].

9. We have heard the learned representatives of both the parties at length, carefully perused the orders of the lower authorities, and examined the material placed on record. It is an admitted position that the assessee had raised

unsecured loans aggregating to ₹1,57,00,000/- from M/s Rupkar Tradelink Pvt. Ltd. and M/s Rupnarayan Niketan Pvt. Ltd. during the year under consideration. The Assessing Officer has treated the said loans as unexplained cash credits under section 68 of the Act primarily on the basis of information received from the Investigation Wing in connection with the search conducted in the case of the Satish Saraf Group and the alleged non-service of notices issued under section 133(6) of the Act.

10. On a careful and holistic appreciation of the record, we find that the assessee, when called upon to substantiate the nature and source of the credits, had placed on record comprehensive documentary evidence, including confirmations from the lender companies, copies of their income-tax returns, audited financial statements, bank statements evidencing disbursement of loans through normal banking channels, and affidavits of the principal officers of the lender companies affirming the genuineness of the transactions. It is also an undisputed fact that the entire loan amounts were repaid by the assessee in subsequent assessment years, and such repayment has not been doubted or disputed by the Revenue. There is no finding by the Assessing Officer of any cash deposit in the bank accounts of the lenders preceding the issuance of cheques, nor is there any material to suggest that the

assessee's own unaccounted money was routed back in the guise of unsecured loans.

11. The addition made by the Assessing Officer thus rests substantially on generalized investigation inputs and third-party statements, without any independent enquiry or verification linking the assessee directly to the alleged accommodation entry operations. Section 68 of the Act embodies a rule of evidence and casts an initial burden upon the assessee to establish the identity of the creditor, the creditworthiness of the creditor, and the genuineness of the transaction. Once the assessee discharges this primary onus by producing relevant and credible material, the burden shifts upon the Assessing Officer to rebut the same by bringing on record cogent and tangible evidence. In the present case, while the assessee has duly discharged the onus cast upon it, the Assessing Officer has failed to carry the matter any further.

12. We find merit in the reasoning adopted by the learned CIT(A) that mere non-service of notices under section 133(6) of the Act or non-production of lender companies cannot, by itself, be a decisive factor to draw an adverse inference, particularly when the assessee had furnished updated addresses of the lenders and when the loans themselves stood repaid. Once a financial obligation has been fully discharged, it would be neither realistic nor legally tenable

to expect the borrower to compel the appearance of the lender before the tax authorities. The failure of the Assessing Officer to pursue the matter further cannot be put against the assessee.

13. The reliance placed by the learned Departmental Representative on the judgment of the Hon'ble Supreme Court in PCIT v. NRA Iron & Steel (P) Ltd. (supra) is misplaced, as the said decision was rendered in the context of unexplained share capital and share premium where the assessee had failed to establish the identity and creditworthiness of the investors despite detailed investigation by the Assessing Officer. The facts of the present case are materially distinguishable, as the issue before us relates to unsecured loans supported by documentary evidence and repaid through banking channels in subsequent years.

14. On the contrary, the issue involved herein is squarely covered by the judgments of the Hon'ble Gujarat High Court in PCIT v. Ambe Tradecorp (P) Ltd. (supra), PCIT v. Ojas Termale (P) Ltd. (supra), and PCIT v. Merrygold Gems (P) Ltd. (supra), wherein it has been consistently held that once unsecured loans are received through banking channels, supported by confirmations and financial statements, and subsequently repaid, the genuineness of such loans cannot be doubted in the absence of contrary material. The Hon'ble

Jurisdictional High Court in *PCIT v. Bairagra Builders (P) Ltd.* (supra) has also taken the same view.

15. In the present case, we find that the entire edifice of the assessment order is founded on generalized allegations and third-party material, without any incriminating evidence directly implicating the assessee. No cash trail has been established, no discrepancy has been pointed out in the documentary evidence furnished, and no independent enquiry has been carried out by the Assessing Officer. In such circumstances, the addition made under section 68 of the Act is unsustainable in law.

16. Consequently, once the unsecured loans themselves are held to be genuine, the consequential addition made under section 69C of the Act towards alleged commission expenditure, being purely inferential and accessory in nature, also cannot survive.

17. In view of the foregoing discussion, we find no infirmity in the well-reasoned order passed by the learned CIT(A). The findings recorded therein are in complete consonance with the facts on record as well as the settled legal position. The deletion of the addition of ₹1,57,00,000/- made under section 68 of the Act and the consequential deletion of the commission addition are therefore upheld.

18. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on 28th January, 2026.

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

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Mumbai; Dated 28/01/2026
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai