

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.171/Ind/2025
(AY: 2014-15)

M/S Ras Devcon Private Limited, 302-303, AB Road, Indore(M.P.) (PAN:AAFCR0117B)	<u>बनाम/</u> Vs.	ACIT-Indore
(Appellant)		(Respondent)
Assessee by	Shri Gagan Tiwari & Shri Piyush Parashar, ARs	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	09.02.2026	
Date of Pronouncement	19.02.2026	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[herein after referred to as the Act for the sake of brevity] before this tribunal as & by way of a second Appeal. The Assessee is aggrieved by the order bearing Number:-ITBA/NFAC/S/250/2024-25/1071145372 (1) dated 12.12.2024 passed by the Ld. CIT(A) u/s 250 of the Act, which is herein after referred to as the “**Impugned order**”. The Relevant Assessment year is 2014-15 and the

corresponding previous year period is from 01.04.2013 to 31.03.2014.

2.

Factual Matrix

2.1 That as and by way of an Assessment order made **u/s 147 rws 144B/144(3) of the Act**, the total income of the Assessee was computed & assessed at **Rs. 82,00,000/-**. The total income as per the return of Income filed on 30.03.2015 was at **Rs. NIL**.

2.2 That the income tax department was in the possession of certain credible information as per which the assessee had received the amount of **Rs. 82,00,000/-** with bogus companies namely **M/s jay Jyoti India Private Ltd.** controlled & operated by **Shri Sharad Darak Indore**. That the above transaction was not disclosed by the assessee company in its returns of income filed. Subsequently the case was selected by the Income Tax department for the Reassessment under the provision of section 147 of the Act.

2.3 Accordingly statutory notice u/s 148 of the Income Tax Act, 1961 was issued on 30/03/2021 and duly served to the

assessee electronically. Prior to issuance of the said notice, reason for re-opening was recorded and prior approval of the appropriate authority was taken. The assessee filed return of income in response to the above notice on 20.04.2021 declaring NIL income. Accordingly notice u/s 143(2) of the Act was issued and served upon the assessee on 12.07.2021. Subsequently notice u/s 142(1) of the Income Tax Act, 1961 along with questionnaire was issued on 05.01.2022 and duly served upon the assessee. The assessee made written submission along with documents in response of the above notice. Copy of the reasons recorded was also requested by the assessee which was duly provided. Subsequently the assessee made written submission along with other documents.

2.4 That it is recorded in the aforesaid assessment order that the companies (names mentioned with PAN etc) controlled by Shri Sharad Darak indulged in two kinds of accommodation entry operations (1) share capital (2) loans & advances.

2.5 It is recorded in the aforesaid assessment order that detailed investigation were done by **DDIT(Inv) Kolkata, Raipur, Indore & Mumbai.**

2.6 That the Ld. AO on internal pages 2 to 10 of the aforesaid order has explained the *modus operandi* & brief facts of the case too.

2.7 That the Ld. AO on internal page 10 of the aforesaid order has held that “ **The detailed analysis of evidences available on record & case laws quoted above provide enough support against the argument of the assessee regarding assessment being based on mere suspicion or presumption. Thus in view of the elaborate discussion made above. I hereby hold the amount of Rs. 82,00,000/- as unexplained cash credit u/s 68 of the Income Tax Act 1961.**”

2.8 That the aforesaid assessment order bears No. ITBA/AST/S/147/2021-22/1042309888(1) dated 31.03.2022 which is herein after referred to as the “**Impugned Assessment Order**”.

2.9 That the assessee being aggrieved by the **“Impugned Assessment Order”** prefers the first appeal u/s 246A of the Act before the Ld. CIT(A) who by the **“Impugned Order”** has dismissed the appeal of the assessee on the grounds & reasons stated therein. The core grounds & reasons are as under:-

“10. In view of the above judicial pronouncements coupled with the fact that the Appellant has not pursued the appeal, the appeal is dismissed for want of non-pursuance of appeal.

11. On merits, the appellant failed to produce anything contrary to the findings of the AO. No material has been provided by the appellant as to how the transactions of Rs.82,00,000/- entered into with M/s Jay Jyoti India Pvt Ltd controlled and operated by Shri Sharad Darak, Indore (an accommodation entry provider) were genuine one. In such circumstances, the action of the AO in treating an amount of Rs.82,00,000/- as bogus and bringing the same to tax u/s 68 of the Act cannot be faulted with. Accordingly, the appellant fails on merits also.

