

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

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

**ITA No. 5381/Mum/2025
(Assessment Year: 2020-21)**

Aeon Commercial India Private Limited 107, Sai Arcade, N. S. Road, Mulund West, Mumbai-400 080	Vs.	ACIT Circle- 15(1)(1), Aayakar Bhavan, M. K. Road, Mumbai-400 020
PAN/GIR No. AAJCA9251F		
(Applicant)		(Respondent)

Assessee by	Shri Rohit Garg, Ld. AR
Revenue by	Shri Surendra Mohan, Ld. DR

Date of Hearing	29.01.2026
Date of Pronouncement	30.01.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is filed by the assessee against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 21.07.2025 for Assessment Year 2020–21. The said order arises out of the assessment framed by the Assistant Commissioner of Income Tax, Circle 15(1)(1), Mumbai [hereinafter referred to as

“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 29.03.2025.

Facts of the Case

2. The assessee is a company engaged in business of investments and finance. It filed its return of income for Assessment Year 2020–21 on 28.01.2021 declaring total income of Rs. 60,37,150/-. Subsequently, information was received by the Assessing Officer from DDIT (Investigation), Mumbai through Insight Portal that search and seizure action under section 132 was carried out on 15.02.2022 in the case of ARC Group, during which incriminating material and statements were found indicating that the group was engaged in providing accommodation entries through a network of shell concerns controlled by CA Sanjay Shah.

3. On the basis of the said information, the Assessing Officer recorded satisfaction and obtained approval of the Principal Commissioner of Income Tax-6, Mumbai under section 151 of the Act and issued notice under section 148 of the Act on 30.03.2024. According to the Assessing Officer, the assessee had received accommodation entries aggregating to Rs. 1,18,69,619/- from the following three concerns during the year under consideration:

- i. M/s Indian Infotech & Software Ltd. – Rs. 1,01,19,327/-

- ii. M/s Shivom Investment & Consultancy Ltd. – Rs. 2,40,000/-
- iii. M/s Consultshah Financial Services Pvt. Ltd. – Rs. 15,10,292/-

4. The Assessing Officer issued statutory notices and called for explanation from the assessee. The assessee furnished ledger accounts, bank statements and other details and contended that no fresh credit had been received from the above parties during the relevant previous year and that the entries represented either repayment of earlier loans or credit of interest.

5. The Assessing Officer, however, held that the assessee failed to establish the identity, creditworthiness and genuineness of the creditors. Relying upon the investigation findings and statement of CA Sanjay Shah recorded under section 132(4), the Assessing Officer concluded that the transactions were accommodation entries in the garb of unsecured loans. Accordingly, he treated the sum of Rs. 1,18,69,619/- as unexplained cash credit under section 68 of the Act and added the same to the total income. The assessed income was determined at Rs. 1,79,06,769/-. Penalty proceedings under section 270A were also initiated.

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Before the first appellate authority, the assessee challenged both the validity of reopening as well as the addition on merits. It was contended that the reopening was based on borrowed satisfaction, approval under section 151 was mechanical, and the assessee was not afforded opportunity of

cross-examination of CA Sanjay Shah. On merits, it was submitted that no amount had been received from the alleged parties during the year under consideration and that section 68 could not be invoked in the absence of any fresh credit.

7. The CIT(A), however, upheld the reopening and the addition. He observed that the information received from the Investigation Wing constituted tangible material for reopening and that the Assessing Officer had followed due process. On merits, the CIT(A) held that the lenders were part of the accommodation entry network controlled by CA Sanjay Shah and that the assessee failed to discharge the onus under section 68 of the Act. He further observed that routing of transactions through banking channels and deduction of tax at source did not establish genuineness. Accordingly, the CIT(A) confirmed the addition of Rs. 1,18,69,619/- under section 68 of the Act and dismissed the appeal.

8. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. a). *That the Ld. Commissioner of Income Tax (Appeals) NFAC, Delhi has erred in confirming the action of the Assessing Officer in reopening the case u/s 148 on the basis of certain information received, without any proper reason to believe and also not providing any opportunity of cross examination of the person on whose statement, the case has been reopened.*
- b). *That the Ld. Commissioner of Income Tax (Appeals) NFAC Delhi while holding the above said finding has failed to appreciate that the reopening is not valid, which is based on third party statement, and no opportunity for cross examination having been afforded to the*

assessee before resorting to reopening the case and, as such, the proceedings as initiated are bad in law.

- c). That the reopening only on the basis of statement recorded during search, cannot be held to be incriminating in view of the settled law and, therefore, the statement being not an incriminating evidence, the reopening is devoid of any valid reasoning as per binding judgment of Hon'ble Apex Court and Others.*
- d). That the Ld. AO has failed to provide the copy of statement of CA Sanjay Shah and no opportunity of cross examination of CA Sanjay Shah and CA Rushabh Savla was provided to the assessee.*
- 2. That the Ld. CIT(A) has failed to appreciate that the approval as granted by the superior authority u/s 151 for giving sanction to the notice u/s 148 in 'mechanical manner' is against the settled law, that there has to be an approval with due application of mind by the concerned authority.*
- 2(a). That on the facts and in the circumstances of the case, the assessment order passed u/s 147 r.w.s. 143(2) of the Income Tax Act, 1961 ('the Act') by the Assistant Commissioner of Income Tax Circle 15(1)(1) Mumbai is illegal, bad in law and void ab initio.*
- 2(b). That even otherwise, the notice issued u/s 148 of the Act is bad in law as it has been issued by Jurisdictional AO (JAO) instead of the AO-NFAC and the assessment has also made by the Jurisdictional Assessing Officer which is against the provision of national faceless as made by the Ministry of finance.*
- 3. Notwithstanding the above said ground of appeal, the CIT(A) has erred in confirming the addition of Rs. 11869619 as made by the Assessing Officer on account of amount credited in the books of accounts, treated as accommodation entry in the form of fictitious loan as unexplained cash credits under section 68 of the Income Tax Act, 1961 to applied the taxed under the provision of section 115BBE of the Income Tax Act, 1961, without appreciating the fact that the said amounts in the nature of inter corporate deposits have already been returned by the Assessee.*
- 4. That the Ld. Commissioner of Income Tax (Appeals) NFAC Delhi has erred in confirming the addition which is against the facts and*

circumstances of the case and by not considering our submission properly as filed during the appellate proceedings.

5. That the appellant craves leave to add, amend, or withdraw any of the aforementioned grounds of appeal at the time of hearing.

9. The assessee also filed following additional grounds of appeal:

Additional Legal grounds

- 1. That the Ld. AO has erred in reopening the case of the Assessee on wrong facts as there is no such amount of Rs. 1,18,69,619/- which have been received by the Assessee during the year under consideration as alleged by the AO in para 9 of the satisfaction note.*
- 2. That the notice issued u/sec 148 of the Act and the approval as given u/sec 151 of the Act is bad in law, since the notice as well as approval do not carry either manual signatures or digital signatures as held by the Hon'ble Jurisdictional Bench in the case of J Kumar Infracore Ltd vs DCIT as reported in 176 taxmann.com 193 vide order dated 03.07.2025.*

Additional grounds on merits

- 3. That the CIT(A) has erred in confirming the action of the Assessing Officer in making the addition of Rs. 1,18,69,619/- by ignoring the fact that no credit has been received from the alleged parties during the year under consideration.*
- 4. That the case of the Assessee is squarely covered by the Judgment of the Hon'ble Bombay HC in the case of Ivan Singh vs ACIT as reported in 116 taxmann.com 499 and also by the Judgment of the Hon'ble Mumbai Bench in the case of Anandmangal Investment & Finance Pvt Ltd vs ITO in ITA No. 4166/Mum/2025 order dated 18.09.2025.*
- 5. That the appellant craves leave to add, amend, or withdraw any of the aforementioned grounds of appeal at the time of hearing.*

10. During the course of hearing before us, the learned Authorised Representative submitted that the very foundation of the reopening and the consequent addition is based on factually incorrect information. It was submitted that as per the satisfaction note recorded by the Assessing Officer at the time of issuance of notice under section 148, it was alleged that the assessee had received accommodation entries aggregating to Rs. 1,18,69,619/-. However, it was emphatically contended that the said information itself was faulty and incorrect, as the assessee company had not received a single rupee from any of the aforesaid three concerns during the year under consideration. It was pointed out that the copies of ledger accounts of the said three parties, as placed in the paper book at pages 66 to 69, clearly demonstrate that there was no fresh credit entry during the relevant previous year and that the movements in the accounts represent either repayment of earlier amounts or credit of interest only.

11. It was further submitted that the Assessing Officer reopened the assessment merely on the basis of borrowed information without any independent application of mind and after obtaining approval under section 151 in a mechanical manner. It was also submitted that the notice under section 148 was issued by the Jurisdictional Assessing Officer instead of the Faceless Assessing Officer, rendering the reopening proceedings invalid in law.

12. The learned AR drew our attention to the statement of accounts of the three concerns, namely Consultshah Financial Services Pvt. Ltd., Indian Infotech & Software Ltd., and Shivom Investment & Consultancy Ltd. and submitted that the amounts were originally received only in Assessment Years 2018–19 and 2019–20, and not in the year under appeal. It was submitted that in Assessment Year 2020–21, there was only repayment of principal or credit of interest, and therefore, the addition made in the impugned year is wholly unsustainable in law.

13. It was also submitted that it is a matter of record that the amount treated as unsecured loan by the Assessing Officer has already been repaid majorly, which is evident from the charts placed on record. Therefore, under such circumstances, no addition can be sustained in the hands of the assessee in respect of the same amount.

14. It was also pointed out that for Assessment Year 2019–20, similar addition has already been made by the Assessing Officer and the appeal for that year is pending before the CIT(A), and therefore, making the same addition again in the present year amounts to taxing the same amount twice. Accordingly, it was contended that both the reopening as well as the addition under section 68 are bad in law and on facts, and the same deserve to be quashed.

15. The learned Departmental Representative, on the other hand, relied upon the orders of the Assessing Officer and the

CIT(A). He submitted that the reopening of the assessment was made on the basis of information received pursuant to search action and the statement recorded during the course of search, which constituted tangible material for forming belief that income had escaped assessment.

16. We have heard the rival submissions and perused the material available on record. The core issue for our consideration is whether the addition of Rs. 1,18,69,619/- made under section 68 of the Act can be sustained in the facts and circumstances of the present case.

17. It is an admitted position emerging from the record that the Assessing Officer proceeded on the premise that the assessee had received accommodation entries aggregating to Rs. 1,18,69,619/- from three concerns, namely, M/s Indian Infotech & Software Ltd., M/s Shivom Investment & Consultancy Ltd. and M/s Consultshah Financial Services Pvt. Ltd. during the previous year relevant to Assessment Year 2020–21. However, the assessee has consistently contended, right from the stage of assessment proceedings, that no fresh credit was received from any of the said parties during the year under consideration and that the entries reflected either repayment of earlier amounts or credit of interest.

18. The assessee placed on record the ledger accounts of the said three parties, which form part of the paper book. A perusal of the said ledger accounts clearly shows that the amounts were

originally received in earlier assessment years, namely, Assessment Years 2018–19 and 2019–20, and that during the relevant previous year there is no credit entry representing receipt of loan or advance from the said parties. What is reflected in the books of account for the year under consideration is either repayment of principal or accounting of interest. Thus, the factual foundation on which the Assessing Officer proceeded, namely, that the assessee had received fresh accommodation entries during the year, is not borne out from the record.

19. It is well-settled that the provisions of section 68 of the Act can be invoked only in respect of a sum credited in the books of the assessee during the relevant previous year. In the absence of any such credit entry in the year under appeal, the very jurisdictional fact for invoking section 68 fails. The Assessing Officer has not brought on record any material to controvert the ledger accounts produced by the assessee or to demonstrate that any amount was, in fact, received by the assessee from the said parties during the year under consideration. The addition has been made merely on the basis of information received from the Investigation Wing and the statement recorded during the course of search, without correlating the same with the actual entries appearing in the books of the assessee for the relevant year.

20. We also find merit in the contention of the assessee that similar addition has already been made in Assessment Year 2019–20 in respect of transactions with the very same parties

and the appeal for that year is pending before the first appellate authority. In such a situation, making the same addition again in the present year, when no fresh credit has arisen, would result in taxing the same amount twice, which is impermissible in law.

21. Further, the reliance placed by the Assessing Officer and the CIT(A) on the general findings of the Investigation Wing and the statement of CA Sanjay Shah does not, by itself, justify the addition in the year under consideration, unless it is shown that the assessee has received any sum during the relevant previous year. In the present case, the primary evidence in the form of ledger accounts demonstrates that no such receipt has taken place in the impugned year. In the absence of any contrary material brought by the Revenue, the addition cannot be sustained merely on surmises and general allegations of accommodation entry business.

22. In view of the above factual position, we hold that the addition of Rs. 1,18,69,619/- made under section 68 of the Act is not sustainable on merits, as there is no credit in the books of the assessee during the relevant previous year corresponding to the said amount. Accordingly, the addition so made by the Assessing Officer and confirmed by the CIT(A) is directed to be deleted.

23. Since we have decided the issue on merits in favour of the assessee, the legal grounds challenging the validity of reopening, sanction under section 151, issuance of notice under section 148

and other jurisdictional issues are not adjudicated and are left open.

24. In the result, the appeal of the assessee is allowed on merits.

Order pronounced in the open court on 30.01.2026.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 30/01/2026
Dhananjay, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mumbai