

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.7745/Mum/2025
(Assessment Year: 2012-13)**

Vithal Leasefin (P) Ltd Tower DS-3011, 3 rd Floor, Bharat Diamond Bourse, Bandra Kurla Complex, Mumbai- 400015	Vs.	Deputy Commissioner of Income-Tax, Circle-1 (3)(2), Mumbai Income Tax Office Maharshi Karve Road, Mumbai
PAN/GIR No. AAACH0961J		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Ms. Kavita Kaushik, Sr.DR.

Date of Hearing	29.01.2026
Date of Pronouncement	19.02.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 12.11.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2012-13. The assessee has raised the following grounds of appeal:

"1) The learned CIT (A) grossly erred in not deciding ground no. 1 regarding reopening the case U/s. 147 of the Act.

2) The learned CIT (A) grossly erred in confirming addition of Rs. 2.25/- crores on loan given to Decent Investments and Finance Limited invoking provisions of section 68 of the Act. The learned CIT (A) had dismissed the appeal assuming that additional evidences were filed at the time of appeal proceedings and no application was filed under Rule 46A under Income-tax Rules, 1962.

3) The appellant reserves right to add, alter or withdraw any grounds of appeal.”

2. None appeared on behalf of the assessee, when the case was called repeatedly. From the file, we observed that the notice of the present appeal for hearing was already issued to the assessee through RPAD and also through e-mail id. kkirannco@gmail.com as per the report of registry. Since the notice was issued on the address furnished by the assessee and 30 days have already been elapsed from the date of issuance of notice therefore while drawing inference under the General Clauses Act, it is presumed that service has been validly effected upon the assessee therefore considering these circumstances assessee is proceeded ex-parte.

3. We have heard Ld. DR and perused the material placed on record. As per the facts of the present case the assessee company had filed its original return of income on 16. 10.2012 declaring total income of Rs. 15,10,340. In response to notice U/s. 148 of the Act the assessee had filed return of income on 10.04.2019. Therefore AO

issued notice U/s. 142 (1) of the Act and consequently after considering the case AO made addition in respect of deposits made to decent investment and finance private limited for Rs. 2,25,00,000 invoking provisions of section 68 of the Act as the source remained unexplained.

4. Aggrieved by the said order the assessee preferred appeal before Ld. CIT(A) which was dismissed and the operative portion of the order of Ld. CIT(A) is contained herein below:

DECISION OF THE APPELLATE AUTHORITY:

The contentions of both the Assessing officer and the Appellant assessee resp. have been carefully considered and this Appellate authority has noted the following points:

The assessee had filed its return of income on 16.10.2012 declaring the total income of Rs. 15,10,340/-. The same was processed u/s. 143(1) of the Act on 14.03.2013.

i. It came to the knowledge of the AO that, the assessee had given a loan Rs.2,25,00,000/- to M/s. Decent Investment & Finance Private Limited in F.Y 2011-12 (AY 2012-13) the source of which was suspicious or un-explained.

Thus, the facts of the case show that, there was reason enough before the AO to consider the re-opening action u/s. 148 of the Act. Thus, placing reliance on the judgment of the Hon'ble Supreme Court of India in its decision in the case of ACIT vs Rajesh Jhaveri Stock Brokers Pvt. Ltd 291 ITR 500 wherein it was held that,if the AO for whatever reason has reason to believe that, income has escaped

assessment it confers jurisdiction to reopen the assessment.....

Reliance can also be placed on the decision in the cases of ACIT Vs. Tube Investments of India Ltd. (ITAT), Chennai-TM) 133 ITD 79 and M/S Rajat Export Import India Pvt. Ltd. Vs./ ITO(Delhi) 341 ITR 135, it is held that "What is necessary to reopen an assessment is not final verdict but a prima facie reason - Once such a reason is recorded by the assessing authority he assumes jurisdiction to issue notice u/s 148".

Hence, on the basis of such information, the Assessing Officer was justified in having a reason to believe that the income of assessee would have escaped assessment. The Hon'ble High Court of Bombay in the case of Export Credit Guarantee Corporation of India Ltd. vs. Addl. CIT (Writ Petition No. 502 of 2012) has held that, at the stage of reopening an assessment, it is not necessary that the material before the court should conclusively prove or establish that income has escaped assessment, and a reason to believe at the stage of reopening is all that is relevant. The Hon'ble Supreme Court in the case of Raymond Woollen Mills Ltd v ITO 236 ITR 34(SC) has held that, in determining whether commencement of reassessment proceedings was valid, it has only to be seen whether there was prima facie some material on the basis of which the department could reopen the case, and that the sufficiency or correctness of the material is not a thing to be considered at the stage of reopening. Hence, the reopening of assessment cannot be held to be invalid. Thus, no illegality is found w.r.t the reopening proceedings in this case as such and any contentions in this regard from the appellant are thus untenable.

iv. Thereafter, based on the said information the Assessing officer, after obtaining prior permission of the Pr.CIT-1, Mumbai, reopened the assessment of AY 2012-13 by issuing notice dated 30.03.2019 u/s. 148 of the I.T. Act. In response to the notice u/s. 148 of the Act dated 30.03.2018, the assessee filed the return of income of AY 2012-13 on

10.04.2019. Thereafter, reasons for reopening of the assessment were supplied to the assessee vide letter dated 23.10.2019. The assessee filed objection against the reopening of the assessment of A.Y 2012-13 vide letter dated NIL received in this office on 22.11.2019. The objections raised by the assessee were disposed-off by passing a speaking order dated 26.11.2019. A notice u/s. 143(2) of the It Act, 1961 was issued and duly served on assessee on 03.10.2019. Thereafter, notice/s u/s. 142(1) of the Act etc. were issued to the assessee seeking such information. And such notice u/s. 142(1) of the Act dated 13.12.2019 and SCN etc. were issued.

V. The Assessing officer during the course of assessment proceedings sent various notices etc. to the assessee and gave the assessee opportunity to be heard and the assessee did not file such satisfactory submissions before the AO in response to the final show-cause notice.

vi. After seeing the negligent behaviour of the assessee, the Assessing officer went ahead and made the addition for Rs. 2,25,00,000/- u/s. 68 of the Income Tax Act, 1961.

vii. The appellant assessee has claimed that, "... The appellant strongly urges that the show- cause notice itself is bad in law because there could not be any addition for accounted loan given u/s. 68 of the Act. The appellant strongly urges that it had filed copy of audit report which gives comparative details for F. Y. 2010-11 & 2011-12. The appellant strongly urges that, if one looks into groupings of note no. 7, loan term loans and advances given which is reproduced for ready reference than it is apparent that the assessee had given loan to Grand rose Inf. Venture (P) Ltd and the same was returned during the year and against that a loan was mainly given to Decent Investment & Finance (P) Ltd. The relevant part of the audited accounts are reproduced as under.

viii. u/s 142(1) dated 13/12/2019, the assessee did not file any details / explanation / documents. In the The AO in its

Assessment order has clearly stated that, "However, in response to notice absence of any explanation along with any documentary evidences, the source of loan given to Mis Decent Investment & Finance Private Limited in F.Y 2011-12 cannot be held genuine. The burden of proof is on the assessee to explain satisfactory with regard to source of loan given in F.Y 2011-12 along with documentary evidences. Sufficient opportunity of was allowed to the assessee to prove the genuineness, however, the assessee failed. This is the duty of assessee to submit all the evidences in support of its claim..."

ix. The appellant assessee has also sought to introduce such additional documentary evidences and which were not provided to the AO during the course of assessment proceedings like:

- a. Audit Report*
- b. ITR & Comp.*
- c. Ledger Confirmations*
- d. Bank Statements*
- e. Confirmation of Accounts*

X. This Appellate authority has noted that, the appellant assessee has filed the additional evidences which were not provided to the AO during the course of assessment proceedings. However, the appellant has not filed an application under Rule 46A of Income Tax Rules, 1962 as per procedure and also not filed any supporting Affidavit (notarised) etc., so as to show such proper justification as to why the appellant assessee was not able to submit such details during the assessment proceedings and or provide the said documents before the AO. The appellant assessee has evidently failed to submit any such response during the course of assessment proceedings. The assessment proceedings were the proper forum during which the

appellant assessee could have submitted its response and evidences and to have them verified, but the appellant assessee grossly failed to do so.

xi. Also the Rule 46A of the Income-tax rules is produced hereunder for reference:

"...Production of additional evidence before the 1 [Joint Commissioner) (Appeals) and Commissioner (Appeals).

46A. (1) The appellant shall not be entitled to produce before the [Joint Commissioner] (Appeals) or, as the case may be, the Commissioner (Appeals), any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the Assessing Officer, except in the following circumstances, namely

(a) where the Assessing Officer has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the Assessing Officer; or

(c) where the appellant was prevented by sufficient cause from producing before the Assessing Officer any evidence which is relevant to any ground of appeal; or

(d) where the Assessing Officer has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the ¹[Joint Commissioner] (Appeals) or, as the case may be, the Commissioner (Appeals) records in writing the reasons for its admission.