12. In the result, the appeal is dismissed on account of non-prosecution as well as on merits.”

2.10 That the assessee being aggrieved by the **“Impugned Order”** has preferred the instant second appeal before this Tribunal & has raised following grounds of appeal in the Form No. 36 against the **“Impugned Order”** which are as under:-

“1. That on the facts and circumstances of case the impugned order is illegal, perverse, bad in law and passed in violation of principle of natural justice;

2. The learned NFAC (A) was not justified not to consider that the issue of notice u/s 148 of L.T. Act, was barred by limitation and as such the assessment made on the basis of it was illegal, ab initio void and without jurisdiction;

3. That on the facts and circumstances of the case, the notice issued under section 148 by the learned Ld. AO is illegal, bad in law, without jurisdiction and barred by time limitation, hence, the reassessment order dated 30/03/2022 passed by the learned Assessing Officer (NFAC) is also illegal, bad in law and without jurisdiction.

4. The NFAC/Commissioner of Income-Tax (Appeals) erred in framing an ex-parte order as same is passed in violation of principle of natural justice.

5. That NFAC erred in law and facts of the case in sustaining an addition of Rs 82,00,000/- u/s 68 of the Act on account of unsecured loans taken from M/s JAY Jyoti India Pvt. Ltd.

6. In the facts and circumstances of the case and in law, the impugned addition of Rs 82,00,000/- is illegal, perverse and with jurisdiction.

7. In the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in sustaining the addition by ignoring the facts that the Appellant has discharge the onus u/s. 68 of the I.T. Act 1961 by proving the identity, creditworthiness and genuineness of the loan transactions made M/s JAY Jyoti India Pvt. Ltd.

8. In the facts and circumstances of the case and in law, the Ld. NFAC has erred in sustaining the addition of Rs. 82,00,000/- made on account of unproved loan u/s 68, by holding that the assessee has not proved the identity and creditworthiness of the lender and genuineness of the transaction without appreciating the fact that the assessee had by way of amply documents has demonstrated and proved all the three limbs of Section 68 that are identity, creditworthiness and genuineness of the loan transactions.

9. In the facts and circumstances of the case and in law, the Ld. NFAC has erred in not appreciating the submission and evidences filed by the Appellant which clearly demonstrate the identity and creditworthiness of the lender and genuineness of the transaction.

10. In the facts and circumstances of the case and in law, the Ld. NFAC erred in not appreciating that the documents submitted by assessee are sufficient enough to establish the ingredients of section 68, namely the identity and creditworthiness of the lenders and the genuineness of transactions.

11. *The appellant craves permission to raise additional grounds and to amend or alter the foregoing ground before the appeal is finally adjudicated."*

2.11 That the assessee in his appeal memo has placed on record of this Tribunal following statement of facts which are as under:-

"1. That the present Appeal is filed before this Hon'ble Tribunal against the impugned order dated 12/12/2024 passed by National Faceless Appeal Centre, New Delhi, which has chosen to sustain the erroneous addition made by the Ld. AO amounting Rs 82,00,000/- and confirmed the Assessment order.

2. That the Appellant company was incorporated in 2010 and is engaged in business of Colonizer, contractor, builder and developer of residential projects of townships.

3. That for the year under consideration the Appellant originally filed return of Income on 30/03/2015 declaring total loss of Rs 5,700/- although there was no sale during the year.

4. That the Case of Appellant was responded under the provision of Section 148 of the Income Tax Act by way of issuing notice under Section 148 of the Act on 30/03/2021. The reason recorded for re-opening are such that in case of present Appellant High Risk CRIU/VRU information on "Insight portal" and also information was received from the ADIT (Inv.) 1, Bhopal vide letter F. No. ADIT (Inv.)-1/BPL/SD/19-20 dated 05/02/2020 that during the F.Y 2013-14, the Appellant has allegedly received accommodation entry from M/s JAY JYOTI INDIA Pvt Ltd. which was found to be bogus company whose director is Shri Sharad Darak, who is said to be an Indore-based 'accommodation entry operator, residing at H.No. 9, Bhojnagar, Indore.

5. That during the year Appellant company M/s RAS Devcon Pvt. Ltd was said to have been the beneficiary who has received the amount of Rs 82,00,000/- from such alleged 'bogus company' M/s JAY Jyoti India Pvt. Ltd which is said to be controlled and operated by Shri Sharad Darak, Indore. That the above transaction of unsecured loan is alleged to not have been disclosed by the Appellant in its return of income filed. Therefore, the Case of present appellant was re-opened under section 148 of the Act.

6. That in response to the notice under section 148 for Assessment year 2014-15, the Appellant filed its Return of income

on 20/04/2021 and thereafter the reason recorded were made available to the Appellant company on 17/05/2021.

7. Thereafter, a notice under section 143 (2) of the Act was issued and served on 12/07/2021 upon the Appellant company, which was followed by a Notice under section 142 (1) of the Act was issued on 05/01/2022 along with a questionnaire.

8. That in response, the Appellant firstly challenged the wrongful re-opening and on merits, it was submitted that the unsecured loan of Rs.82,00,000/- taken from M/s JAY Jyoti India Pvt. Ltd is a bona fide and genuine loan. The appellant also submitted all necessary documents to prove and establish the three requisites i.e. - the identity, creditworthiness of the lender and genuineness of transactions for loan taken of Rs. 82,00,000/-and lastly also submitted that the documents are sufficient enough to establish the ingredients of section 68, of the Act as mentioned above i.e. namely the (i) identity and (ii) creditworthiness of the lenders and the (iii) genuineness of transactions.

9. That however, the A.O. completed the re-opened assessment vide order dated 30.03.2022 passed under section 147 read with section 144B of the Act, after making an addition of Rs. 82,00,000/- on account of alleged unexplained cash credit under section 68 of the Act.

10. That being aggrieved by the Assessment order, the Appellant carried the matter in First statutory appeal before the National Faceless Appellant Centre, New Delhi, which summarily dismissed the Appeal and sustained the impugned addition of Rs 82,00,000/- against the Appellant.

11. That being aggrieved by the impugned ex-parte assessment order and impugned addition the Assessee prefers present Appeal before this Hon'ble Tribunal, on the following GROUNDS as under"

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 09.02.2026 when the Ld. AR for & on behalf of the Assessee appeared before us & interalia brought to our notice that the **instant appeal is a covered** matter & that there are number of orders of this Tribunal wherein it has

been held that broad issue with regard to M/s Jay Jyoti (India) Private Ltd., being paper company & other companies of Sharad Darak group has not been accepted. The Ld. AR has placed on record of this Tribunal a paper book containing pages 1 to 57, On page 57 of the PB is the copy of confirmation from Jay Jyoti India Private Limited dated 01.04.2014 giving confirmation for Rs. 2,00,000/-, on page 5 is the ITR is for AY 14-15 **showing loss of Rs. 5700/-**, on page 8 & 9 is COI (computation of Income) of Rs. 5700/-. The Ld. AR for the assessee has also placed reliance on **case law compilation** from pages 1 to 54 demonstrating that the entire issue is covered one by several orders of this Tribunal itself. Reliance was placed on the following decisions of this Tribunal:-

- 1) Sanjeev kumar agrawal v/s ACIT (Central)-2, Bhopal[ITA No. 899/Ind/2024 order dated 24.06.2025]*
- 2) Khojema Bohra barwah v/s ITO NFAC Delhi[ITA No. 812 to 814/Ind/2024 order dated 22.01.2026]*
- 3) Ashok Airen Indore v/s DCIT-4(1) [ITA No. 502/Ind/2025 order dated 03.02.2026]*
- 4) Sanjay Shukla Indore v/s ACIT CC2, Indore[ITA No. 333/Ind/2020 order dated 15.03.2022]*
- 5) ITO-2(1) Indore v/s Hi Tech city homes P Ltd. [ITA No. 2/Ind/2021 order dated 19.09.2022]*

It was pleaded that by applying above orders & decisions of ITAT, Indore benches this Tribunal too should too set aside the **"Impugned Order"** & allow the appeal. Per contra the Ld. DR appearing for & on behalf of the Revenue places Reliance on the **"Impungmnet Assessment Order"** & the **"Impugned Order"**.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & so also after hearing & upon examining the contentions are of the considered opinion that amounts of Rs. 82 lakhs cannot fall u/s 68 of the Act. HENCH addition on that count u/s 68 is deleted. Further by virtue of above orders of ITAT **including few others on similar & identical facts wherein this Tribunal** has held that M/s Jay Jyoti (India) Private Limited & other

companies of Sharad Darak group are not paper companies nor shell company. Hence we too respectfully following above decisions (Supra) concur with the view of Ld. AR that the issue in appeal is covered one. Consequently we set aside the **"Impugned Order"** & allow the appeal of the assessee.

5

Order

5.1 The appeal of the assessee is allowed & **"Impugned Order"** is set aside.

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

Pronounced in open court on 19.02.2026.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

Dated : 19/02/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal

Indore Bench, Indore