

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**  
**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER**  
**ITA No. 7290/MUM/2025 (AY : 2019-20)**  
*(Physical hearing)*

Bhavana Suresh Chauhan 703, Kguru residency, 1 Babai Naka, Dharamdas Marg, Borivali West, Mumbai – 400097. [PAN No. ADIPC1169K]	Vs	ITO, Ward-42(1)(1), Mumbai Kautilya Bhawan, Mumbai, Maharashtra – 400051.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Surji Chheda, CA
Revenue by	Shri B. Laxmikanth, Sr. DR
Date of institution of appeal	12.11.2025
Date of hearing	29.01.2026
Date of pronouncement	29.01.2026

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. This appeal by assessee is directed against the assessment order of Id. CIT(A) dated 18.09.2025 for Assessment Year (A.Y.) 2019-20. The assessee has raised the following grounds of appeal:

**"A. NON-PERSUASION**

1. The CIT(A) has erred in law and in facts in dismissing the appeal for non-persuasion and Such dismissal is unjustified and contrary to the settled principles of law.

**B. REOPENING**

2. On facts and in law, the learned Commissioner of Income Tax (Appeals) erred in dismissing the ground raised by the appellant challenging the validity of the reopening of assessment u/s 147 of the Income Tax Act, 1961.

3. The learned CIT(A) failed to appreciate that the notice issued u/s 148 / 148A was bad in law and void ab initio, being without jurisdiction and without satisfying the mandatory conditions prescribed under sections 147 to 151 of the Act.

4. The learned CIT(A) erred in not appreciating that reopening itself was on wrong fact that the escaped income for loan received is Rs. 20,11,178 .When

actually it was 10 lakh only showing complete non application of mind and borrowed satisfaction.

5. The learned CIT(A) erred in not appreciating that there was no "reason to believe" and no tangible material to justify reopening of the assessment, and that the initiation of proceedings was based on mere suspicion, change of opinion, or borrowed satisfaction.

6. The learned CIT(A) further erred in not appreciating that the approval/sanction obtained u/s 151 was mechanical, without proper application of mind, rendering the entire reopening invalid.

7. The learned CIT(A) failed to consider that the proceedings initiated u/s 148A(b) / 148 were issued in contravention of law, principles of natural justice, and prescribed procedures, thereby vitiating the entire reassessment proceedings.

8. The appellant prays that the reopening proceedings and consequential reassessment order passed u/s 147 / 143(3) be held void, illegal and without jurisdiction.

9. The learned CIT(A) further erred in not appreciating that hat on the facts and in the circumstances of the case, and in law, the learned jurisdictional Assessing Officer erred in issuing the notice under section 148 / 148A of the Income-tax Act, 1961 instead of faceless centre, without having valid jurisdiction, which is contrary to the binding decision of the Hon'ble Jurisdictional High Court in the case of Hexaware Technologies Ltd. v. ACIT [2023] (Bombay High Court).

#### **C. ORDER U/S 144**

10. The learned CIT(A) further erred in not appreciating that The Learned AO has erred in law and in facts to make assessment u/s 144 of the act in spite of the fact that the assessee has complied with notices and submitted all details necessary for the same issue.

11. The learned CIT(A) further erred in not appreciating that he learned Assessing Officer erred in law and on facts in completing the assessment under section 144 of the Income-tax Act, 1961, on the incorrect and perverse observation that the assessee did not respond to the show cause notice. The impugned assessment, therefore, suffers from gross violation of the principles of natural justice and is liable to be quashed as being void ab initio.

#### **D. ADDITION U/S 68**

12. The learned CIT(A) further erred in not appreciating that The A.O. erred in making the addition of Rs. 20,11,178/ u/s. 68 of the Act, by treating the unsecured loan obtained by the Appellant alongwith interest portion from

Consultshah Financial Services Private Limited)as alleged unexplained cash credits.

**E. GENERAL**

13.That, the appellant craves leave to amend, alter, modify, substitute, add to, abridge and or rescind any or all of the above grounds.”

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that he has challenged the validity of reopening on various grounds including that no proper approval is obtained by assessing officer from competent authority, the designation of approving / competent authority is not mentioned in the notice under section 148 as well as in the order passed under section 148A(d) and notice under section 148A(b) does not contain either physical or digital signature of assessing officer, though digital signature is available on Annexure attached to such notice. The assessing officer has not recorded proper satisfaction. The satisfaction recorded by assessing officer is without any application of mind that there was no tangible material before assessing officer for reopening. The assessee in response to notice under section 148 filed reply dated 11.11.2024 which was uploaded on ITBA portal on 12.11.2024 wherein the assessee specifically stated that loan availed by assessee from Consultshah Financial Services Pvt. Ltd. on 09.01.2019 was repaid within a short period that is 12.02.2019. The assessee also furnished ledger account confirmation of lender and her bank statement. The assessing officer ignored such reply and evidences. The assessee again in response to show cause notice dated 20.11.2024 vide reply dated 29.11.2024 specifically contended that assessee has availed loan of Rs. 10,00,000/- and it was

repaid along with interest, figure of loan it is wrongly mentioned in the show cause notice. There are so many discrepancies in the assessment order. The assessing officer instead of considering the submissions and evidence relied on incorrect information. Therefore, the addition is liable to be deleted on merit as well. It was further submitted that on similar set of fact, case of Ramesh Devjibhai Chauhan, PAN No. AEWPC4323G (family member) was also reopened on similar allegation. However, on furnishing similar reply that said assessee received Rs. 10,00,000/- on 09.01.2019 and was repaid on 12.02.2019 along with interest, no further addition was made in said case in the assessment order passed under section 147 r.w.s. 144B dated 20.01.2025. Hence, the assessee cannot be treated indifferently on similar set of fact. The Id. AR of the assessee submits that the person on whose statement the case was reopened has already retracted his statement. The copy of affidavit of Sanjay Nathalal Shah, a key person of Consultshah Financial Services Pvt. Ltd.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the Revenue supported the order of lower authorities. The Id. Sr. DR for the Revenue submits that there was clinching evidence with the assessing officer, on the basis of search action carried out on Consultshah Financial Services Pvt. Ltd. who is indulging in providing bogus entry of unsecured loans. The assessee had received accommodation entry of loan which is nothing but unexplained money of assessee. In accommodation entry, the transactions are shown through banking channel to give the colour of sham transaction as of genuine transaction.

4. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. Firstly, I am considering the merits of the case. I find that in response to show cause notice by assessing officer, the assessee furnished reply on 12.11.2024, acknowledgement of ITBA portal is placed at page no. 14 of paper book. Along with reply, the assessee also furnished bank statement of HDFC Bank and confirmation of lender. In the confirmation of account, it is clearly mentioned that assessee availed credit / loan of Rs. 5 lac + Rs. 5 lac on 09.01.2019. The assessee paid interest of Rs. 11,178/- and also repaid the principal amount of Rs. 10,00,000/- thereby the assessee repaid Rs. 10,11,178/-. Such facts are clearly discernible from the bank statement of HDFC Bank. I find that despite furnishing such detail, the assessing officer neither consider such fact nor brought any adverse material or evidence furnished by assessee recording that notice under section 133(6) was sent to lender and that no reply was furnished. I further, find that in para 3.5 of assessment order, the assessing officer recorded that assessee has accepted transaction of Rs. 10,11,178/-. In fact, such transaction is transaction of repayment of loan which is duly supported by bank statement of assessee. I find that on similar set of fact, case of Ramesh Devjibhai Chauhan was also reopened on similar set of fact and on furnishing reply that loan was repaid on 12.02.2019, no further addition was made, copy of assessment order is available on record. Thus, in my view, the assessee cannot be treated indifferently.
5. I find that Hon'ble Gujarat High Court in Hon'ble Gujarat High Court in case of CIT vs. Ayachi Chandrasekhar Narsangji (2024) 41 taxmann.com 250 (Guj)

held that when repayment of loan in subsequent year has not been disputed by revenue authorities, the addition of unsecured loan is not sustainable. Similar view was taken by Hon'ble Jurisdictional High Court in PCIT vs Bhupendra Champaklal Delal (23024) 160 taxmann.com 560 (Bombay) wherein it was held that where the assessee received loan from its creditors and repaid the same and all transactions were routed through banking system the additions is not justified. I find that ratio of aforesaid decisions are squarely applicable on the facts of present case. In the present cases, the revenue has not brought any adverse evidence for doubted the repayment of loan. The loan was repaid within a span of one and half month, hence I do not find any justification for addition of Rs. 20,11,178/- under section 68 of the Act. Thus, the assessee is allowed relief on merit. Considering the fact that, I have allowed relief to the assessee on merit, therefore, all the other grounds of appeal raised by assessee have become academic.

6. In the result, the appeal of assessee is allowed.

Order pronounced in the open Court on 29/01/2026.

Sd/-

**PAWAN SINGH**  
**JUDICIAL MEMBER**

MUMBAI, Dated: 29/01/2026  
*Biswajit*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai