

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G' NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITA No. 5849/DEL/2024 (AY 2016-17)

ACIT,
ROOM NO. 261-A, 2ND FLOOR,
E-2, JHANDEWALAN EXTN.,
NEW DELHI – 110 055

(APPELLANT)

VS. M/S SPARSH PROPERTY
PRIVATE LIMITED,
43, COMMUNITY CENTER,
NEW FRIENDS COLONY,
S.O. ZAKIR NAGAR, SOUTH
EAST DELHI,
NEW DELHI – 110 025
(PAN: AABCS8660C)
(RESPONDENT)

C.O. NO. 56/DEL/2025
(ITA No. 5849/DEL/2024)
(AY 2016-17)

M/S SPARSH PROPERTY
PRIVATE LIMITED,
43, COMMUNITY CENTER,
NEW DELHI – 110 055
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S.O. ZAKIR NAGAR, SOUTH
EAST DELHI,
NEW DELHI – 110 025
(PAN: AABCS8660C)
(APPELLANT)

VS. ACIT,
ROOM NO. 261-A, 2ND FLOOR,
E-2 JHANDEWALAN EXTN.,
NEW DELHI – 55
(RESPONDENT)

Revenue by : Sh. Mahesh Kumar, CIT(DR)
Assesseeby : Sh. Biren Shah, CA & Sh. Rohit Aggarwal, CA

Date of Hearing	12.11.2025
Date of Pronouncement	06.2.2026

ORDER

PER MAHAVIR SINGH, VP:

The appeal filed by the Revenue and Cross Objection by the Assessee are directed against the order passed by the Ld. Commissioner of Income Tax (Appeals-23), New Delhi dated 1.9.2024 for A.Y. 2016-17. Since appeal and Cross Objection both are interconnected, hence, the same were heard together and disposed of by this common order for the sake of convenience.

2. First we deal with Revenue's appeal No. 5849/Del/2024, wherein, following effective grounds have been raised:-

1. The Ld. CIT(A) has erred in deleting the addition of Rs. 60,00,000/- made by AO u/s. 68 of the Act.
2. The Ld. CIT(A) erred in deleting the addition of Rs. 9,14,827/- without appreciating the fact that interest paid on account of bogus unsecured loan is also bogus in nature, therefore, the interest paid by the assessee to the tune of Rs. 9,14,827/- is not genuine.
3. The Ld. CIT(A) erred in deleting the addition of Rs. 31,250/- without appreciating the fact that the accommodation entries to the tune of Rs. 60,00,000/- were taken during the year under consideration and commission must have paid to accommodate such entries.

3. Brief facts of the case are that the assessee e-filed its original return of income for AY 2016-17 declaring a net loss of Rs. 27,580/-. The same was processed u/s. 143(1) of the Income Tax Act, 1961. A search and seizure action u/s. 132 of the Act was carried out in the case of Filatex Group and related entities on 1.9.2021. On analysis of the material seized u/s. 132 of the Act in the case of Filatex Group,

AO noted that seized material contains books of account or documents, that pertains to or pertain to, or any information contained therein relate to, the assessee, which suggest that the income chargeable to tax has escaped assessment in the case of assessee. Accordingly, after taking approval from the competent authority, satisfaction was recorded and notice u/s. 148 of the Act was issue don 31.3.2023 through e-filing portal and was duly served upon the assessee. AO noted that assessee has received loan from two (2) entities as follows:-

S.No.	Name of the person	Total credits received during the year under consideration (In Rs.)	Amount (In Rs.) treated as income u/s. 68 of the Act.
1	M/s ANM Fincap Private Limited (herein after referred as ANM)	60,00,000/-	55,00,000/-
2	M/s SatsalFinlease Private Limited (herein after referred as SFPL)	5,00,000/-	5,00,000/-
	Total	65,00,000/-	60,00,000/-

Out of the total loan of Rs. 65,00,000/- received from the above two companies, the loan amounting to Rs. 60,00,000/- were treated as cash credits u/s. 68 of the Act. Against the above, assessee preferred the appeal before the Ld. CIT(A), who allowed the appeal of the assessee by holding that assesse has discharged its onus as required by provision 68 of the Act, hence, addition of Rs. 60,00,000/- was deleted and consequent interest disallowance and commission disallowance were also deleted.

