

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAJ KUMAR CHAUHAN(JUDICIAL MEMBER)**

**ITA No. 5371/MUM/2025
Assessment Year: 2009-10
&
ITA No. 5372/MUM/2025
Assessment Year: 2010-11
&
ITA No. 5374/MUM/2025
Assessment Year: 2011-12
&
ITA No. 5373/MUM/2025
Assessment Year: 2012-13
&
ITA No. 5375/MUM/2025
Assessment Year: 2013-14**

Dona Builders Pvt Ltd
108, Shiv Aashish S.V. Road,
Andheri West, Mumbai- 400058

DCIT, Circle 1(3)(1), Mumbai
Aayakar Bhavan, Mumbai-
400020

PAN NO. AAACD 3116 F
Appellant

Respondent

Assessee by : Mr. Rajesh Shah
Revenue by : Mr. Annavaram Kosuri, SR-DR a/w
Mr. Uma Shankar Prasad, CIT DR

Date of Hearing : 06/11/2025
Date of pronouncement : 21/01/2026

ORDER

PER BENCH

These five appeals by the assessee are directed against separate orders passed by the Ld. Commissioner of Income-tax



(Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 respectively. As common issue-in-dispute is involved and therefore same were heard together and disposed off by way of this consolidated order for sake of connivance and avoid repetition of facts.

2. Firstly, we take up the appeal for the assessment year 2009-10. The grounds raised by the assessee are reproduced as under:

“1. a) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the reopening of the assessment.

2. On the facts and circumstances of the case and in law, the AO had wrongly reopened the assessment on wrong facts, without proper sanction from the prescribed authority and on borrowed opinion and without complying the provisions of Section 147 to 151 of the Act.

3. a) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the addition of Rs 20,00,000/- being share application money received from Sumukh Commercial Pvt Ltd though no such amount was received during the year.

b) The learned CIT(A) erred in not adjudicating the issue and confirmed the total addition on assumption and presumption basis and without going into the details submitted during the appellate proceedings.

4. a) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the addition of Rs. 1,60,00,000 under Section 68 of the Act without going into the details and the total additions in respect of unsecured loans were confirmed by way of surmise and conjecture.

b) The CIT(A)-NFAC erred in not considering the detailed submissions filed though the same was incorporated in the CIT(A)'s order.



5 a) *On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC ignored the details filed though the appellant has proved the capacity, identity and genuineness of the transactions with the lenders.*

b) *The learned CIT(A)-NFAC also ignored the fact that all the unsecured loans were repaid partly during the year and balance amount in the very next year. The order of the CIT(A)-NFAC is not a speaking order and has been passed without considering the facts.*

6. *The appellant craves leave to add, amend, modify, substitute and / or cancel any of the ground of the appeal.”*

3. At the outset, we note that there is a delay of **763 days** in filing the present appeal. The learned counsel for the assessee drew our attention to the application for condonation of delay supported by a sworn affidavit explaining the circumstances leading to such delay.

3.1 In the affidavit, it has been averred that the notice of hearing issued under section 250 dated 15.05.2023 was received on the e-mail ID of the Chartered Accountant, pursuant to which partial submissions were filed on 30.06.2023. It was the bona fide expectation of the assessee that further opportunity of hearing would be granted. However, the learned CIT(A)-NFAC passed the appellate order dated 27.07.2023, which, according to the assessee, was neither served upon the assessee nor upon its authorised representative and may have been communicated to an old, inoperative e-mail ID.



3.2 It has further been explained that the assessee remained unaware of the said order, as no communication was received. Other appeals pertaining to subsequent assessment years were also pending simultaneously, and the orders in those matters were received on 20.06.2025. Upon receipt of those orders, the assessee verified the e-filing portal and, to its surprise, discovered that the impugned order for Assessment Year 2009-10 had already been passed on 27.07.2023 and was available on the portal. The assessee thus became aware of the impugned order only on 20.06.2025, thereafter the order was downloaded and the present appeal was filed on 29.08.2025. It is asserted that the delay was neither deliberate nor motivated, and that no advantage accrued to the assessee on account of such delay.

3.3 We have considered the rival submissions and perused the material placed on record. The explanation offered by the assessee, supported by a sworn affidavit, demonstrates that the delay occurred due to lack of knowledge of the impugned order and circumstances beyond the control of the assessee. There is nothing on record to suggest any mala fide intention or deliberate inaction. It is well settled that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, particularly where the delay is satisfactorily explained.



3.4 In the facts and circumstances of the present case, we are satisfied that the assessee has shown sufficient cause for the delay in filing the appeal. Accordingly, the delay of 763 days is condoned, and the appeal is **admitted for adjudication on merits**.

4. Briefly stated, the facts of the case are that the assessee is engaged in the business of real estate development. For the assessment year under consideration, the assessee filed its return of income on 28.09.2009 declaring a total income of ₹1,25,81,550/- . The said return was processed under section 143(1) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”).

4.1 Subsequently, the learned Assessing Officer received information from the Investigation Wing of the Income-tax Department alleging that the assessee had obtained accommodation entries in the nature of unsecured loans and share application money from certain concerns controlled and managed by Shri Praveen Kumar Jain, who was subjected to search proceedings by the Department. During the course of the search, it was observed that Shri Praveen Kumar Jain was operating and controlling several entities in the names of his employees and associates. Statements recorded during the search revealed that the directors and partners of such entities were merely name-lenders and that the said concerns were allegedly used for providing bogus accommodation entries. It was further observed that no stock of goods or evidence of



genuine business activity was found at the premises of such concerns.

4.2 On the basis of the above material, the Investigation Wing formed a view that the entities controlled by Shri Praveen Kumar Jain were engaged in providing accommodation entries. It was further reported that the assessee was one of the beneficiaries of such entries, having received unsecured loans and share application money from the said concerns during the year under consideration. The learned Assessing Officer reproduced in the assessment order the details of such transactions, aggregating to ₹1,80,00,000/-. For ready reference said list is reproduced as under:

Loan taken:				
Sr. No.	Name	A.Y	Nature Of Transaction	Amount Of Transaction (Rs.)
1	M/s Ansh Merchandise Pvt Ltd	2009-2010	UNSECURED LOAN	5,00,000
2	M/s Atharv Business Pvt Ltd	2009-2010	UNSECURED LOAN	50,00,000
3	M/s Easy Mercantile Pvt Ltd	2009-2010	UNSECURED LOAN	80,00,000
4	M/s Nakshatra Business Pvt Ltd	2009-2010	UNSECURED LOAN	5,00,000
5	M/s Sumukh	2009-2010	UNSECURED LOAN	20,00,000



	Commercial Pvt Ltd			
Share application money				
6	M/s Sumukh Commercial Pvt Ltd	2009-2010	SHARE APPLICATION MONEY	20,00,000
	Total			1,80,00,000/-

4.3 In view of the said information, the learned Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment and accordingly issued notice under section 148 of the Act. In response thereto, the assessee requested that the original return of income filed on 28.09.2009 be treated as the return filed in response to the said notice. Thereafter, statutory notices were issued and reassessment proceedings were initiated.

4.4 During the reassessment proceedings, the assessee contested the allegations on multiple grounds. It was submitted, inter alia, that the allegation of accommodation entries was based merely on abstracts of statements of Shri Praveen Kumar Jain and his associates, without furnishing complete statements, and that none of the statements specifically named the assessee. It was further contended that the statements relied upon by the Assessing Officer had subsequently been retracted. The assessee claimed to have furnished comprehensive documentary evidence in support of the unsecured loans amounting to ₹1,60,00,000/-, including confirmations, PAN details, income-tax returns, bank statements of both the lenders and the assessee, ledger accounts, board



resolutions, and proof of registration of the lending companies with the Ministry of Corporate Affairs. It was also pointed out that interest was paid on the said loans after deduction of tax at source and that the lenders had disclosed such interest income in their respective returns. Affidavits from the directors of the lending companies were also placed on record, and it was asserted that the burden cast under section 68 of the Act stood duly discharged.

4.5 The learned Assessing Officer, however, was not satisfied with the explanation and evidence furnished. Placing reliance on the findings of the Investigation Wing, he observed that no genuine business activity was carried out by the concerns controlled by Shri Praveen Kumar Jain, that their directors and partners were not traceable at the given addresses, and that they had themselves admitted to being mere name-lenders. It was further noted that such concerns did not have any regular employees, except for a few common accountants who managed their accounts and banking transactions.

4.6 Accordingly, the learned Assessing Officer, by order dated 30.12.2016 passed under section 143(3) read with section 147 of the Act, made additions of ₹1,60,00,000/- towards unsecured loans and ₹20,00,000/- towards share application money under section 68 of the Act.



5. On further appeal, the assessee challenged the validity of the reassessment as well as addition on merit but did not find any favour and Ld. CIT(A) rejected the contentions of the assessee challenging the validity of the reassessment as well as upheld the additions on merits.

6. Before us the assessee, by way of Ground Nos. 1 and 2, has challenged the validity of reopening of the assessment under section 147 of the Income-tax Act, 1961.

The learned counsel for the assessee contended that the reopening is vitiated due to non-application of mind. It was submitted that while recording reasons, the Assessing Officer proceeded on the premise that the assessee had received share application money of ₹20,00,000/- from M/s. Sumukh Commercial Pvt. Ltd., whereas, according to the assessee, no such share application money was received during the relevant previous year nor reflected in the books of account. It was argued that the reasons were recorded without verifying this basic factual aspect, rendering the belief erroneous and unsustainable in law. It was further contended that the sanction accorded under section 151 was equally defective, as the approving authority also failed to notice the absence of any such share application money, thereby granting approval mechanically. The learned counsel also submitted that the reopening was based on a borrowed satisfaction of the Investigation Wing, without independent application of mind by the Assessing Officer.



6.1 Per contra, the learned Departmental Representative supported the orders of the authorities below and relied upon the decisions of the Hon'ble Supreme Court in *Assistant CIT v. Rajesh Jhaveri Stock Brokers (P.) Ltd.* [2007] 291 ITR 500 (SC) and *Raymond Woollen Mills Ltd. v. ITO.* 1999 236 ITR 34 (SC) It was submitted that at the stage of recording reasons, the correctness or sufficiency of material is not to be examined and that the Assessing Officer is only required to form a prima facie belief based on tangible material. According to the learned DR, whether the amount of ₹20,00,000/- was ultimately received as share application money is a matter to be examined during assessment proceedings and not at the threshold stage of reopening.

7. We have carefully considered the rival submissions and perused the material on record. The assessee had before Ld. CIT(A). The Ld. CIT(A) rejected the contention of the assessee challenging the validity of the reassessment observing as under:

6.2 As regards the grounds relating to objection of the reopening of assessment, it is essential to bear it in mind that the return of income for the AY 2009-10 was never subjected to scrutiny earlier. In one ground the assessee says that the AO has not obtained the permission of higher authorities. In another ground it says that permission taken from the higher authority u/s.151 is also based on wrong facts. This shows that the permission was given mechanically and without application of mind.

There is inconsistency in the submissions. The former ground contradicts with the latter ground. This shows that the assessee misrepresents the facts and wants the appellate authority somehow to decide the appeal in its favour. The contention of the assessee that the Assessing Officer did not demonstrate any material enabling him to form a belief that income chargeable to tax has escaped assessment is fallacious. The Assessing



Officer recorded detailed reasons pointing out the material available, in the form of report from the Investigation Wing which had a live link with formation of belief that the income chargeable to tax had escaped assessment. At this stage, as is often repeated, I would not go into sufficiency of such reasons.”

7.1 Further, the Ld. CIT(A) relied on the decision of the Hon’ble Supreme Court in the case of Asst. CIT V. Rajesh Jhaveri Stock Brokers (P.) Ltd. (supra) and Raymond Woolen Mills Ltd (supra). The Ld. CIT(A) also relied on the decision of the **Sarthak Securities Co. (P) Ltd., V. ITO (2010) 329 ITR 110 (Del)** where in Hon’ble High Court observed as under:

“At the stage of issuing notice, it is not necessary to have established facts of escapement of income but what is necessary is that there is relevant material on which a reasonable person could have formed requisite belief. Conclusive proof was not germane at this stage but formation of belief must be on the base or foundation or platform of prudence which a reasonable person is required to apply.”

7.2 Since the validity of reopening hinges upon the reasons recorded, the same have been reproduced hereinabove for ready reference.

“The assessee, M/s DONA BUILDERS PRIVATE LIMITED, having PAN: AAACD3116F is assessed to tax in this circle. The assessee for the A.Y.2009-10 e-filed its return of income on 28.09.2009 declaring an Income of Rs.1,25,81,550/-which was duly processed u/s. 143(1) of IT. Act, 1961.

2. There upon, information has been received from the office of the DGIT (Inv), Mumbai which was forwarded by Pr. CIT-9, Mumbai. In the letter,



DIT (Inv.)-II, Mumbai has informed that in the case of Praveen Jain Group a search and seizure action u/s. 132 of the IT Act, 1951 was carried out on 01.10.2013 by the Investigation Wing, Mumbai wherein some of his associate concerns were also covered.

3. During the course of search proceeding, statement of Shri Praveen Kumar Jain was recorded u/s. 132(4) of the IT. Act, 1961, in which he stated that he is engaged in the business of giving accommodation entries in the shape of bogus unsecured loan, bogus share application on share capital money, bogus bills of LTCG/STCG and bogus bills of purchase which are routed through the companies under his control. All the companies either owned by him or directly/indirectly under his control are paper companies with no real business transactions. In most of these cases, various brokers who operate in the field of providing accommodation entries approach him when they want a certain type of accommodation entry like bogus unsecured loan, bogus share application on share capital money, bogus LTCG/STCG and bogus bills of purchase etc. He has also given the list of his group companies in his statement admitting the fact that accommodation entries have been provided to the various beneficiaries. This list contains the names of these companies who have provided accommodation entries totaling to Rs. 1,80,00,000/- to assessee under the garb of Share Application Money and Unsecured loans as under.

Sr. No.	Name of the Bogus Concern Operated by P K Jain	Nature of Sham Transaction	Amount of Transactions (Rs.)
1	Sumukh Commercial Pvt Ltd (Capetwon Mer. P Ltd)	Share Application Money	20,00,000
2	Sumukh Commercial Pvt Ltd Capetwon Mer. P Ltd)	Unsecured Loan	20,00,000
3	Ansh Merchandise P Ltd (Newplanet Trading Co P Ltd)	Unsecured Loan	5,00,000
4	Atharv Business (Faststone Loan Trad (I) P Ltd)	Unsecured Loan	50,00,000
5	Easy Mercantile Co P Ltd	Unsecured Loan	80,00,000
6	Nakshatra Business P Ltd (Hema Trading Co P Ltd)	Unsecured Loan	5,00,000
	Total amount of Sham Transactions		1,80,00,000



*As Mr. Praveen Kumar Jain has admitted that companies which includes M/s, Sumukh Commercial Pvt Ltd (Cepetwon Mer. P. Ltd), M/s. Ansh Merchandise P Ltd (Newplanet Trading Co P-Ltd), M/s. Atharv Business Private Limited (Faststone Trad (1) P Ltd), Easy Mercantile Co P Ltd and Nakshatra Business P Ltd (Hema Trading Co P Ltd) are engaged in providing accommodation entries, it is crystal clear that the sum of **Rs.1,80,00,000/-** shown by the assessee to have been received from the above parties, is nothing but an accommodation entries taken by the assessee to bring its unaccounted money in its books of accounts.*

4. From the above facts, it is clear that the assessee had booked bogus Share Application Money and bogus Unsecured Loans in its books of account to the tune of Rs. 20,00,000/- & Rs. 1,60,00,000/- respectively. Thus, the assessee has failed to disclose fully and truly all material facts in respect of Share Application Money as well as Unsecured Loans necessary for its assessment for the A.Y.2009-10 and has suppressed its income chargeable to tax. In view of the above, I have reason to believe that in the case of the assessee, income chargeable to tax of Rs.1,80,00,000/- has escaped assessment for A.Y.2009-10 within the meaning of sec. 147 of the I.T. Act, 1961."

7.3 On a plain reading of the reasons, it is evident that the Assessing Officer received specific information from the Investigation Wing pursuant to a search conducted in the case of Shri Praveen Kumar Jain and his group concerns, wherein it was admitted that several entities controlled by him were engaged in providing accommodation entries in the form of unsecured loans and share application money. The information furnished to the Assessing Officer specifically named the concerns from whom the assessee was stated to have received accommodation entries aggregating to ₹1,80,00,000/-. On the basis of such information, the Assessing Officer formed a belief that income chargeable to tax had escaped assessment.



7.4 It is an undisputed fact that the return of income for the year under consideration was processed under section 143(1) of the Act and no scrutiny assessment had been carried out earlier. At the stage of recording reasons, the Assessing Officer was not expected to conduct a roving or detailed enquiry into the correctness of each transaction and verify from of detailed financials of the assessee as what was the amount of share application money received by the assessee during the year under consideration. What is required is the existence of tangible material having a live link with the formation of belief that income has escaped assessment.

7.5 According to ld counsel for the assessee, recording of reasons to believe that income escaped without verifying the fact of share application money amounts to non application of mind by the ld AO. The contention of the assessee that the Assessing Officer ought to have verified whether share application money of ₹20,00,000/- was actually received before recording reasons cannot be accepted. At the threshold stage, the Assessing Officer is not required to conclusively establish escapement of income or adjudicate upon disputed facts. The sufficiency or correctness of the material is not open to judicial scrutiny at this stage, as consistently held by the Hon'ble Supreme Court in *Rajesh Jhaveri Stock Brokers (P.) Ltd.* and *Raymond Woollen Mills Ltd.*. The belief formed by the Assessing Officer is based on information received from a credible source, namely the Investigation Wing and information or material was



relevant to the case in hand , and cannot be said to be a case of mere suspicion or conjecture.

7.6 Further, the reasons recorded demonstrate independent application of mind by the Assessing Officer to the information received. The formation of belief is not mechanical nor based on borrowed satisfaction, but on an objective appraisal of material linking the assessee with the alleged accommodation entries. The mere fact that one component of the information is disputed by the assessee does not render the entire reopening invalid.

As regards the approval granted under section 151, we find no merit in the allegation that the sanction was accorded mechanically. The approving authority granted sanction on the basis of the reasons recorded and the material placed before it. At this stage, the approving authority is not required to conduct an independent investigation into the factual correctness of each entry, but only to examine whether a prima facie case exists for reopening. We find no infirmity in the sanction so granted.

7.7 The learned Commissioner (Appeals) has rightly rejected the objections raised by the assessee by relying upon the settled legal position that at the stage of issuance of notice under section 148, the existence of relevant material enabling a reasonable person to form the requisite belief is sufficient, as reiterated by the Hon'ble Delhi High Court in *Sarthak Securities Co. (P.) Ltd. v. ITO.*(supra)



7.8 In view of the above discussion, we are of the considered opinion that the reopening of assessment is valid in law. The Assessing Officer had tangible material before him, applied his mind thereto, and formed a bona fide belief that income chargeable to tax had escaped assessment. Accordingly, we find no infirmity in the order of the learned Commissioner (Appeals) on this issue.

7.9 The grounds raised by the assessee challenging the validity of reassessment are, therefore, **dismissed**.

8. In Ground No. 3, the assessee has challenged the addition of ₹20,00,000/- made on account of alleged receipt of share application money from M/s. Sumukh Commercial Pvt. Ltd.

8.1 The learned counsel for the assessee submitted that no share application money was received by the assessee during the year under consideration. In support of this contention, reference was made to the balance sheet of the assessee for the year ended 31.03.2009, wherein the share capital remained unchanged at ₹55,00,000/- as on 31.03.2008 as well as on 31.03.2009. It was submitted that neither share application money nor any increase in share capital was reflected in the financial statements for the relevant year.

8.2 We have perused the copy of the balance sheet placed on record and prima facie find that no share application money is disclosed therein either as on 31.03.2008 or as on 31.03.2009.



However, mere absence of such entry in the balance sheet cannot, by itself, conclusively establish that no such amount was received during the year, as it is possible that the amount, if received and refunded within the same financial year, may not find reflection in the year-end balance sheet.

8.3 In order to arrive at a correct factual position, verification of the certified financial statements, books of account, and bank statements of the assessee is necessary. Since such verification has not been undertaken by the Assessing Officer, and the issue involves examination of primary facts, we consider it appropriate, in the interest of justice, to restore this issue to the file of the Assessing Officer for fresh examination.

8.4 The Assessing Officer shall verify, after affording reasonable opportunity of being heard to the assessee, whether any share application money was received and, if so, its nature and treatment in the books of account.

8.5 Accordingly, Ground No. 3 raised by the assessee is **allowed for statistical purposes.**

9. Ground Nos. 4 and 5 of the appeal relate to the addition of ₹1,60,00,000/- made under section 68 of the Income-tax Act, 1961, on account of unsecured loans.

9.1 Briefly stated, the facts are that the Assessing Officer received information from the Investigation Wing alleging that the assessee



had obtained unsecured loans from various entities controlled and managed by the Shri Praveen Kumar Jain Group. The details of such loans received during the year have already been noted hereinabove. The assessee claimed that the loans were genuine and submitted documentary evidence in support thereof.

9.2 The Assessing Officer, however, relied heavily on the findings emanating from the search and seizure proceedings conducted in the case of Shri Praveen Kumar Jain and his associates. It was observed that at the business premises and registered addresses of the lending concerns, as per income-tax records, MCA data and bank documents, no genuine business activity was found to be carried out. Statements recorded under sections 132(4) and 131 of the Act revealed that the directors and proprietors of such concerns admitted to being mere name-lenders or dummy directors, who signed documents for nominal consideration at the instance of Shri Praveen Kumar Jain. It was further noted that no physical stock of goods was found during search or survey proceedings and that such concerns had no employees except a few common accountants who managed their accounts and banking transactions.

9.3 In view of the above findings, the Assessing Officer treated the unsecured loans aggregating to ₹1,60,00,000/- as unexplained cash credits under section 68 of the Act.

The learned Commissioner (Appeals) confirmed the addition, primarily observing that the assessee furnished the documentary



evidence at the fag end of the assessment proceedings, thereby depriving the Assessing Officer of sufficient time to conduct meaningful verification. The learned Commissioner (Appeals) drew an adverse inference on the ground that the evidence was produced on the last date of limitation, i.e., 30.12.2016, and concluded that the conduct of the assessee reflected lack of bona fides. On this basis, the addition was upheld. The relevant finding of the Ld. CIT(A) is reproduced as under:

“6.4 Respectfully following the above decisions, I have no hesitation to uphold the action of the AO in reopening the assessment. All the grounds relating to reopening of assessment are hereby dismissed.”

It can be seen from the above that even though the reassessment proceedings were started in 30.3.2016, the documentary evidences were completed the assessment. To bring forth the non-cooperative attitude of the submitted at the eleventh hour ie. on 30.12.2016 on which day the AO assessee its own submission is quoted here for ready reference.

"In response, the assessee's AR submitted on 30.12.2016 loan confirmation, ledger account bank statement. ITR copy along with audited accounts of the above parties"

This clearly indicates that the assessee did not want to give the AO sufficient time to enquire, cross verify and investigate on the veracity of the assessee's submission vis-à-vis the documentary evidences produced. The intention of the assessee is clear that it wanted to entangle the AO, who was having very limited time at his disposal, thereby placed the latter in such a situation whereby he could not have any opportunity but to accept the documentary evidences as it is and complete the assessment as intended by the assessee. That is the reason for submitting the evidences on the last day. The assessee is not a non-prudent person who cannot visualize the situation and guess what would be the documents the AO would require to accept its claim as genuine, if it is so. That being the case the assessee could have, at the first instance itself, even without waiting for the AO to call for the same through a notice under Section 142(1), furnished all the documentary evidences on which it relied upon in support



of its claim. This could certainly be possible since there was no need to generate or create any new document had the assessee's claim is genuine, inasmuch as the assessment year is 2009-10 and the reassessment proceedings started only in 2016. This itself shows that the entire transaction of loan and share application money is nothing but bogus and sham. Thus the assessee expected the AD, who would be in a hurry to complete the assessment before 31.12.2016 would have no other alternative than to accept the documents and pass an order without making any addition. Of course this did not happen.

The AO elaborately discussed in the assessment order the outcome of the search by the Investigation Wing, which brought the following facts:

In many concerns formed by Shri Praveen Kumar Jain group, various persons shown to be the directors / proprietors were non-existent on the given addresses. In certain cases in the sworn statements recorded u/s. 132(4)/131 of the I.T.Act these directors / proprietors admitted that they were merely dummy directors and used to sign different papers for nominal consideration given by Shri Praveen Kumar Jain.

In view of the above, it is seen that through various dummy directors / proprietors, he controls, operates and manages a large number of concerns All such concerns are not carrying out any genuine business. They do not have any physical stock of goods which they claimed to be dealing in, all such concerns have no employees except a few common accountants who manage accounts and banking transactions of all such concerns. All such concerns are indulged in the activity of providing accommodation entries only.

7. Taking into consideration all these facts. I am of the firm view that the action of the AO in making an addition of Rs.1,80,00,000/- does not require any interference and it is confirmed. Ground No.3 is therefore dismissed."

9.4. We have heard the rival submissions and carefully perused the material available on record. It is evident that although the assessee did file documentary evidence such as confirmations, bank statements, and income-tax returns of the lending parties, the



Assessing Officer could not carry out any independent enquiry or verification of such material due filing those information at the fag end of limitation of scrutiny proceedings. . Equally, it is apparent that the learned Commissioner (Appeals), despite noting the alleged lack of enquiry by the Assessing Officer, did not undertake or cause to be undertaken any further enquiry as contemplated under section 250(4) of the Act.

9.5 The Hon'ble Delhi High Court, in *CIT v. Jansampark Advertising and Marketing (P) Ltd.* (ITA No. 525/2014), has categorically held that where the Assessing Officer fails to conduct proper enquiry, the first appellate authority cannot remain passive and is duty-bound to ensure that necessary and effective enquiry is carried out, either by itself or by directing the Assessing Officer to do so. The appellate authority cannot uphold or delete an addition merely on the ground of inadequacy of enquiry without first remedying such deficiency. The relevant part of decision is reproduced as under:

42. The AO here may have failed to discharge his obligation to conduct a proper inquiry to take the matter to logical conclusion. But CIT (Appeals), having noticed want of proper inquiry, could not have closed the chapter simply by allowing the appeal and deleting the additions made. It was also the obligation of the first appellate authority, as indeed of ITAT, to have ensured that effective inquiry was carried out, particularly in the face of the allegations of the Revenue that the account statements reveal



a uniform pattern of cash deposits of equal amounts in the respective accounts preceding the transactions in question. This necessitated a detailed scrutiny of the material submitted by the assessee in response to the notice under [Section 148](#) issued by the AO, as also the material submitted at the stage of appeals, if deemed proper by way of making or causing to be made a "further inquiry" in exercise of the power under [Section 250\(4\)](#). This approach not having been adopted, the impugned order of ITAT, and consequently that of CIT (Appeals), cannot be approved or upheld.

9.6 In the present case, although the assessee placed certain documents on record to substantiate the identity, creditworthiness, and genuineness of the loan transactions, the learned Commissioner (Appeals) did not undertake the requisite verification himself or through the Assessing officer, such as issuing notices under section 133(6) of the Act, examining the financial capacity of the lenders, or testing the genuineness of the transactions through banking trails and surrounding circumstances.

9.7 In these circumstances, and having regard to the settled legal position, we are of the considered view that the matter requires fresh examination. The issue relating to the addition under section 68 is therefore restored to the file of the Assessing Officer, who shall conduct necessary enquiries, including verification of identity, creditworthiness, and genuineness of the transactions, after affording adequate opportunity of being heard to the assessee.



9.8 The ground Nos 4 to 5 of appeal of the assessee are accordingly allowed for statistical purposes.

Appeals for A.Ys. 2010-11 to 2013-14

10. We now take up the appeals of the assessee for Assessment Years 2010-11 to 2013-14. In all these appeals, the common issues relate to additions made under section 68 of the Income-tax Act, 1961, on account of unsecured loans and share application money allegedly received from entities controlled and managed by the Shri Praveen Kumar Jain Group, which were treated by the Assessing Officer as accommodation entry transactions.

10.1 For the sake of convenience, we first refer to the grounds raised for Assessment Year 2010-11, which are representative in nature , as under:

- “1
- a) *On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the reopening of the assessment. The learned CIT(A) erred in not adjudicating the ground in respect of the reopening of the assessment though the appellant had given a detailed response during the appellate proceedings.*
 - b) *On the facts and circumstances of the case and in law, the AO had wrongly reopened the assessment on wrong facts, without proper sanction from the prescribed authority and on borrowed opinion and without complying the provisions of Section 147 to 151 of the Act.*
- 2.
- a) *On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the addition of Rs. 1,35,00,000/- being share application money received from six companies though the source in respect of the same is legitimate.*



- b) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in not considering the fact that the appellant is not required to explain the source of the source in respect of share application money for A.Y. 2010-11.*
- c) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC ignored the details filed though the appellant has proved the capacity, identity and genuineness of the transactions in respect of share application money.*
3. *a) On the facts and circumstances of the case and in law, the learned CIT(A)-NFAC erred in confirming the addition of Rs. 15,00,000 under Section 68 of the Act without going into the details and the total additions in respect of unsecured loan was confirmed by way of surmise and conjecture.*
- b) The CIT(A)-NFAC erred in not considering the detailed submissions filed though the same was incorporated in the CIT(A)'s order.*
- c) On the facts and circumstances of the case and in law. the learned CIT(A)-NFAC ignored the details filed though the appellant has proved the capacity, identity and genuineness of the transactions with the lender.*
4. *The learned CIT(A)-NFAC also ignored the fact that the unsecured loan of Rs.15,00,000/- was repaid during the year.*
5. *The order of the CIT(A)-NFAC is not a speaking order and has been passed without considering the total facts filed during the hearing. The order is bad in law.*
6. *The appellant craves leave to add, amend, modify, substitute and / or cancel any of the ground of the appeal.”*

Facts relating to A.Y. 2010-11

11. For the year under consideration, information was received by the Assessing Officer that the assessee had received share application money and unsecured loans aggregating to



₹1,50,00,000/- from certain entities allegedly controlled by Shri Praveen Kumar Jain, namely *interalia* M/s. Casper Enterprises Pvt. Ltd. (Oswal Trading (1) Pvt. Ltd.), M/s. Kush Hindustan Ent. Ltd., M/s. Nakshatra Business Pvt. Ltd. (Hema Trading Co. Pvt. Ltd.), M/s. Olive Overseas Pvt. Ltd. (Realgold Trading Co. Pvt. Ltd.), M/s. Raghunandan Rayons Ltd., Triangular Trading Co. Ltd. (Lexus Infotech). Details of amount received has been reproduced by the Ld.AO in para 4.2 of assessment order. For the ready reference said table is reproduced as under:

S. No.	Name	Amount (Rs.)
1	M/s. Casper Enterprises	40,00,000
2	M/s. Kush Hindustan Ent. Ltd	19,00,000
3	M/s. Nakshatra Business Pvt. Ltd	19,00,000
4	M/s. Olive Overseas Pvt. Ltd	19,00,000
5	M/s. Raghunandan Rayons Ltd	19,00,000
6	Triangular Infocom Ltd.	19,00,000
7	Triangular Infocom Ltd.	15,00,000
	Total	1,50,00,000

11.1 The assessee furnished confirmations, copies of income-tax returns, bank statements, ledger accounts, and other supporting documents in respect of the said receipts. However, the Assessing Officer was not satisfied and concluded that the said entities were not carrying on any genuine business activity and were part of the accommodation entry network operated by the Shri Praveen Kumar Jain Group. Relying primarily on the findings of the Investigation Wing and statements recorded during search proceedings, the Assessing Officer treated the entire sum of



₹1,50,00,000/- as unexplained cash credit under section 68 of the Act.

11.2 The Ld. CIT(A) upheld the addition following the decision of the SMC Bench of the Tribunal in the case of J K Global Mumbai Vs Income Tax Officer 31(2)(2), Mumbai. The relevant findings of the Ld. CIT(A) is reproduced as under:

“7.2. As per the details placed on record, prima facie it would appear that the appellant introduced unaccounted income in the guise of share application money and unsecured loans by availing accommodation entries from the entities operated by Shri Pravin Kumar Jain. This particular modus operandi was unearthed by the Income Tax Department in plethora of cases throughout India more so the companies operated by Shri Pravin Kumar Jain, Mumbai.

Coming to the facts of the instant case, the appellant ought to have discharged the burden of proof by establishing the genuineness of unsecured loans in from whom the share application money and unsecured loans were received obtained to the extent of Rs.1,50,00,000/- from the following six accommodation providing entities. They are given below:

S. No.	Name	Amount (Rs.)
1	M/s. Casper Enterprises (share application money)	40,00,000
2	M/s. Kush Hindustan Ent. Ltd (share application money)	19,00,000
3	M/s. Nakshatra Business Pvt. Ltd (share application money)	19,00,000
4	M/s. Olive Overseas Pvt. Ltd (share application money)	19,00,000
5	M/s. Raghunandan Rayons Ltd (share application money)	19,00,000
6	Triangular Infocom Ltd. (share application money)	19,00,000
7	Triangular Infocom Ltd. (unsecured loan)	15,00,000
	Total	1,50,00,000



Under the circumstances, I am of the considered opinion that the unsecured loans of Rs. 1,50,00,000/- introduced in the books of accounts by of share application money through accommodation entry providers has not established as genuine or accounted funds/income of the persons in whose name it is credited in the books of the appellant within the meaning of section 68 of the Act. In this regard reliance is placed on the decision of Hon'ble ITAT, "SMC" Bench, Mumbai in the case of J K Global, Mumbai vs Income Tax Officer 31(2)(2), Mumbai the Hon'ble ITAT that has held that the accommodation entries in the nature of accommodation entries are liable to be added as unexplained u/s 68 of the Act. The operative portion of the decision is reproduced here under:

"7. Considering the facts of the case in toto and in the light of the decisions of the coordinate bench (supra), we have no hesitation in confirming the addition made u/s 68 of the Act for the captioned Assessment years. The contention of the Id. counsel that the loans have been repaid during the year under consideration therefore the set off of the same should also be given to the assessee does not hold any water as it has been established that the impugned loans were nothing but accommodation entries and the repayment is also nothing but return of accommodation entries therefore, the money which has been brought I.T.A. Nos. 3260, 3259 & 3258/Mum/2023 J. K. Global in the garb of unsecured loan is nothing but the unaccounted money of the assessee and the repayment of the same does not make any sense.

