

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

- 1. आयकर अपील सं. / ITA No.307/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2019-20)
&
2. आयकर अपील सं. / ITA No.308/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2022-23)**

DCIT (Central Circle-1) SCO 1-6, 2 nd Floor Kitchlu Nagar, Ludhiana	बनाम/ Vs.	Shree Ganesh Edibles Pvt. Ltd. Shop No.25B, New Grain Market Khanna (Punjab) – 141401
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAJCS-6800-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Sudhir Sehgal (Advocate) and Sh. Sahil Ratra (Advocate) – Ld. ARs
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Abhishek Pal Garg (CIT) – Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	11.02.2026
घोषणाकीतारीख / Date of Pronouncement	:	24.02.2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. The revenue has preferred further appeals for Assessment Years (AY) 2019-20 & 2022-23. First, we take up appeal for AY 2019-20 which arises out of an order of learned Commissioner of Income Tax (Appeals)-5, Ludhiana [CIT(A)] dated 14-12-2024 in the matter of

an assessment framed by Ld. Assessing Officer [AO] u/s 147 of the Act on 30-03-2024. The grounds of appeal read as under: -

1. Whether upon facts and circumstances of the case and in law, the Ld. CIT(A) was justified to delete the addition of Rs. 1.50 Cr. made by the AO on account of unexplained credit received from Highrise Securities & Trading Pvt Ltd and M/s Sirsa Deposits and Advances Ltd as the Assessee company failed to prove the ingredient of Section 68 of the act of the lender companies as well as without considering the facts of the case?
2. Whether upon the facts and circumstances of the case and in law, the Ld. CIT(A) was justified to delete the addition made by the A.O. on account of interest payments made to Highrise Securities & Trading Pvt Ltd and M/s Sirsa Deposits & Advances Ltd?
3. Whether upon the facts and circumstances of the case and in law, the Ld. CIT(A) was justified to delete the addition made by the AO on account of interest payments made to Highrise Securities & Trading Pvt Ltd and M/s Sirsa Deposits & Advances Ltd?
4. Whether upon facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting addition of Rs. 1.50 Crore by holding that there is no material to prove that M/s. High Rise Securities and Trading Pvt. Ltd. and M/s Sirsa Deposits and Advances Ltd., were controlled by Sh. Deepak Aggarwal and Sh. Himanshu Verma and disregarding the electronic evidence seized from residence of Sh. Himanshu Verma and his statements recorded during search u/s 132?
5. The appellant craves leave to add, amend, modify, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.

Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

Assessment Proceedings

2.1 The assessee belongs to *Rosha and Shri Ganesh Group of Cases, Ludhiana* in whose case a search and seizure operation u/s 132 was conducted by the department on 08-09-2021. Based on search findings, the assessee's case was reopened vide notice u/s 148 dated 23-03-2023. The assessee declared income of Rs.13.82 Crores under normal provisions and Book Profit of Rs.17.87 Crores u/s 115JB. It was alleged by Ld. AO that the assessee was one of the beneficiaries of accommodation entries from various entities which were being managed and control by Shri Deepak Aggarwal and Shri

Himanshu Verma. Accordingly, Ld. AO proposed addition of unexplained cash credit u/s 68.

2.2 While making the allegations, Ld. AO referred to outcome of analysis of data as seized from one I-phone during search at residential premises of Shri Himanshu Verma. This data contained details of unaccounted cash transactions. The cash was stated to be received by Shri Deepak Aggarwal from various customers to facilitate accommodation entry in the guise of unsecured loans, share capital etc. The statement was also recorded from Shri Himanshu Verma, the relevant portion of which has been extracted in the assessment order. Armed with this information, Ld. AO alleged that the assessee obtained accommodation unsecured loan from M/s Highrise Securities & Trading Pvt. Ltd. (HSTPL) and M/s Sirsa Deposits and Advances Ltd. (SDAL) for Rs.50 Lacs and Rs.100 Lacs respectively.

2.3 The assessee refuted the allegation of Ld. AO, inter-alia, on the ground that the assessee was nowhere named in the statement of Shri Himanshu Verma. The exhibits as shared with the assessee do not figure the name of the assessee. Reference was made to various judicial decisions to oppose any addition u/s 68. The assessee also furnished various documents in support of unsecured loans which include copies of ITR, confirmation from lenders along with relevant extract of bank statement. Both the lenders were stated to be RBI registered NBFC having *active* status as per MCA website.

2.4 The Ld. AO observed that M/s SDAL had returned loss of Rs.941.31 Lacs. It was regular loss making entity. Though the business was money lending, there was no justifiable explanation for claiming huge 'other expenses' in the audited financial statements. The lender received credit entry of Rs.50 Lacs each on 04-07-2018 & 16-07-2018 which was immediately advanced to the assessee. The circular nature of transactions cast serious doubt on genuineness of the lenders as well as on the transactions. Similar observations were made with respect to HSTPL. Finally, the unsecured loans of Rs.150 Lacs were added u/s 68. Consequently, interest paid on these loans for Rs.8,66,710/- was also disallowed u/s 37(1).

Appellate Proceedings

3. The Ld. CIT(A), after due consideration of detailed written submissions of the assessee and in terms of ratio of various judicial decisions, rendered its observations and findings from para 5.2.3 onwards as under: -

During the assessment proceedings, the A.O. noticed that the assessee had received unsecured loans of Rs. 1,50,00,000/- from two non-descript companies which was no genuine business and has no creditworthiness. Therefore, the amount of Rs. 1,50,00,000/- was held as unexplained credit in the books of the assessee.

During the course of appellate proceedings, the appellant has filed documents of M/s. High Rise Securities and Trading Pvt. Ltd. Along with its ITR & bank statement. Also, the appellant submitted the corresponding bank statement of the lender evidencing the receipt of unsecured loan. The documents are placed in the paper book pages 66 to 71 in the paper book filed by the appellant during appellate proceedings. Similarly, the appellant has filed documents of M/s. Sirsa Deposits and Advances Ltd., along with its ITR & bank statement. Also, the appellant submitted the corresponding bank statement of the lender evidencing the receipt of unsecured loan. The documents are placed in the

paper book pages 75-79 in the paper book filed by the appellant during appellate proceedings.

Section 68 speaks of three criteria of the identity, genuineness and creditworthiness of the lender for justifying the credit as acceptable. There are various judgments which lays basic principles regarding the assessee's responsibility to the above three criteria.

As per legal position, once the appellant has furnished the identity details of the investor/loan giver along with their bank account statement showing the creditworthiness and genuineness, the onus shifts on the A.O. to prove that the investor/loan giver did not have sufficient balance of funds to provide the money to the assessee company.

In the judgment of **Hon'ble High Court of Punjab & Haryana in the case of Principal Commissioner of Income-tax, Bhatinda vs. Amravati Infrastructures Developers (P.) Ltd. reported at [2020] 117 taxmann.com 152 (Punjab & Haryana)** on similar issue, it has been held as under:

“Section 68 of the Income-tax Act, 1961 – Cash credit (Share Capital) – Assessment year 2009-2010 – Assessing Officer made addition in hands of assessee-company on account of failure of assessee to prove identity and genuineness of persons who had introduced share capital and on account of failure to prove capacity on loan creditors as well as genuineness of transactions – Commissioner (Appeals) found that shareholders were all private limited companies who had made investments out of their share capital and reserve through banking channels and assessee had filed a confirmation from loan creditors, regarding advancing of loan by them along with confirmation date, cheque No. and other relevant information along with PAN of companies – Accordingly, he deleted additions – Whether since question of genuineness of investors who introduced share capital and capacity of persons from whom loan was borrowed and genuineness of transactions, had been considered at length by first appellate authority and revenue had failed to point out any infirmity in fact or law, no question of law arose for consideration – Held, yes [Para 8] [in favour of assessee]”

Further, the **Hon'ble High Court of Delhi in the case of CIT vs. Dwarkadhish Investment Pvt. Ltd. reported at [2010] 194 Taxman 43 (Delhi)** has held as under:

“Section 68 of the Income-tax Act, 1961 – Cash Credits – Assessment year 2001-02 – Whether though in section 68 proceedings, initial burden of proof lies on assessee, yet once he proves identity of creditors/share applicants by either furnishing their PAN numbers or income-tax assessment numbers and shows genuineness of transaction by showing money in his books either by account payee cheque or by draft or by any other mode, then onus of proof would shift to revenue and just because creditors/share applicants could not be found at address given, it would not give revenue right to invoke section 68 – Held, yes”

Analysis

The addition made by the A.O. u/s 68 requires the assessee to discharge its onus on the following three issues:

- a. The identity of the lender
- b. The creditworthiness of the lender
- c. The genuineness of the transactions

The onus to prove the three ingredients u/s 68 was discharged. **Hon'ble Apex Court in the matter of Commissioner of Income Tax vs. Orchid Industries (P.) Ltd [2020] 116 taxmann.com 113 (SC)** dismissed the SLP filed by the department against the judgment of **Hon'ble Bombay High Court in the matter of Commissioner of Income Tax Vs. Orchid Industries (P.) Ltd. [2017] 88 taxmann.com 502 (Bombay)**, where it was held as under:

“The assessee had produced on record the documents to establish the genuineness of the party such as PAN of all the creditors along with the confirmation, their bank statements showing payment of share application money, only because those persons had not appeared before the Assessing Officer would not negate the case of the assessee. Therefore, the addition was liable to be deleted.”

Further, **Hon'ble Apex Court in PCIT Vs. Himachal Fibres Ltd. (2018) 259 Taxmann 5** in which the decision of **Hon'ble Delhi High Court was confirmed in case of PCIT vs. Himachal Fibres** and it was held as under:

“In a case where the assessee has furnished all the relevant facts within the knowledge and offered a credible explanation, then the onus reverts to the Revenue to prove that these facts are not correct. In such a case, Revenue cannot draw inference based on suspicion or doubt or perception of culpability etc.”

The intention of law is that the unaccounted money should be brought to tax. As per provisions of Section 68 of the act onus is on the person in whose books of account such money has surfaced. If an amount has surfaced in the books of an assessee either in the shape of share application money or a deposit/loan; it is presumed that such money belongs to the person in whose name it has been shown. However, as per provisions of section 68 of the Act, deeming provisions postulate that it is possible that the assessee may circulate its own unaccounted money in the shape of bogus persons and therefore legal onus has been created.

What is relevant is the identity, creditworthiness of the depositors and genuineness of the transaction. All these three conditions have been established and onus of the assessee/appellant has been discharged u/s 68 of the Act. In my considered view, the appellant has proved and discharged its burden. The AO has to be bridge the gap between suspicion and proof to bring home the allegation. There were neither direct nor circumstantial evidence on record to show that the said loan amount actually belonged to or were owned by the appellant.

(On identity)

The **Hon'ble High Court of Mumbai in the case of Orient Trading Company Ltd. vs. CIT 49 ITR 723** held as under:

“when the entry stands in the name of the third party and the assessee establishes the identity of the creditor and produces evidence showing that the entry is not fictitious, initial burden lying on the assessee stands discharged; the burden shifts on to the Revenue to show that the entry represented assessee’s suppressed income.”

(On Capacity)

It has been held by the **Ld. Mumbai Tribunal Bench in the case of ACIT vs. Krishna Sheet Processors Pvt. Ltd. [2015] 44 CCH 0280** as under:

“Where the assessee furnished the bank statements of the loan creditors, evidencing their credit worthiness, the assessee has discharged its burden. No additions can be made unless a contrary finding is established by the AO.”

(On Genuineness)

It has been held by **Ld. Hon'ble High Court of Calcutta in the case of CIT vs. Sahibganj Electric Cables (P) Ltd. reported at [1978] 115 ITR 408 (Cal.)** as under:

“Amounts of loan were received by cheques through assessee’s bankers. The creditors gave confirmation letters mentioning therein their Income-tax file numbers. ITO without making any further enquiry, disbelieving the evidence of the assessee made addition. ITAT held the addition not justified as the assessee discharged the onus. High Court held that the Tribunal was justified in deleting the addition. Similar view was expressed in the case of **ACIT vs. Divine (India) Infrastructure (P) Ltd. reported at [2014] 42 CCH 0022 (Del. Trib.)**

As Regards transaction of Rs. 50,00,000/- from M/s. High Rise Securities and Trading Pvt. Ltd., it is observed that the same is a NBFC and still active. There is no material available on record to prove that this company is managed or owned by either Sh. Deepak Agrawal or Sh. Himanshu Verma. Besides, the loan was repaid in same year. Even otherwise, in his statement record on 18.11.2021, Investigation Wing, Delhi, Sh. Himanshu Verma has categorically mentioned that he has stopped giving accommodation entries since April, 2017. Therefore, linking this company with Sh. Himanshu Verma is not supported by documentary evidence. Similar is the situation with the transaction of Rs. 1,00,00,000/- from M/s. Sirsa Deposits and Advances Ltd. Further, the contention of the appellant that the assessee company had availed various short term unsecured loans totaling to Rs. 44.35 crores from 7 parties and there were remained only two parties who loans were outstanding and all other loans were squared up during the year is also found acceptable. There are number of case laws which states that if the amount in question had been rapid the said transaction was a bona fide transaction and provisions of section 68 were not attracted. Similar view has been taken by the **Hon'ble Punjab & Haryana High Court in the case of Commissioner of Income-tax, Bhatinda**

v. Karaj Singh [2011] 15 taxmann.com 70 (Punj. & Har.) wherein, it has been held as under:

Section 68 of the Income-tax Act, 1961 – Cash credits – Assessment Year 1992-93 – Assessee filed return for relevant assessment year declaring certain income – On a complaint, matter was investigated, and it was found that assessee had introduced his own secret funds to tune of Rs. 1.50 lakhs through one ‘N’ who first deposited that money in his account and later on got prepared a bank draft in name of assessee on pretext of foreign remittance and same was given to assessee – On that basis, Assessing Officer made addition of Rs. 1.50 lakhs to assessee’s income by invoking provisions of Section 68 – On appeal, Commissioner (Appeals) sustained addition – However, on second appeal, Tribunal, on basis of material on record, came to conclusion that amount in question had been repaid to ‘N’ through banking channel within period of 15 days and said transaction was a bona fide transaction and provisions of Section 68 were not attracted – Whether on facts, Tribunal was justified in deleting addition made by Assessing Officer – Held, yes [In favour of assessee]”

Further, **the jurisdictional bench of Chandigarh ITAT in the case of DCIT Sh. Rohit Kumar in ITA NO.1209/Chd/2016 order dated 10.07.2018** has held as under:

The crucial fact in this case is that the Assessing Officer had made addition treating the deposits as taxable gifts under the head “Income from Other sources”. It was not the case of income or that it was own money of the assessee which was routed through these persons. The Ld. CIT(Appeals) considering overall facts and circumstances held that these were interest free loans and advances which were subsequently returned by the assessee to these persons. Though the Assessing Officer in the Remand report has tried to change his stand doubting the source of the prayers but even in the remand report, he did not conduct any enquiries in this respect including summoning of the prayers etc, despite offered by the assessee, but made his observation in a casual manner on assumption basis and in contradiction to his earlier stand taken during the assessment proceedings. The Ld. CIT(Appeals) after going through the records and submissions of the assessee, as discussed above, has deleted the additions. We find no infirmity in the order of the CIT(Appeals) and the same is, therefore, upheld.”

Also, **the Hon'ble High Court Gujarat in the case of PCIT vs. OjasTermake P Ltd. as reported in 156 taxmann.com 75 (GUJ High Court)** as held as under:

“During assessment proceedings it was noted that assessee had shown particulars of unsecured loan received during relevant assessment – Assessing Officer issued letters under Section 133(6) on creditors of unsecured loans – Thereafter, Assessing Officer made additions with

respect to unsecured loan on ground that assessee failed to discharge onus of liability as laid down under Section 68 – On appeal, Commissioner (Appeals) upheld additions ground that assessee failed to produce any of creditors before Assessing Officer – Whether since Tribunal found on facts that amount of loan received by assessee was returned to loan party during year itself and all transactions were carried out through banking channels, no error of law was committed by Tribunal by deleting addition made under Section 68 – Held, yes”

Also, the **Hon'ble High Court of Gujarat in the case of PCIT vs. Dharmesh Padamshibhal Patel as reported in 156 Taxmann.com 491 (GUJ HC)** has held as under:

“Assessee received unsecured loan from several parties – Assessing Officer, conducted inquiry upon parties from whom loans were taken – However, nothing was heard from such parties – Assessing Officer found that there was no business activity conducted by lenders and turnover of one of parties was equal to amount given as unsecured loans to assessee – Thus, he made addition under Section 68 – Commissioner (Appeals) deleted such addition holding that creditworthiness of parties and genuineness of transactions were proved – However, Tribunal remanded matter back to Assessing Officer to verify identity of parties – It was noted that Tribunal had observed that assessee had furnished bank accounts of all lenders wherein loans claimed were duly reflected – Creditors were assessed to tax and their confirmations were filed – Further, loans were returned through banking channels before close of subsequent financial year – Whether, on facts, an opportunity was rightly allowed by Tribunal to assessee to prove identity of lenders when their creditworthiness and genuineness of transactions as was held by Commissioner (Appeals), were already proved – Held, yes”

Hence, in view of the findings as well as various case laws, in my considered view, there is no reason to consider the said credit in the books of accounts of the assessee on account of unsecured loan as unexplained income u/s 68 of the Income Tax Act, 1961, the said addition is liable to be deleted. With regard to the addition on account of interest, it is therefore mentioned that, if the addition is deleted as discussed above, the interest element could not be sustained and addition on account of interest is also not found sustainable. Accordingly, these grounds of appeal are allowed.

4. The Ld. CIT(A) thus duly considered the various documentary evidences as furnished by the assessee and rendered factual findings on the aspect of identity, creditworthiness and genuineness of both

the lender entities. It was finally held that the initial onus of Sec.68 as casted upon the assessee was duly discharged and therefore, the impugned addition could not be sustained in terms of ratio of various judicial decisions. All these factual findings could not be controverted before us by way of any concrete material indicating that the loans were in the nature of accommodation entries. The assessee duly furnished ITR of the lender entities, along with bank statements. The loans stood repaid in the same year and therefore, no such addition could be made as per the binding decision of Hon'ble Punjab & Haryana High Court in the case of **Karaj Singh (supra)**. This being so, we see no reason to interfere in the order of Ld. CIT(A). The corresponding grounds of appeal stand dismissed. The consequent deletion of interest disallowance by Ld. CIT(A) also find our concurrence. The appeal stand dismissed.

Revenue's Appeal for Assessment Year 2022-23

5.1 In this year, Ld. AO has made allegation of unaccounted sales on the basis of loose papers / documents Annexure A-9 allegedly containing details of unaccounted sales by the assessee. The physical stock was found to be short to the extent of Rs.152.55 Lacs. The assessee contended that the total sales as per seized paper worked out to be Rs.261.30 Lacs. After adjusting reflected sales of Rs.152.53 Lacs, the unaccounted sales were Rs.108.74 Lacs. On this unaccounted sales, the assessee offered Gross Profit rate of 10.75%.

However, Ld. AO computed unaccounted sales of Rs.170.81 Lacs and after applying GP rate of 15%, made addition of Rs.25.62 Lacs.

The Ld. AO made another addition of Rs.62.86 Lacs which represent excess stock of *By Pass Fat and Earth Oil*. The assessee contended that excess stock was already covered in short stock of Rs.152.55 Lacs. However, Ld. AO added the same u/s 69C r.w.s. 115BBE of the Act.

The last of the addition for Rs.31.92 Lacs represent payment in cash to one Shri Harvinder Singh on 07-09-2021 as found noted in Annexure A-9, Page No.6. The assessee stated that cash was paid out of cash available with the assessee out of unaccounted sales. However, Ld. AO added this amount u/s 69C r.w.s. 115BBE.

5.2 Upon further appeal, Ld. CIT(A) allowed partial relief to the assessee. On the issue of GP rate, it was held that Ld. AO did not offer any reason for applying enhanced GP rate of 15%. Therefore, GP rate was to be estimated at 10.75% on additional sales of Rs.170.81 Lacs. On the remaining two additions, it was observed that once unaccounted sales were offered and the funds to that extent were available with the assessee, the benefit of telescoping ought to have been given. Since the profit element on additional receipts of Rs.170.81 Lacs was estimated / accepted, there was no justification for separate addition of Rs.94.78 Lacs. There was no evidence that money was utilized elsewhere. Aggrieved, the revenue is in further appeal before us.

5.3 After due consideration of findings of Ld. CIT(A), we find that the issues have rightly been clinched in correct perspective by Ld. CIT(A). There is no dispute that quantum of unaccounted sales was to the extent of Rs.170.81 Lacs. There was no justification for enhanced GP rate of 15%. The same has correctly been set to GP rate as offered by the assessee in its regular books of accounts. Further, once profit element has been estimated on unaccounted sales, separate addition of excess / short stock could not be sustained since the same would subsume in the unaccounted sales only. The benefit of telescoping has rightly been granted to the assessee. We order so. The appeal stand dismissed.

Conclusion

6. Both the appeals stand dismissed.

Order pronounced on 24th February, 2026.

-Sd-
(RAJPAL YADAV)
VICE PRESIDENT

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated:24.02.2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH