

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

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER &  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 6471/Mum/2025  
(Assessment Year: 2010-11)**

<b>DCIT Circle-2(3)(1)</b> 552, 5 <sup>th</sup> Floor, Aayakar Bhavan, M. K. Road, Mumbai-400 020	Vs.	<b>Tata Steel Limited</b> Bombay House, 24, Homi Mody Street, Fort, Mumbai, GPO, Mumbai-400 001
PAN/GIR No. AAACB1247M		
(Applicant)		(Respondent)

Revenue by	Shri Ritesh Misra, Ld. DR
Assessee by	Ms. Jasmin Amalasadvala, Ld. AR

Date of Hearing	27.01.2026
Date of Pronouncement	10.02.2026

आदेश / ORDER

**PER MAKARAND VASANT MAHADEOKAR, AM:**

This appeal is filed by the Revenue against the order passed under section 250 of the Income Tax Act, 1961[hereinafter referred to as “the Act”] by the Commissioner of Income Tax (Appeals), Delhi-23 [hereinafter referred to as “CIT(A)”] dated 11.08.2025, for Assessment Year 2010-11, arising out of assessment order dated 19.12.2017 passed under section 147

r.w.s. 143(3) of the Act by DCIT, Central Circle-3, New Delhi[hereinafter referred to as “Assessing Officer ”]

### **Facts of the Case**

2. The assessee had originally filed return of income declaring income of Rs. 5,62,64,27,147/-. Subsequently, assessment was completed under section 153A r.w.s. 143(3) on 30.12.2016 determining total income at Rs. 636,97,12,178/-. Thereafter, reassessment proceedings were initiated under section 148 on 29.03.2017 based on information received from the Investigation Wing alleging that the assessee was beneficiary of accommodation entries from M/s P.K. Enterprises.

3. The Assessing Officer made the following additions:

- i. Rs. 36,82,529/- treating alleged sales as fictitious accommodation entry under section 68.
- ii. Rs. 13,60,000/- treating receipt from the same party as unexplained cash credit under section 68.

Both amounts were also added to book profit under section 115JB.

4. In appeal, the CIT(A) confirmed the addition of Rs. 36,82,529/- under section 68 holding that the assessee failed to discharge the onus of identity, creditworthiness and genuineness. However, the CIT(A) deleted the addition of Rs. 13,60,000/- holding that the said receipt formed part of the alleged fictitious sales already taxed and therefore sustaining both would amount to double addition.

5. Further, while dealing with section 115JB, the CIT(A) held that additions made under section 68 cannot automatically be adjusted to book profit unless specifically provided in Explanation to section 115JB and accordingly directed deletion of both additions from MAT computation.

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

1. *Whether on the facts and in the circumstances of the case, the Learned CIT(A) was justified in deleting the addition of Rs. 13,60,000/- made under section 68 of the Income Tax Act, 1961, on the ground that it forms part of the fictitious sales of Rs. 36,82,529/- already added to income, despite both additions being based on specific information received from the Directorate of Investigation identifying M/s PK Enterprises as a known accommodation entry provider?*
2. *Whether on the facts and in the circumstances of the case, the Learned CIT(A) failed to consider that the Assessing Officer, based on credible inputs from the Investigation Wing, undertook detailed inquiries including summons under section 131 and inquiry under section 133(6), which established the non-genuineness of the transactions, cancellation of VAT registration, and lack of real business activity by M/s PK Enterprises?*
3. *Whether on the facts and in the circumstances of the case, the Learned CIT(A) was justified in directing deletion of additions of Rs. 36,82,529/- and Rs. 13,60,000/- from the book profit for the purpose of computing Minimum Alternate Tax (MAT) under section 115JB of the Income Tax Act, despite sustaining the addition of Rs. 36,82,529/- under section 68?*
4. *Whether on the facts and in the circumstances of the case, the Learned CIT(A) failed to appreciate that unexplained credits under section 68 are required to be added to book profit as per the provisions of section 115JB(2) for correct computation of MAT liability?*
5. *The appellant craves the leave to add, amend, alter and/ or delete any of the grounds of appeal as above.*

7. During the course of hearing, the learned Authorised Representative of the assessee raised a preliminary objection regarding maintainability of the appeal on the ground of low tax effect. It was submitted that the tax effect involved in the present appeal is Rs. 21,76,219/-, which is below the monetary limit prescribed under the CBDT Circular issued under section 268A of the Act.

8. Pursuant to the directions of the Bench, the learned Departmental Representative placed on record a report issued by the DCIT, Circle-2(3)(1), Mumbai dated 29.01.2026. From the said report, the following facts emerge:

- i. It is admitted by the Department that the tax effect involved in the present appeal is Rs. 21,76,219/-.
- ii. It is stated that the additions of Rs. 36,82,529/- and Rs. 13,60,000/- under normal provisions as well as under section 115JB were made following inputs received from the Investigation Wing, which identified M/s P.K. Enterprises as a known accommodation entry provider.
- iii. It is specifically stated that the additions were made as accommodation entries and therefore fall within the exception clause of CBDT Circular No. 5/2024 dated 15.03.2024 and subsequent amendment vide F. No. 279/Misc./M-74/2024-ITJ and Circular No. 09/2024 dated 17.09.2024.
- iv. It is further stated that the case pertains to sub-clause "h" of clause 3.1 of the said Circular.

9. Thus, the Revenue's stand is that although the tax effect is below the prescribed monetary limit, the case falls within the exception carved out in respect of additions relating to accommodation entries based on information received from the Investigation Wing, and therefore the appeal is maintainable notwithstanding the low tax effect.

10. We have considered the rival submissions and perused the material on record. It is an admitted position that the tax effect involved in the present appeal is Rs. 21,76,219/-, which is below the monetary limit prescribed for filing appeal before the Tribunal.

11. The principal addition of Rs. 36,82,529/- under section 68 has been sustained by the CIT(A). The Revenue is not in appeal against that finding. The deletion of Rs. 13,60,000/- has been made by the CIT(A) on a categorical finding that the said amount formed part of the alleged fictitious sales of Rs. 36,82,529/- already taxed and that sustaining both additions would amount to double taxation of the same transaction. This finding is essentially based on the settled principle that the same income cannot be brought to tax twice. Further, while dealing with section 115JB, the CIT(A) deleted the additions from the computation of book profit by applying the ratio of the judgement of the Hon'ble Supreme Court in *Apollo Tyres Ltd. v. CIT* (2002) 255 ITR 273 (SC) Ltd., holding that the Assessing Officer could not tinker with the audited profit and loss account except as provided in the Explanation to section 115JB.

12. The present appeal, therefore, is confined to prevention of double addition; and MAT adjustment under section 115JB. Though the reassessment was triggered by Investigation Wing inputs, the substantive addition relating to alleged accommodation entry has already been confirmed. The controversy before us is limited in scope and computational in nature.

13. In these circumstances, the case does not fall within the exception clause of the CBDT Circular intended for serious tax evasion matters where substantive additions are nullified.

14. Accordingly, in view of the low tax effect and absence of applicability of any exception, the appeal filed by the Revenue is dismissed as not maintainable on account of low tax effect.

15. It is clarified that the dismissal is in terms of the CBDT Circular issued under section 268A and does not amount to adjudication on merits.

16. In the appeal of the Revenue is dismissed.

Order pronounced in the open court on 10.02.2026.

**Sd/-**  
**(ANIKESH BANERJEE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(MAKARAND VASANT MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 10/02/2026  
Dhananjay, Sr.PS

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

1. अपीलार्थी / The Appellant

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

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