(3) The ¹[Joint Commissioner) (Appeals) or, as the case may be, the Commissioner (Appeals) shall not take into account

any evidence produced under sub-rule (1) unless the Assessing Officer has been allowed a reasonable opportunity-

(a)to examine the evidence or document or to cross-examine the witness produced by the appellant, or

(b)to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the [Joint Commissioner) (Appeals) or, as the case may be, the Commissioner (Appeals) to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the Assessing Officer) under clause (a) of sub-section (1) of section 251 or the imposition of penalty under section 271....".

xii. Thus, in view of the above facts and circumstances, this Appellate authority has little choice than to reject the said additional documents filed, as the appellant has not submitted any reasons / Affidavit (notarized) seeking to introduce such additional evidences, filed no justification to show as to under what circumstances the appellant assessee was not able to attend to the said query / submit the said additional evidences during the assessment proceedings before the AO and why such non- compliance during the course of scrutiny assessment proceedings. Thus, appellant failed to explain / prove the unavoidable circumstances or such issues which may have prevented him from doing the necessary. In view of the AO's finding in the order, the details are too few and too late in the day as had the same been submitted before the AO the AO would have been empowered to conduct such further proceedings, inquiries and independent investigations. However, the appellant chose to sit quiet before the AO all the while and

now seeks to file such data pertaining to the FY 2011-12 and which is almost 13-14 years old.

xiii. Also as the onus is on the appellant assessee to prove the transactions and the facts of its case. But in the present case the appellant assessee has failed to do so. Thus, this Appellate authority places its reliance on the following judgments of the Hon'ble Supreme Court and High court:

a. Judgments of the Hon'ble Supreme Court in the case Roshan Di Hatti v. CIT(1977) 107 ITR 938 (SC) / Kale Khan Mohammad Hanif v.. CIT [1963] 50 ITR 1(SC), the law is well settled that the onus of proving the source of a sum of money found to have been received by an assessee is on him. Where the nature and source of a receipt, whether it be of money or other property, cannot be satisfactorily explained by the assessee, it is open to the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that the income is from any particular source.

b. The Hon'ble Supreme Court in the case of ChuharmalVs CIT (1988) 172 ITR 250 while affirming the view of the Madhya Pradesh High Court has held that 'the expression 'INCOME' as used in Section 69A of the Act, 1961 had a wide meaning which meant anything which came in or resulted in gain and on this basis, concluded that the assessee had income which he had invested in purchasing article and he could be held to be owner and the value could be deemed to be his income by virtue of Section 69A of the Act.

c. Further, in the case of Kamal Motors Vs CIT reported in 131 taxman 391 (RAJ) the Hon'ble Court held that for cash credit to be genuine, the assessee must prove prima face the identity of his creditors, capacity of such creditors to advance money and lastly, genuineness of transaction. Mere filling of confirmatory letters does not discharge onus that lies on the assessee[Raj Shree Synthetics (P) Ltd. Vs CIT (2003) 131 Taxman 391 (Raj.)].

d. Where any sum is found credited in the books of the assessee for any previous year it may be charged to Income Tax as the income of the assessee for that previous year if the explanation offered by assessee about the nature and source thereof is, in the opinion of the Assessing Officer, not satisfactory as held in the cases of:

(a) SumatiDayalVs CIT (SC) 214 IT 801

(b) Vasantibai N. Shah Vs CIT (Bom) 213 ITR 805

(c) Sreelekha Banerjee & Ors.Vs CIT (SC) 49 ITR 112

e. Cash credit can be assessed even if transaction is through cheques as held in the cases of:

(a) CIT Vs Precision Finance P. Ltd. (Cal) 208 ITR 465

(b) K.C.N. Chandrasekhar Vs ACIT (ITAT, Bang) 66TTJ 355

(c) CIT Vs United Commercial & Industrial Co. (P) Ld.

(Cal) 187 ITR 596

In the light of above facts and discussions at point no.-(i) to (xiii), findings of the AO in its assessment order, such non-satisfactory submissions of the appellant during the assessment proceedings, non-filing of such application under Rule 46A before seeking to introduce such additional evidences, and reliance placed on various judicial pronouncements by Hon. Apex/ prove the identity. credit worthiness and thus the genuineness of the transaction is not being proved. Consequently, the addition made by the Assessing Officer for Rs. 2,25,00,000/- u/s. 68 of the Income Tax Act, 1961, is found to be correct and thus UPHELD. Hence, the ground/s of appeal are NOT ALLOWED.

In the result, the appeal is NOT ALLOWED.

5. After having gone through the orders passed by the revenue authorities, we found that assessee had not filed any satisfactory submissions before AO and had not cooperated either before AO or Ld. CIT(A), therefore Ld. CIT(A) had taken a conscious decision. Even no application for leading additional evidence was filed and had not discharged its onus to prove the transactions. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful findings so recorded by Ld. CIT(A). Hence, the grounds raised and by the assessee stands dismissed

Order pronounced in the open court on 19.02.2026

Sd/-

(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 19/02/2026

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / 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.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

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