8. In the light of the decision of the coordinate bench the additions are confirmed for all the assessment years under consideration since the loan amount has been treated as unaccounted money of the assessee for payment of interest of such loan amount claimed as unexplained and added by the AO is also confirmed."

In view of aforementioned factual matrix of the case and respectfully following the decision of hon'ble TAT, Mumbai, I am of the considered opinion that in the instant case, the appellant failed to establish the genuineness of the share application money and unsecured loan to the extent of Rs.1,50,00,000/- and therefore the addition made by the AO is treating the same as unexplained cash credit u/s 68 of the Act is upheld. The appellant relied on numerous



case laws in which the facts are different from the instant case. Thus, the ground nos.2 & 3 of the appeal raised on this issue are dismissed.

8. In the result, the appeal filed by the appellant against order u/s. 143(3) r.w.s. 147 of the Act for AY 2010-11 is dismissed.”

11.3 We have heard the rival submission of the parties and perused the relevant material available on record.

11.4 So far as the grounds challenging the validity of reassessment are concerned, we note that the facts are materially similar to those considered by us in Assessment Year 2009-10, except for the issue relating to share application money of ₹20,00,000/- from M/s. Sumukh Commercial Pvt. Ltd., which was peculiar to that year.

11.5 The contentions raised by the assessee regarding borrowed satisfaction, non-application of mind, and lack of proper sanction have already been examined and rejected by us while adjudicating the appeal for A.Y. 2009-10. The reassessment in the present year was also initiated on the basis of tangible information received from the Investigation Wing pursuant to search proceedings, and the original return was not subjected to scrutiny under section 143(3). Accordingly, the proviso to section 147 relating to failure to disclose fully and truly all material facts has no application.

11.6 The assessee's contention that reopening beyond four years is invalid is therefore devoid of merit. Following our findings for A.Y.



2009-10, we uphold the validity of reassessment for this year as well. The grounds challenging reopening are accordingly dismissed.

11.7 On merits, the learned counsel for the assessee submitted that the addition was made solely on the basis of statements of Shri Praveen Kumar Jain and his associates, without furnishing complete statements or granting opportunity of cross-examination. It was contended that no specific reference to the assessee was made in those statements and that the said statements were subsequently retracted. It was further submitted that the assessee had furnished confirmations, financial statements, and bank statements of the lending entities, that no cash deposits were found in their bank accounts, and that interest was paid after deduction of tax at source, which was duly offered to tax by the recipients.

11.8 On the other hand, the Assessing Officer relied primarily on the general findings of the Investigation Wing and did not undertake independent verification of the identity, existence, creditworthiness of the lenders, or genuineness of the transactions. No notices under section 133(6) were issued, nor were the lending entities or Shri Praveen Kumar Jain examined by the Assessing Officer during assessment proceedings.

11.9 We find that the controversy on merits is substantially identical to that arising in Assessment Year 2009-10. In that year, we have already held that where the Assessing Officer has not



carried out necessary enquiries, and the first appellate authority has also failed to do so despite having powers under section 250(4) of the Act, the matter requires fresh examination in accordance with law.

11.10 Following the same reasoning, and in the interest of justice, we restore the issue relating to addition under section 68 for Assessment Year 2010-11 to the file of the Assessing Officer. The Assessing Officer shall carry out necessary enquiries, including verification of identity, creditworthiness, and genuineness of the transactions, after affording adequate opportunity of being heard to the assessee.

Other Assessment Years (A.Ys. 2011-12 to 2013-14)

12. Since the facts, issues, and grounds raised in the appeals for Assessment Years 2011-12 to 2013-14 are materially identical, our findings and directions for Assessment Year 2010-11 shall apply *mutatis mutandis* to those years as well.

13. Accordingly:

- (i) The grounds challenging the validity of reassessment for A.Ys. 2009-10 to 2013-14 are dismissed.
- (ii) The issues relating to additions under section 68 for all those years are restored to the file of the Assessing Officer for fresh adjudication in accordance with law.



(iii) The appeals of the assessee for A.Ys. 2009-10 to 2013-14 are **allowed partly for statistical purposes.**

Order pronounced in the open Court on 21/01/2026.

**Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 21/01/2026
Disha Raut, Stenographer

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,

(Assistant Registrar)
ITAT, Mumbai