

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRIPRADIP KUMAR CHOUBEY, JM**

**ITA No.1888/KOL/2025
(Assessment Year: 2016-17)**

Archana Agarwal
11A, Ekta Residency, 174A,
mManicktala Main Road, Kolkata-
700054, West Bengal

(Appellant)

ITO Ward 44(2)
3, Govt Place West, Kolkata-
700001, West Bengal

(Respondent)

PAN No. AFCPA2859J

Assessee by : Shri Akshay Ringasia, AR
Revenue by : Shri Prabhakar Prakash Ranjan,
DR

Date of hearing: 11.02.2026
Date of pronouncement: 17.02.2026

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 09.07.2025 for the AY 2016-17.

2. The issue raised in the first ground of appeal is against the confirmation of addition of ₹70 lacs by the Id. CIT (A) as made by the Id. AO towards sundry creditors which represented the amount received as earnest money under the joint development agreement.

2.1. The facts in brief are that the assessee filed the return of income on 17.10.2016, declaring total income at ₹12,74,220/-. The case of the assessee was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS) and notice u/s 143(2) of the Act and

142(1) of the Act along with questionnaire were issued and duly served upon the assessee. The assessee replied the said questionnaire. The Id. AO during the course of assessment proceedings observed that the assessee has entered into a joint development agreement with M/s Combine Infra Ventures Pvt. Ltd. and received advance of ₹1,10,00,000/-. According to the Id. AO the said company is a shell company mentioned in the list of shell companies by DIT (Investigation), Kolkata and Inspector Income Tax has also submitted a report that the company is a non-existent company on the given address. The Id. AO also noted that the summon issued u/s 131 of the Act is also not complied with. Finally, the Id. AO treated the amount credited under the head Sundry creditor as bogus and added to the income of the assessee.

2.2. In the appellate proceedings, the Id. CIT (A) affirmed the same.

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee received an amount under MOU/ Joint Development Agreement with M/s Combine Infra Ventures Pvt. Ltd. The joint development agreement was executed on 05.09.2014, a copy of which is available at page no.52 to 56 of the Paper Book. We note that the assessee has received ₹1,10,00,000/- in aggregate in two financial years namely ₹ 40 lacs was received in F.Y. 2014-15 and ₹70 lacs was received in F.Y. 2015-16 (in three installments). A copy of confirmation is available at page no.57 of the Paper Book. Thereafter, the said amount was repaid when the MOU was cancelled by deed of agreement for cancellation, a copy of which is available at page no.63 to 66 of the Paper Book and the amount of security received of ₹1,10,00,000/- was refunded apparent from the bank account of the assessee. We note that

refund was made in three installments of ₹35 lacs on 26.04.2016 and ₹65 lacs on 20.04.2016 and ₹ 10 lacs on 28.04.2016. Therefore, once, the deal has been cancelled and the amount has been refunded to the joint development agreement partner, the action of the Id. AO in treating the same as unexplained and its further affirmation is incorrect and cannot be sustained. The case of assessee is squarely covered by the decision of the Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P.) Ltd., reported in [2022] 145 taxmann.com 27 (Gujarat), wherein it has been held as under :-

"3. The issue in this case arose in respect of the assessment year 2012-2013. It appears that the two loan transactions of Rs. 8,50,00,000/- and Rs. 23,70,00,000/- received by respondent assessee from one M/s. J.A Infracon Private Limited and M/s. Satya Retail Private Limited were treated by assessing officer to be sham in the sense that the creditworthiness etc. of the giver of the loan were not established. Accordingly, the assessing officer made addition under section 68 of the Act.

3.1 While the assessing officer dealt with unexplained cash credit from the M/s. Satya Retail Private Limited and from M/s. J.A Infracon Private Limited in his order in paras 5.1 and 5.2 respectively, the Commissioner of Income-tax in the appeal preferred by assessee found on facts and the material before it that the said two cash creditors had been holding there identity, creditworthiness and genuineness in respect of the loan transactions.

3.2 The appellate authority observed that, "In this regard, it has been noticed that ledger accounts and confirmations of the aforesaid two parties have been provided by the appellant to the AO in the assessment proceedings. Thereafter, the AO also carried out the independent inquiries u/s. 133(6) of the I.T. Act and in compliance thereto both the companies have submitted the requisite information."

3.3 The information supplied by assessee was duly noticed by appellate authority and facts in that regard were recorded also to arrive at a finding that the unsecured loans to the aforesaid parties have been paid by account payee cheques from the bank account of the assessee which was not in dispute, muchless in doubt. The accounts were finally settled with the repayment of the loan to the lender companies.

3.4 When the revenue preferred appeal before the Appellate Tribunal, the Tribunal confirmed the findings recorded by the Appellate Authority. The Tribunal referred to the decision of Durga Prasad More (82) ITR 540 and also in Sumati Dayal (214) ITR 801, to further record on the basis of the facts that the assessee had furnished the details such as copy of ledger account, bank statements, income tax returns, balance sheet etc. It was also recorded that

notice under Section 133(6) of the Act was issued to the said parties which were duly responded by them. The identity of the parties could not be, therefore disputed, recorded the tribunal. The aspect was also noticed that the assessee was not beneficiary of the loan received by it and the loan was repaid by the assessee in the subsequent year. It led to unacceptable conclusion that the impugned transaction was a business transaction between the assessee and the loan parties and that they could not be doubted for their genuineness.

3.5 While the revenue has tried to put up a case that the transactions were in the nature of accommodation entries, this case has only presumptive and assumptive value not supported by any factual data. On the contrary, on the basis of the material before the authorities, the transactions were found to be genuine.

4. Learned advocate for the appellant attempted to emphasize that for the purpose of application of Section 68 of the Act, three ingredients were necessary. Firstly identity of the parties to the transaction of loan, second is the creditworthiness of such parties and thirdly the genuineness of the transaction. It was submitted in vain that neither of the ingredients were satisfied.

5. As discussed above, since the requisite material was furnished by assessee showing the identity and since the assessee was not beneficiary when the loan was repaid in the subsequent year, even the ingredients of creditworthiness and genuineness of transaction were well satisfied.

6. The Tribunal rightly recorded in para 29 of the judgment,

"Once repayment of the loan has been established based on the documentary evidence, the credit entries cannot be looked into isolation after ignoring the debit entries despite the debit entries were carried out in the later years. Thus, in the given facts and circumstances, were hold that there is no infirmity in the order of the Ld.CIT-A. "

7. For the reasons recorded above, no question of law muchless substantial questions arises in this appeal. It stands meritless and accordingly dismissed.

2.3.1. Accordingly, we respectfully following the ratio laid down by the Hon'ble Gujarat High Court, set aside the order of the Id. CIT(A) and direct the Assessing Officer to delete the addition.

3. The issue raised in the second ground of appeal is against the confirmation of addition of ₹21,07,456/- by the Id. CIT (A) as made by the Id. AO in respect of repayment of loan of M/s Wonder Procon Pvt. Ltd.

3.1. The facts in brief are that the Id. AO called upon the assessee to explain as to why the transaction with M/s Wonder Procon Pvt. Ltd. should not be treated as bogus as the inspector submitted his report that the company is non-existent. Besides, the notice u/s 131 of the Act also remained non-complied. Finally, the Id. AO treated the same as bogus and added to the income of the assessee.

3.2. The Id. CIT (A) in the appellate proceedings, uphold the same.

3.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee repaid the loan of ₹21,07,456/- to M/s M/s Wonder Procon Pvt. Ltd., which was received in the earlier financial year. The assessee filed before the Id. AO the proof of payment through banking channel, ITR and balance sheet, etc. and submitted that there is no provision in the Income tax to treat the repayment of loan as bogus especially when the loan was treated as genuine in the year when the amount was borrowed in the earlier assessment year. However, the Id. AO brushed aside the contention of the assessee and treated the same as bogus and added to the income of the assessee. The Id. CIT (A) affirmed the same. In our opinion, the loan which was taken in the earlier assessment year cannot be treated as bogus in the order of repayment when the same was treated as genuine when the money was borrowed. The assessee has filed before the authorities below all the evidences including the repayment through banking channels. Therefore, we are inclined to set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition by relying the decision as discussed in ground no.1.

4. The issue raised in ground no. 3 is not pressed at the time of hearing, hence, dismissed as not pressed.

5. Ground no.4 is in support of ground no.1 and does not require separate adjudication.
6. Ground no.5 is general in nature.
7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 17.02.2026.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 17.02.2026

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata