

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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**आयकर अपील सं/ITA No.2358 & 2359/KOL/2024**  
(निर्धारण वर्ष / Assessment Year : 2014-2015 & 2015-2016)

<b>Sen Ferro Alloys (P) Ltd.,</b> C/o S.N.Ghosh & Associates, Advocates, 2, Garstin Place, 2 <sup>nd</sup> Floor, Suite No.203, Off Hare Street, Kolkata, WB-700001	Vs	<b>ACIT, CC-4(3), Kolkata</b>
<b>PAN No. :AAICS 0672 B</b>		
<b>(अपीलार्थी / Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>निर्धारिती की ओर से / Assessee by</b>	:	Shri Somnath Ghosh, Advocate
<b>राजस्व की ओर से / Revenue by</b>	:	Shri Altaf Hussain, Sr. DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	29/01/2026
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	29/01/2026

**आदेश / ORDER**

**Per George Mathan, AM:**

These are two appeals filed by the assessee against the order passed by the Id. CIT(A), Kolkata-27, both dated 26.09.2024 for the assessment years 2014-2015 & 2015-2016.

2. It was submitted by the Id.AR that there was in search on the assessee on 01/12/2015. As a consequence of search, the assessment came to be completed u/s.153A r.w.s 143(3) of the Act on 31/12/2017. The Ld. AR drew our attention to the notice issued u/s.142(1) of the Act in the course of said notice is dated for 12/02/2017. Copy of which is shown at page 118 & 120 of the paper book which reads as follows:-



आयकर अध्यायक, केन्द्रीय सर्किल - 4(3), कोलकाता प्रशासक  
OFFICE OF THE DY. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-  
4(3).

Aayakar Bhavan Poorva, 110, Shantipally, Kolkata-700 107.

Phone No. (033) 2441 0308. Email-kolkata.dcit.cen4.3@incometax.gov.in

DCIT.C.4(3)KOL/AAITCS0672B/2017-18/ 2725

Dated: 04.12.2017

The Principal Officer  
M/s Sen Ferro Alloys Pvt Ltd  
11, Hemanta Basu Sarani  
2<sup>nd</sup> Floor, Room No.206  
Kolkata-700006

Sir,

Sub: Assessment proceedings in your case for A.Y. 2010-11 to 2016-17 u/s 142(1)-Notice-matter regarding

Please refer to the above.

2. You are aware that a search and seizure operation u/s 132 of the I.T. Act'61 was conducted on 01.12.2015 and subsequent dates on the BHALOTIA group of assessees in which you were also included. Notice u/s 153A and 143(2) for A.Y. 2010-11 to A.Y. 2015-16 and notice u/s 143(2) for A.Y. 2016-17 were issued respectively. Thereafter, 142(1) notice giving detail queries have also been issued and served upon the assessee.
3. In compliance to the statutory notices Mr./Sh. Anil Kumar Mndawewala, FCA appeared as your authorized representative. Reply to the queries raised in notice u/s 142(1) has been submitted and the same has been taken on record. However, the replies filed by you were vague and inadequate. The seized/impounded documents, with reference to the submissions made so far by the A.R. i.e. books of accounts and other documents, profit and loss account, balance sheet, tax audit report, statutory audit report filed wherever necessary along with the return has been examined.
4. In course of search and seizure operation/survey operation besides obtaining inventory of books of accounts and other documents, electronic storage devices and stock found, statements of the persons present were recorded.
5. In course of search and seizure operation, disclosure of unaccounted income has also been made by the persons controlling the activities of the group which is reproduced in the table as below:-

Name of persons under whom disclosures made	F.Y. 2015-16	F.Y. 2014-15	F.Y. 2013-14	F.Y. 2012-13	F.Y. 2011-12	F.Y. 2010-11	F.Y. 2009-10	F.Y. 2008-09	Total
Bijay Bhalotia	5,462,047	2,831,966	4,282,675	1,878,484	1,445,927	807,941	108,359	1,22,506	18,037,906
Chinmoy Mondal	5,043,381	2,831,966	4,282,675	1,878,484	1,445,927	807,941	108,359	1,22,506	17,619,239
Nirmal Dey	5,462,047	2,831,966	4,282,675	1,878,484	1,706,490	807,941	108,359	1,22,506	18,298,469
Rajendra Bhalotia	5,462,047	2,831,966	4,282,675	1,878,484	1,445,927	807,941	108,359	1,22,506	18,037,906
Sunder Dhalotia	5,043,381	3,086,448	4,282,675	1,878,484	1,445,927	807,941	108,359	1,22,506	17,873,721
Mangaliniyes & Associates	2,775,756	0	0	0	-	0	0	-	2,775,756
Mummayee Trading & Movers (P) Ltd.	1,772,125	1,980,000	0	0	-	0	0	0	3,752,125
Sen Ferro Alloys (P) Ltd.	0	0	0	251,182	-	0	0	-	251,182
Lalit Kayal	3,350,000	0	0	0	558,283	117,000	0	-	4,225,283
Mino Kayal	0	752,000	0	0	1,699,000	0	0	-	2,450,000

Roop Alankar	0	0	0	0	1,545,284	2,447,031	0	0	1,992,313
Right Side	-	-	-	-	1,365,000	-	-	-	1,365,000
Payable	0	0	0	150,000	1,521,000	0	0	0	1,671,000
Grand Total	34,570,785	17,146,313	21,413,277	9,793,602	14,178,363	6,663,732	541,793	6,102,532	110,350,500

From the above chart it is evident that the assessee M/s Sen Ferro Alloys (P) Ltd has only disclosed Rs.2,51,182/- for F.Y-2012-13 related to A.Y-2013-14 in course of search & seizure operation. However, details of assessee's unaccounted transactions found recorded in seized or impounded documents as under and categorically under each details the assessee is asked to explain whether these transactions are recorded in its regular books of accounts and their sources. The details provided by in response to the notice u/s 142(1) of the I. T. Act'61 are incomplete as stated above. Therefore, the queries raised in the subsequent paras are based on the details provided by the assessee and the findings recorded on the basis of seized/impounded documents.

Document Id : SFA/1(Page-2)

This document contains bonus from the period from Oct'2011 to Sep'2012. On perusal of the same, it is found that bonus of Rs.3,13,977/- and Rs.2,51,182/- has been paid. But, you have only surrendered a sum of Rs.2,51,182/- for A.Y-2013-14 on the basis of this document. Please explain with evidence whether the bonus paid for Rs.3,13,977/- has been routed through regular books of accounts?

7. It is seen from annual accounts of the various companies of BHALOTIA GROUP including the present assessee that huge amounts have been received as share capital, share application money and share premium for A.Y 2010-11 to 2015-16 as per the list below:

Name of the Company	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
SEN FERRO ALLOYS PRIVATE LIMITED	1,78,00,000	2,60,00,000	1,30,00,000	0	0	0	5,68,00,000

From the chart given above, it is observed that your company has received Rs.1,78,00,000/-, Rs.2,60,00,000/- and Rs.1,30,00,000/- totaling Rs.5,68,00,000/- for F.Y-2009-10, 2010-11 and 2011-12 related to A.Y-2010-11, 2011-12 and 2012-13 as share application money along with premium. In course of assessment proceedings as consequence of search & seizure operation conducted upon this group notice u/s 142(1) were issued asking to prove the genuineness of the transaction, genuineness of the identity of the share applicants and creditworthiness of the share applicants as the primary basis to prove the above limbs of the credit of the sums under the head share application money received was upon the assessee, which have not been disclosed. Subsequently, notices u/s 131 were issued for cross examination of the share subscribers. The notices were either return un served or most of the cases neither the designated addressee turned up nor made any reply as indicated in the table below:-

Sr. No.	Name & Address of the share applicant	Date of Issuing Summons u/s 131	Date when summons were returned un-served	Remarks
1.	The Principal Officer, M/s Kokila Exports Pvt. Ltd., 1 <sup>st</sup> Floor, 8 Madan Mohan Burman St., Kolkata - 700007.	27.10.2017	02.11.2017	Returned un-served with remarks "Addressee Moved/Not Known"
2.	The Principal Officer, M/s Midnight Agency Pvt. Ltd., & Ramlochan Mullick Street, 2 <sup>nd</sup> Floor, Kolkata - 700007.	27.10.2017	02.11.2017	Returned un-served with remarks "Addressee Moved/Not Known"
3.	The Principal Officer, M/s Deesha Tie-Up Pvt. Ltd.,	27.10.2017	02.11.2017	Returned un-served with remarks "Addressee Moved/Not Known"

	119, M.G. Road, 2 <sup>nd</sup> Floor, Kolkata - 700007.			
4.	The Principal Officer, M/s P. Engineering Corporation Ltd., AE - 326, Salt Lake City, Kolkata - 700072.	27.10.2017	06.11.2017	Returned un-served with remarks "Left"
5.	The Principal Officer, M/s Vishwama Tradelink Pvt. Ltd, 1, British Indian Street, 1 <sup>st</sup> Floor, Kolkata - 700069.	27.10.2017	06.11.2017	Returned un-served with remarks "Insufficient Address"
6.	The Principal Officer, M/s Arjune Vinuary Pvt. Ltd., 5, Ratan Halder Lane, Ground Floor, P.O. - Liluab, Howrah - 711204.	27.10.2017	06.11.2017	Returned un-served with remarks "Not Known"
7.	The Principal Officer, M/s Atlantic Invest Advisory Pvt. Ltd., 33, Chittaranjan Avenue 9 <sup>th</sup> Floor, Room No.906 Kolkata-700012	27.10.2017	served	Non Compliance
8.	The Principal Officer, M/s Sujala Trading Holdings Pvt. Ltd., 1A, Grant Lane 2 <sup>nd</sup> Floor, Room No-202 Kolkata-700012	27.10.2017	served	Non Compliance
9.	The Principal Officer, M/s Shree Sudarshan castings Pvt.Ltd., Plot No-9, Dev Narayan Nagar Meghpur (Borichil), Anjar, Kachh, Gujrat- 370110	27.10.2017	20.11.2017	Returned un-served with remarks "Left"
10.	The Principal Officer, M/s Welkin Investment Cons. Pvt. Ltd., 33, Chittaranjan Avenue 9 <sup>th</sup> Floor, Room No.906 Kolkata-700012	27.10.2017	Served	Non Compliance
11.	The Principal Officer, M/s Rohan Finance & Securities Ltd., 29A, Weston Street, 3 <sup>rd</sup> Floor, Room No-C2 Kolkata-700012	27.10.17	Served	Non compliance. Reply filed by the witness by post is inadequate. No evidence in respect of source of fund utilized by him furnished.
12.	The Principal Officer, M/s Silver Point Infotech Ltd, Ananta Dhanu, 94, Vivekananda Nagar PO-Podrah, Andul Road, Near West Bank Hospital, 3 <sup>rd</sup> Floor, Room No-301, Howrah- 711109	27.10.17	Served	Non Compliance
13.	The Principal Officer, M/s Shree Ganesh Stock Advisory Pvt. Ltd., 1A, Grant Lane 4 <sup>th</sup> Floor, Room No-401 Kolkata-700012	27.10.2017	served	Non Compliance
14.	The Principal Officer, M/s Marwari Traders Pvt. Ltd., 1, Krishna Colony, Faizabad Road Lucknow, Faizbad, U.P- 226006	27.10.2017	served	Non Compliance
15.	The Principal Officer, M/s Madson agencies Pvt.Ltd 9/12, Lalbazar Street, Block-E, 2 <sup>nd</sup> Floor Kolkata-700001	27.10.17	Served	Non Compliance
16.	The Principal Officer, M/s Lectrodryer Marketing Pvt.Ltd 5, Clive Row, 3 <sup>rd</sup> Floor, Room No-60A Kolkata-700001	27.10.17	Served	Non Compliance

17.	The Principal Officer, M/s Jodhray Finassisit Pvt. Ltd 3, Prince Bakhtar Shah Road Kolkata-700033	27.10.17	Served	Non Compliance
18.	The Principal Officer, M/s Yogmaya Sales Pvt. Ltd., 10A, Chitpur Spur Kolkata-700007	27.10.17	Served	Non Compliance
19.	The Principal Officer, M/s Godavari Dealcom Pvt. Ltd., Ag-112, Sector-II, Suite No-804 & 805 Salt Lake City, Kolkata-700091	27.10.17	Served	Non Compliance
20.	The Principal Officer, M/s Chaturbhuj Tie-Up Pvt. Ltd., 31, Ratu Sarkar Lane, 1 <sup>st</sup> Floor Kolkata-700073	27.10.17	Served	Non Compliance
21.	The Principal Officer, M/s Topline Fininvest Pvt. Ltd., C/o- Hightension Electricals Block No.-1, Mouza A.T.Road Near Toklai Bridge, Jorhat-785001	27.10.17	Served	Non Compliance
22.	The Principal Officer, M/s Motorex Finance Pvt. Ltd., 1A, Grant Lane 2 <sup>nd</sup> Floor, Room No-202 Kolkata-700012	27.10.17	Served	Non Compliance
26.	The Principal Officer, M/s Atlantic Goods Pvt. Ltd., 1, British India Street, Suite No-105 Kolkata-700069	27.10.17	Served	Non Compliance
27.	The Principal Officer, M/s BGS Credit Pvt. Ltd J-47, Ramesh Nagar, Sanatan Dharam Mandir Lane, New Delhi West-110015	27.10.17	Served	Non Compliance

In this context, you are being provided a final opportunity to prove the genuineness of the transactions with regard to receipt of share application money and subsequent allotment of share as well as the creditworthiness of the shareholders / producing the share applicants before the undersigned along with the detailed reply on all the queries raised in the notice issued u/s 131 of the I.T. Act '61 supported by corroborative documentary evidence on 11.12.2017 at 10.30 A.M. In case of failure on your part to comply with the requirements of this letter, it will be presumed that you have no explanation to file and the assessment will be completed in your case on the basis of materials available on record without giving any further opportunity of hearing.

#### Reconciliation of stocks

In course of survey operation u/s 133A dated 01.12.2015 at assessee's Factory cum Office premises at Dehuri, enclia, P.O-Unra, Jambedin, P.S-Barjora, Dt-Bankura, West Bengal the various stocks found are as per the list below:

No	Stocks	As per Stock Register (In Ton) as on 30.11.2015	As per physical verification (in Ton)
	Iron Ore	5134.990	5132.50
	Iron Ore Pellets	44.830	44.00
	Coal	449.685	425.00
	Dolomite	50.430	48.00
	Iron Fines	775.903	778.00

reconcile the stocks found at your business premises in the course of survey operation with regular books of accounts. In case it is not reconciled adverse view shall be taken depending upon the quantum of the stocks not reconciled.

Please furnish the details of all loans taken during F.Y-2009-10 to 2015-16. In case of unsecured loan, furnish the evidence of source of fund utilized by the creditors including the copies of their relevant bank statements, ledgers/Accounts/computation of income, to prove the genuineness of transactions and credit worthiness of the loan creditors, failing which the assessment will be completed on the basis of materials available on records, without giving further opportunity to you.

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Please explain the basis of surrendered income u/s 132(4) of the I.T.Act '61 i.e the assets and documents on which basis surrender was made. Please also furnish the application of surrendered income.

Please furnish your reply on the queries raised above in the preceding paras on 11.12.2017 at 10:30 A.M before undersigned along with corroborative documentary evidence, failing which it will be presumed that you have no objection to file and the proceedings for A.Y-2010-11 to 2016-17 will be completed as per materials available on record no further opportunity of hearing will be provided to you.

Yours faithfully,



gbl  
(Manoj Kumar Singh)  
D.C.I.T., Central Cir-4(3) Kolkata  
मनाज कुमार सिंह  
MANOJ KUMAR SINGH  
स. अ. अ. अ. (केंद्र) कोलकाता, भारत  
Dy Commissioner of Income Tax  
(Central Circle-4(3), Kolkata)

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3. It was submission the AO had specifically asked the assessee to furnish the details of all loans taken during the financial year 2009-10 to 2015-16 and in the case of unsecured loans to furnish the evidence of source of fund utilization by the debtors including the copies of the bank statements etc. The Ld.AR drew our attention to the page 117 paper book which is the reply filed on 01/12/2017 which reads as follows:-

Dated:- 7/12/2017

Filed with  
DCIT CC-4(3)  
Keep

TO

The Deputy Commissioner of Income Tax, CC-4(3)

Aaykar Bhawan Poorva, 5th floor

110, Shanti Pally,

Kolkata- 700107

Dear Sir,

**SUBJECT: REPLY TO PROCEEDINGS U/S 142 (1) - SHOW CAUSE NOTICE**

**REFERENCE: SEN FERRO ALLOYS PVT. LTD. PAN: AAICS0672B**

**ASST YR- 2010-11 TO 2016-17**

In response to your further requisition and as instructed by the client, we respectfully submit as under:

**Unsecured Loans:**

The copies of I.T. Acknowledgement, Audited Statement of Accounts, Bank Statement, Xerox of Pan, etc for following lenders are enclosed herewith. The List of unsecured loans has already been furnished before you. The Loan Confirmation for the following has already been filed with you:

- 1) Sarva Priya Holdings Pvt Ltd for A.Y. 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17.
- 2) Nirmala Devi Kayal for A.Y. 2010-11
- 3) Sambhav Mercantile Pvt Ltd for A.Y. 2012-13
- 4) Arunoday Merchants Pvt Ltd for A.Y. 2014-15
- 5) Doyen Commodities Pvt Ltd for A.Y 2014-15 and 2016-17
- 6) Gabarial Tie Up Pvt Ltd for A.Y 2014-15
- 7) Jagkarta Electricals Pvt Ltd for A.Y. 2014-15
- 8) Nightbird Barter Pvt Ltd for A.Y. 2014-15
- 9) Sankatharan Sales Pvt Ltd for A.Y. 2014-15
- 10) Gyaneshwar Agencies Pvt Ltd for A.Y 2015-16
- 11) Outlay Overseas Pvt Ltd for A.Y. 2015-16
- 12) Oversure Enterprise Pvt Ltd for A.Y. 2015-16

- 13) Link Distributors Pvt Ltd for A.Y. 2016-17  
14) Ratnagiri Vanijya Pvt Ltd for A.Y 2014-15 and 2015-16  
15) Gabarial Tie Up Pvt Ltd for A.Y. 2015-16  
16) Nightbird Barter Pvt Ltd for A.Y. 2015-16  
17) Outcome Vyapar Pvt Ltd for A.Y. 2014-15

The Loan confirmation of the remaining is being filed with you:

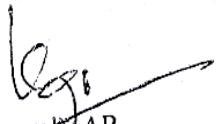
- 1) Dorite Tracon Pvt Ltd for the A.Y. 2010-11

Submitted with Regards,

Thanking you,

Yours Truly,

For Sen Ferro Alloys Pvt. Ltd

  
(V.K. Agrawal), AR

Enclosed: as above

4. It was submission that after considering the replies and evidences produced, the AO had completed the original assessment u/s.153A/143(3) of the Act on 31.12.2017. It was submission that subsequently the AO has initiated the reopening proceedings by recording reasons which was shown at page 95 & 96 of the paper book which reads as follows:-



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE ASSISTANT  
COMMISSIONER OF INCOME TAX  
CENTRAL CIR 4(3), KOLKATA

To,  SEN FERRO ALLOYS PVT LTD 21, ROOM NO. 206,HEMANT BASU SARANI KOLKATA KOLKATA 700001,West Bengal India	
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PAN: AAICS0672B	Assessment Year: 2014-15	Dated: 12/01/2022	DIN & Letter No : ITBA/AST/F/17/2021-22/1038653880(1)
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Sir/ Madam/ M/s,

Subject: Supplying of reason for reopening the case under section 148 of the Income Tax Act,1961.

**REASON FOR RE-OPENING OF THE CASE**

In this case the assessment was completed u/s 153A/143(3) of the I. T. Act'1961 at a total income of Rs. NIL vide an order dated 31.12.2017.

2. A credible piece of information was received from DDIT (Inv.), Unit-1(3), Kolkata vide a letter no. DDIT (Inv.)/Unit-1(3)/Kol/Banka/Information/2018-19/6028 dated 12.12.2018.

3. It is observed that in course of search & survey action in the case of Banka Group conducted on 21.05.2018 various paper/shell companies controlled and managed by Shri Mukesh Banka were identified. These paper/shell companies, as per statement dated 19.07.2018 of Shri Mukesh Banka, are controlled and managed by him for the purpose of providing accommodation entries in the nature of bogus unsecured loans or in other forms.

4. On verification of the bank accounts of paper/shell companies of Banka Group M/s. Sen Ferro Alloys has been identified as one of the beneficiaries who has obtained accommodation entry in the nature of bogus unsecured loan or in other forms from paper/shell companies of Banka Group. The year wise relevant transaction of the paper/shell companies of Banka Group who provided accommodation entry to the beneficiary assessee is as follows:

Paper/Shell company	Amount(in Rs.)	Beneficiary	PAN	F.Y
M/s Gabarial Tie	50,00,056	M/s Sen Ferro	AAICS0672B	2013-14

Note: If digitally signed, the date of digital signature may be taken as date of document.  
AAYAKAR BHAWAN, 110 SHANTIPALLY, E.M.BYPASS, KOLKATA, West Bengal, 700107  
Email: KOLKATA.DCIT.CEN4.3@INCOMETAX.GOV.IN,

up Pvt.Ltd		Alloys Pvt.Ltd		
M/s.Jagkarta Electricals Pvt.Ltd	79,00,084	M/s Sen Ferro Alloys Pvt.Ltd	AAICS0672B	2013-14
M/s.Outcome Vyapaar Pvt.Ltd	1,46,00,292	M/s Sen Ferro Alloys Pvt.Ltd	AAICS0672B	2013-14
M/s Sankatharan Sales Pvt.Ltd	94,00,256	M/s Sen Ferro Alloys Pvt.Ltd	AAICS0672B	2013-14
<b>Total</b>	<b>3,69,00,688</b>			

5. Further, the financial analysis of the above mentioned paper companies has been carried out which revealed noticeable points like (i) no profit accumulation in the companies across various financial years (ii) no actual business done by the companies being zero turn over reported in various financial years.(iii) most of the companies have shown income under the head 'Other income' which shows that these companies have no actual business activities and only getting interest income under the head 'other income' for providing bogus unsecured loan.(iv) The admission of Shri Mukesh Kumar Banka u/s.132(4) of the I.T.Act,1961 on 30.05.2018 & 19.07.2018 that these companies are paper/shell companies controlled and managed by Shri Mukesh Banka.(v) The directors of these companies are dummy directors of Shri Mukesh banka as per his statement recorded on 19.07.2018.(vi) As per enquiry of the department these companies were found non-existent. Further huge withdrawal of cash from the bank accounts of these paper/shell companies clearly established the fact that withdrawal of unaccounted cash was one of the main features of modus operandi of Banka Group.

6. Thereafter, these informations have been analyzed with reference to the return of income submitted by the assessee, audited P & L A/c and balance sheet, assessment folder and also with information available on ITBA portal on ITS, MCA website etc.

7. On analysis of such information it appears that the bank accounts of the assessee **M/s Sen Ferro Alloys Pvt. Ltd.** had been credited with a sum of **Rs. 3,69,00,688/-** which have been transferred from the bank accounts of shell/paper companies discussed above during **F.Y. 2013-14**. It is apparent from the information available on record that the nature of transaction of **Rs. 2,75,00,432/-** entered into by the assessee with these paper/shell companies namely M/s Gabarial Tie up Pvt.Ltd, M/s.Jagkarta Electricals Pvt.Ltd, M/s.Outcome Vyapar Pvt.Ltd remain unexplained.

8. In the case of the assessee, assessment was completed u/s .153A/143(3) of the I. T. Act'61 at a total income of Rs. NIL vide an order dated 31.12.2017. On perusal of the assessment record, it is found that there is no information available on record in respect of

the above mentioned cash loan transaction made by the assessee. The assessee had not filed any details in this regard in course of assessment proceedings. Nor was the information available with the A.O. at the time of assessment proceedings that the assessee was involved in such unaccounted cash loan transactions. It proves that the assessee has not disclosed fully and truly all material facts necessary for his assessment and the facts of the case are covered by Explanation 1 to section 147 of the I.T. Act '61.

9. I have carefully considered the assessment records containing the submissions made by the assessee in response to various notices during the assessment proceedings and have noted that the assessee has not fully and truly disclosed the transactions stated above. It is pertinent to mention here that even though the assessee has produced books of accounts, annual report, audited P & L A/c and balance sheet and some other details during the course of assessment but the requisite material facts were not brought on record to prove the identities of above mentioned companies, genuineness of transactions with them and their creditworthiness.

10. It is also evident from the materials available on record that in this case, the issues under consideration were never examined by the AO during the course of regular assessment. This fact is corroborated from the contents of notices issued u/s 143(2)/142(1) and order sheet entries recorded during the 143(3) proceedings. It is important to highlight here that material facts relevant for the assessment on the issue(s) under consideration were not filed during the course of assessment proceeding, not examined by the A.O. and no opinion was formed in assessment. Thus, the assessee's unaccounted income chargeable to tax has escaped assessment due to assessee's failure to disclose primary facts truly and completely at the time of assessment.

11. In view of the above, I have reasons to believe that the income of Rs. 3,69,00,688/- chargeable to tax of the assessee for the A.Y. 2014-15 has escaped assessment within the meaning of section 147 of the I.T. Act, 1961. In order to assess/reassess the said income and any other income chargeable to tax which has escaped assessment and which may come to my notice during the course of this proceeding, a notice u/s 148 of the I.T. Act'61 required to be issued to the assessee.

ASHOK KUMAR PANDEY  
CENTRAL CIR 4(3), KOLKATA

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

5. It was submitted that as all the details have been reproduced before the Assessing Officer, the reopening is liable to be quashed. Ld. AR further drew our attention to page 152 of the paper book filed in ITA No.2359/Kol/2024 to submit that all the loans which had been taken had been repaid by the financial year 2016-17. The said evidence reads as follows:-

<b><u>SEN FERRO ALLOYS PRIVATE LIMITED</u></b>		
<b><u>Assessment Year : 2014 - 2015</u></b>		
<b><u>Annexure - X annexed to &amp; forming Part of Form 3 CD</u></b>		
<b><u>Accounting Ratios with Calculations</u></b>		
	<b>Previous Year</b>	<b>Preceding Previous Year</b>
1 <u>Turnover</u>	17,37,79,504.00	5,83,59,910.00
2 <u>Gross Profit / Turnover</u>		
Gross Profit	N. A.	60,76,938.13
Total Sales	N. A.	5,83,59,910.00
Gross Profit / Turnover Ratio	N. A.	10.41%
3 <u>Net Profit / Turnover</u>		
Profit before Tax	N. A.	23,08,843.51
Total Sales	N. A.	5,83,59,910.00
Net Profit / Turnover Ratio	N. A.	3.96%
4 <u>Stock in trade / Turnover</u>		
Stock in trade	7,03,61,052.66	7,51,84,959.73
Total Sales	17,37,79,504.00	5,83,59,910.00
Stock in trade / Turnover Ratio	40.49%	128.83%



6. It was submission that none of the loans were outstanding. It was submission that in the course of assessment the AO has asked the assessee to prove the loans which have already been closed. It was submission that in view of the Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P.) Ltd., reported in [2022] 145 taxxman.com 27(Gujarat), the assessee is being not a beneficiary of the loans anymore, the addition is not liable to be made in the hands of the assessee.

7. In reply, the Ld.Sr.DR vehemently supported the order of the AO and CIT(A).

8. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the loans taken by the assessee had at the initial stage itself being examined as is evident from notice issued u/s.142(1) of the Act and the response filed and the assessment order passed originally. Further a perusal of evidences filed, more specifically, in regard to the repayment of the loans shows that all the loans had been repaid during the assessment year 2015-16 and after 2016-17 no loans remained outstanding. The Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P.) Ltd, referred to supra, has held that as the assessee is not being a beneficiary of the loans anymore, no addition u/s.68 of the Act could be made on account of such loan. The relevant observations of the Hon'ble Gujarat High Court are as under :-

*Section [68](#) of the Income-tax Act, 1961 - Cash credit (Bogus loan) - Assessment year 2012-13 - Assessee received loans from two parties - Assessing officer treated same to be sham for reason that creditworthiness of loan givers was not established and, accordingly, made addition under section 68 - It was noted that Tribunal recorded findings of facts that assessee had furnished details such as copy of ledger account, bank*

statements, income-tax returns, balance sheet etc. of loan givers - It was also recorded that notice under section 133(6) was issued to said loan givers which were duly responded by them, therefore, identity of parties could not be disputed - It was also noticed that assessee was not beneficiary as loan was repaid by assessee in subsequent year - Whether, on facts, identity and creditworthiness of parties and genuineness of loan transactions were well established, therefore, impugned addition made under section 68 on account of said loan amount was unjustified - Held, yes [Paras 3.4, 3.5 and 5] [In favour of assessee]

9. Respectfully following the principle laid down by the Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P) Ltd., referred to supra, the addition as made by the AO and as confirmed by the CIT(A) for both the years under consideration stands deleted.

10. In the result, both appeals of the assessee are allowed.

Order dictated and pronounced in the open court on 29/01/2026.

Sd/-  
**(RAJESH KUMAR)**

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-  
**(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

**कोलकाता** Kolkata; दिनांक Dated 29/01/2026

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रेषित/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.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)  
Income Tax Appellate Tribunal, Kolkata