4. Aggrieved, Revenue is in appeal before us.
5. Ld. DR relied upon the order of the AO and stated that Ld. CIT(A) has erred in deleting the addition of Rs. 60 lacs made u/s. 68 of the

Act without appreciating the fact that the creditor is only shell company, created for abatement of, and legitimize, illicit means and evade taxes, and its legal identity is only a façade to hide its illegal operations. He further submitted that Ld. CIT(A) also failed to appreciate that submissions of audited accounts and bank statements of alleged entry operator are necessary prerequisite to give such entities a semblance of a genuine business and also failed to appreciate that accommodation entry operators have sufficient funds only in the form of investments in other non-genuine companies and there is hardly substantial balance in the bank account or genuine investment. It was also submitted that Ld. CIT(A) failed to appreciate that there is no information of conduct of any audit / investigation by SEBI/RBI , while the search conducted by Investigation Wing brought out substantial evidence about actual financial conduct of these entry operators, masquerading in the guise of NBFC. In view of above, he submitted that the addition made by the AO u/s 68 of the Act be upheld and its consequent disallowances towards interest and commission may also be upheld by allowing the appeal of the Revenue.

6. Per contra, Ld. AR for the assessee submitted that the assessee company is a group company of Filatex India Limited. The issues involved in the case of assessee are similar to those involved in the case of Filatex India Limited in ITA Nos. 4635, 5000, 2060, 4999, 4648, 3988, 2061, 1455 & 2062/Del/2024. It was further submitted that the assessee has taken loans from ANM Fincap Pvt. Ltd and Satsai Finlease Pvt Ltd.. It was further submitted that Filatex India Ltd. Had also taken loans from the same parties which have been held to be genuine loans by the jurisdictional Tribunal in the case of Filatex India Limited for AY 2016-17 vide ITA No. 2060/Del/2024 & CO No. 89/Del/2024. He submitted that AO alleged that Filatex group

companies had taken bogus share premium and bogus unsecured loan from other shell companies as well as in past several years. List of such bogus entities mentioned by AO on page 3 of assessment order. Shri Ankit Bhageria's office and residence was also covered in the above referred search operation and statements of Sh. Ankit Bhageria was recorded u/s. 132(4) and key points from the statements are reproduced at by the AO at page no. 4-6 of the assessment order. AO alleged that on ITR analysis and analysis of bank statements, these companies are found to be typical shell entity acting as an intermediary layer and a pass through mechanism for routing of unaccounted money into the books of account of beneficiaries. It was further submitted that during the search and post search enquiries AO alleged that incriminating document/ loose papers, SMS and whatsapp chats were found which indicates that the Filatex Group has taken bogus unsecured loans. During the year under consideration the AO made the addition of Rs. 69,46,077/- in the hands of the assessee on presumption and assumption basis considering the lenders as bogus parties merely on the basis of statements recorded during the course of search. He submitted that to discharge the onus cast by section 68 has been duly discharged by assessee by submitting the documents viz. copy of confirmation of accounts; copy of bank statements of lender; audited financials of lender; copy of ITR acknowledgement of lenders and 133(6) responses filed by lenders. He submitted that these submissions filed by the assessee prove the genuineness of the source as well as the source of the sources. The bank statements of the lenders as well as the PAN and bank account details of the persons from whom the lenders have taken the are duly submitted so as to prove the source as well as the source of source of funds received. It was further submitted that Ld. CIT(A) has held that addition made by AO is not tenable as AO himself has accepted that

out of Rs. 60 lacs received from M/s ANM Fincap Pvt Ltd. Rs. 5 lacs is not bogus, then the finding of the AO that the lenders are bogus is itself self contradictory. It was further submitted that before the jurisdictional Tribunal in the case of group company Filatex India Limited and the Jurisdictional Tribunal has dismissed the appeal of the Department accepting the contentions of the assessee. In view of above, he requested to uphold the action of the CIT(A) of deleting the addition u/s. 68 of the Act. As regards addition of Rs. 9,14,827/ towards interest expenses claimed is concerned, since the loans were held genuine by CIT(A) and TDS has been deducted on the interest expenses claimed, the disallowance of the same made by the AO was rightly deleted by the CIT(A). As regards addition of Rs. 31,250/- relating to deletion of commission is concerned, it was submitted that since the loans were held genuine by CIT(A), the alleged unexplained expenditure for taking accommodation entries was also deleted by the CIT(A), which does not need any interference and needs to be upheld.

7. We have heard the rival contentions and perused the records. We find that the assessee company is a group company of Filatex India Limited. Ld.AR submitted that issues involved in the case of assessee are similar to those involved in the case of Filatex India Limited in ITA Nos. 4635, 5000, 2060, 4999, 4648, 3988, 2061, 1455 & 2062/Del/2024. The assessee has taken loans from ANM Fincap Pvt. Ltd and Satsai Finlease Pvt Ltd.. and Filatex India Ltd. had also taken loans from the same parties which have been held to be genuine loans by the Tribunal in the case of Filatex India Limited for AY 2016-17 vide ITA No. 2060/Del/2024 & CO No. 89/Del/2024. It is noted that AO alleged that Filatex group companies had taken bogus share premium and bogus unsecured loan from other shell companies as well as in past several years. Shri Ankit Bhageria's office and residence was also covered in the above referred search operation and

statements of Sh. Ankit Bhageria was recorded u/s. 132(4) and key points from the statements are reproduced at by the AO at page no. 4-6 of the assessment order. AO alleged that on ITR analysis and analysis of bank statements, these companies are found to be typical shell entity acting as an intermediary layer and a pass through mechanism for routing of unaccounted money into the books of account of beneficiaries. During the search and post search enquiries AO alleged that incriminating document/ loose papers, SMS and whatsapp chats were found which indicates that the Filatex Group has taken bogus unsecured loans. During the year under consideration the AO made the addition of Rs. 69,46,077/- in the hands of the assessee considering the lenders as bogus parties merely on the basis of statements recorded during the course of search. However, the assessee discharged the onus u/s. 68 by submitting the documents viz. copy of confirmation of accounts; copy of bank statements of lender; audited financials of lender; copy of ITR acknowledgement of lenders and 133(6) responses filed by lenders, which itself proved that the genuineness of the source as well as the source of the sources. Thus, the assessee has proved the identity of the creditor which is not disputed by the AO in the assessment order. Assessee has also proved the creditworthiness of the creditor by submitting its audited annual account alongwith relevant bank statement of depositors. The assessee has taken loan from ANM and SFPL who are having sufficient funds as on 31.3.2016 and same is duly disclosed in audited annual accounts of such company and such details are from time to time submitted to RBI being apex body regulating NBFCs and such highest regulatory body has not found any fault or discrepancy on functioning of NBFC, thus, the capacity of deposit is proved by the assessee. It is also noted that the AO has not doubted the utilization of such loans by the assessee and such loan has been repaid in subsequent

assessment years after making payment of interest and deducting TDS on such interest payment. During the appellate proceedings, the assessee has submitted some assessment orders of SFPL wherein such entity is accepted to be genuine entity by the AO, which establish the genuineness of the transaction. It is noted that during the assessment proceedings, notice u/s. 133(6) was issued to ANM and SFPL and in response to the same they filed the relevant details. If the AO had any doubt about sources of funds either in balance sheet or sources of funds in their bank statement, he could have made further enquiries under section 133(6) or 131 of the Act. AO has failed to prove any direct nexus linking the assessee with accommodation entries from SFPL or ANM and Ankit Bhageria. In view of above, Ld. CIT(A) rightly observed that assessee has discharged its onus as required by section 68 of the Act, hence, addition made u/s. 68 of the Act of Rs. 60 lacs was allowed, which does not need any interference, on our part, hence, we uphold the action of the CIT(A) and dismiss the ground no. 1 raised by the Revenue.

8. As regards disallowance of interest of Rs, 914,827/- is concerned, since loan taken from ANM and SFPL is already held genuine loan, the consequent interest disallowance u/s. 37 was rightly deleted, which does not which does not need any interference, on our part, hence, we uphold the action of the CIT(A) and dismiss the ground no. 2 raised by the Revenue.

9. Similarly, addition of Rs. 31,250/- relating to deletion of commission is concerned, since the loans were held genuine by CIT(A), the alleged unexplained expenditure for taking accommodation entries was also rightly deleted by the CIT(A), which does not need any interference on our part, hence, we uphold the action of the CIT(A) and dismiss the ground no. 3 raised by the Revenue. Resultantly, the appeal filed by the Revenue stand dismissed.

10. As regards Assessee's cross objection is concerned, since we have already upheld the order of the Ld. CIT(A), as aforesaid by dismissing the appeal of the Revenue, hence, the cross objection of the assessee has become infructuous and dismissed as such.

11. In the result, the Revenue's appeal as well as Assessee's cross objection stand dismissed.

Order pronounced in the Open Court on 06.02.2026.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(MAHAVIR SINGH)
VICE PRESIDENT

SRBhatnagar

Date: 06/2/2026

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar, ITAT,
Delhi Benches