

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH AT KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s): 3103/KOL/2025
Assessment Year(s): 2010-11**

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| M/s. Lupin Vinimay Pvt. Ltd. (Appellant) | Vs. | I.T.O., Ward-9(3), Kolkata (Respondent) |
| PAN: AAACL5335N | | |

Appearances:

Assessee represented by : Gourab Maloo, CA.
Department represented by : Soumitra Ghosh, Addl. JCIT, Sr. DR.
Date of concluding the hearing : 04-February-2026
Date of pronouncing the order : 26-February-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Assessee is against the order of the Addl/JCIT(A)-Agra [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2010-11 dated 16.09.2025.

1.1 The Registry has informed that the appeal is barred by limitation by 17 days. The assessee has filed an affidavit for condonation of delay explaining the reasons that the appeal order was sent to the email ID: itmsolution1@gmail.com dated 16.09.2025 which was erroneously skipped and therefore, could not file the appeal before the Tribunal within time. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.



2. The Assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. That the Order of the Learned Income Tax Officer is arbitrary based on mere surmises bad in Law as well as on facts

2. That the Learned Income Tax Officer is not justified in making addition of Rs. 1670000/-, we have submitted the Loan confirmation, Bank statement, I.T. acknowledgement, Balance sheet as at 31-03-2010.in support of the same duly verified by the party to whom Loan was given. In fact applicant company has advance Loan of Rs.1100000/- & Loan was repaid of Rs. 1100000/- & applicant has also received interest of Rs.10176/- on which TDS was deducted of Rs.1018/- how the figure of Rs.1670000/- arrived at we could not understand.

3. Delay in filing the Appeal may kindly condoned due to non receipt of Order Physically. In fact assessee has Received copy of Order on 30.11.2025 and now filed the Appeal.

4. That the Applicant craves the right to add to amend or to alter any of the grounds of appeal before the hearing of the appeal.”

3. Brief facts of the case are that the assessee is a company and had e-filed its return of income on 30.08.2017 in response to the notice u/s 148 of the Act showing total income of ₹6,07,602/- and claiming refund of ₹93,980/-. The return was processed accordingly, however, the case was reopened u/s 147 of the Act based on the specific information received from the Financial Intelligence Unit (FIU-IND) regarding suspicious financial transactions involving M/s. Chaturbhuj Dilip Kumar through whom the assessee was allegedly a beneficiary of layered funds transfer to the tune of ₹16,70,000/-. The Assessing Officer (hereinafter referred to as Ld. 'AO') noted that the financial statements and the return of income of the assessee did not substantiate the genuineness of the loan transactions claimed to have been received from M/s. Chaturbhuj Dilip Kumar. Therefore, the Ld. AO concluded that the said amount represented unaccounted income routed through accommodation entries and added the sum of

₹16,70,000/- to the total income of the assessee u/s 68 of the Act and assessed the total income of the assessee at ₹22,77,600/- u/s 143(3)/147 of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide order dated 16.09.2025 dismissed the appeal of the assessee by holding as under:

“7.1 Analysis and Decision on Grounds of Appeal

The grounds raised by the appellant are general in nature and devoid of any specific documentary support. Since all three grounds are related to the core issue of addition under section 68 amounting to Rs. 16,70,000, these are analyzed together to avoid repetition.

The Assessing Officer has brought on record detailed findings on the circular nature of transactions involving M/s Chaturbhuj Dilip Kumar and the role of M/s Lupin Vinimay Pvt. Ltd. as a beneficiary of such fund routing. The information was obtained through FIU-IND and corroborated through examination of banking channels, ITD database, and returns of the counterparty, M/s Chaturbhuj Dilip Kumar, which revealed discrepancies in declared income vis-à-vis actual transactions.

The appellant's claim regarding loan confirmations and interest income lacks credibility in absence of verifiable evidence on record. Furthermore, the conduct of the appellant during appellate proceedings - specifically the failure to submit a rejoinder, reply, or even a basic written submission - reinforces the correctness of the Assessing Officer's conclusion.

The burden of proof lies on the assessee to substantiate the genuineness, creditworthiness, and identity of the creditor in case of cash credits under section 68. In the present case, no such evidence has been furnished. Mere assertions without corroborative material are not acceptable in the eyes of law. It is a settled principle that without documentary evidence, legal arguments carry no weight. Therefore, in the absence of any conclusive documentary evidence, corroborative materials, or substantiated arguments, the grounds of appeal are devoid of merit and liable to be rejected.

7.2 Finding

In light of the foregoing, all the grounds of appeal are rejected. The addition made by the Assessing Officer under section 68 of the Income-tax Act, 1961, is upheld in its entirety.

8.1 Conclusion



After careful consideration of the facts on record, the contents of the assessment order, and the absence of any credible submission or evidence by the appellant, I am of the considered view that the impugned addition made by the Assessing Officer is correct, justified, and in accordance with law. The appeal is thus dismissed as being devoid of merit.”

4. Aggrieved with the order of the Ld. CIT(A), the Assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. It was stated that the assessment was made u/s 143(3) of the Act and out of the addition made, confirmation was filed for a sum of ₹11 Lakh which was paid in the same year. The assessee had given loan and on that interest was received. Before the Ld. CIT(A), no submission could be made and our attention was drawn to para 6.1 of the appeal order. A sum of ₹2 Lakh was received on 21.05.2009 which was repaid on 29.05.2009. The due date for filing the return of income was 25.10.2023 and the same was filed on 02.03.2024 and the amount was not ₹16 Lakh. It was requested that the matter may be remanded to the Ld. CIT(A) to which the Ld. DR had no objection.

6. After examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to him for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.



7. In the result, the appeal filed by the Assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 26th February, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 26.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **M/s. Lupin Vinimay Pvt. Ltd., 3A, Surendra Mohan Ghosh Sarani, 2nd Floor,, Kolkata, West Bengal, 700001.**
2. **I.T.O., Ward-9(3), Kolkata.**
3. Addl/JCIT(A)-Agra.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata