

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

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s): 2603/KOL/2025
Assessment Year(s): 2011-12**

Mark Steels Limited (Appellant)	Vs.	DCIT, Circle-3(1), Kolkata (Respondent)
PAN: AACCM8187B		

Appearances:

Assessee represented by : S.K. Tulsiyan Adv. and
Lata Goyal, CA.

Department represented by : Ruchika Sharma, Sr. DR.

Date of concluding the hearing : 15-January-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 Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2011-12 dated 13.10.2025.

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

"1. That the Ld. CIT(A) erred in having upheld the reopening of the assessment merely on borrowed satisfaction being the communication received from DDIT(Inv.), Kolkata and without any tangible material showing escapement of income in spite of the fact that the original assessment having been completed u/s 143(3) of the Act after considering all the entries available on record, the reopening of assessment u/s 147 r.w.s. 148 of the Act was merely a change of opinion and directly in conflict with the judgment of Hon'ble Supreme Court in the case of CIT vs. Kelvinator of India Ltd. [2010] 320 ITR 561 (SC).

2. That the Ld. CIT(A) further erred in having upheld the reassessment order u/s 147/143(3) of the Act dated 27.11.2018 and addition of Rs.50,00,000/- on the alleged ground of unexplained cash credit u/s 68 of the Act in spite of



the fact that in the Remand Report dated 19.6.2024 it has been fairly admitted that the assessment was completed u/s 143(3) of the Act after examining the details of unsecured loan, confirmation, books of account etc. filed by the assessee and hence the assessment order passed u/s 147 of the Act on a mere change of opinion is devoid of legally sustainable merits.

3. That the Ld. CIT(A) further erred in having accepted the AO's clarification in the remand report that the credit comprised of Rs.25,00,000/- from Booster Trading Pvt. Ltd. in place of completely new name of Comfort Merchandise Pvt. Ltd. was a typographical error and did not impeach the entry-layering findings when the Ld. AO has attempted for introduction of completely a new allegation on the basis of change in opinion and hence the reopening proceeding and assessment order passed without any application of mind per se is unwarranted and infructuous.

4. That, the Ld. CIT(A) erred in having been supported the order of the Ld. A.O. in upholding the reopening u/s 147 of the Act without any tangible material and addition of Rs.50,00,000/- u/s 68 of the Act and, therefore, the order of the Ld. CIT(A) dated 13.10.2025 needs to be quashed.

5. That, the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.”

3. Brief facts of the case are that the assessee company is manufacturer of sponge iron and M.S. Ingots and sells iron ore in dust/scrap which is a waste product during manufacturing of sponge iron. The assessee filed the return of income on 24.09.2011 for AY 2011-12 declaring total income of ₹1,14,79,620/- and the assessment was made u/s 143(3) on 04.03.2014 assessing the total income of ₹1,21,83,084/-. Subsequently, the assessment was reopened u/s 147 of the Act vide notice issued u/s 148 of the Act and the assessee once again filed the return of income showing the same total income as was originally shown in the return filed on 24.09.2011. Statutory notices were issued and since there was no response to the notices issued by the assessee, the Assessing Officer (hereinafter referred to as Ld. 'AO') added a sum of ₹50 Lakh u/s 68 of the Act being loans from M/s. Primary Merchants Pvt. Ltd. and M/s. Booster Trading Pvt. Ltd. amounting to ₹25 Lakh each and the total income was assessed at ₹1,21,83,084/-. Aggrieved with the

assessment order, the assessee filed an appeal before the Ld. CIT(A) in which it also contended that it had never received any loan from M/s. Booster Trading Pvt. Ltd. which was mentioned in the reasons recorded. The Ld. CIT(A) called for a remand report from the Ld. AO and dismissed the appeal of the assessee on the ground of the reopening of the assessment as well as on merits of the case by giving his findings as under:

“7.1 The appellant-company is a sponge iron and M.S. Ingots manufacturer. It also sells iron ore in dust/scrap from which comes out as a waste product while manufacturing of sponge iron. ROI for the assessment year under appeal filed on 24.09.2011 declaring a total Income of Rs.1,14,79,620/-. The assessment was completed u/s. 143(3) on 04.03.2014 assessing the total income of Rs. 1,21,83,084/-. All the required details and evidences in support of the ROI as asked for vide notice u /s.142(1) and other show cause notices were submitted and on verification of the same, the scrutiny assessment u/s 143(3) was completed. The ROI was originally assessed under section 143(3) on 04.03.2014. The reassessment for AY 2011-12 was initiated on 27.03.2018 based on Investigation Wing inputs alleging accommodation-entry routing, culminating in an assessment under section 147 r.w.s. 143(3) dated 27.11.2018 making an addition of Rs. 50,00,000 under section 68. Reasons recorded identified Rs. 25,00,000 each credited in the assessee's books from Primary Merchants Pvt. Ltd. and another Kolkata-based entry-operator group entity, with the Investigation Wing tracing initial large cash deposits in feeder entities and subsequent layering through shell companies with nil turnover and non-compliant directors. During reassessment, notices under sections 142(1)/143(2) and a show-cause notice were issued via the registered e-mail, the assessee did not respond, and the AO completed reassessment on material available and Investigation Wing findings. Aggrieved with the order of AO, the appellant filed the current appeal with 6 grounds of appeal out of the same 5 grounds of appeal are effective. Ground wise adjudication is being done as follows.

Grounds of Appeal No.1 to 3:

In these grounds the Appellant challenged the Validity of reopening u/s 147/148 and alleged breach of natural justice by AO. Since all these grounds overlapping and interconnected same are adjudicated as follows.



The AO had specific, relevant, and credible Investigation Wing material showing cash-deposit-based layering through entry-operator entities, which constitutes tangible material for forming "reason to believe," and sufficiency of such material is not justiciable at the initiation stage. The Hon'ble Supreme Court in the case of *Raymond Woollen Mills Ltd. v. Income-tax Officer* (1999) 236 ITR 34 (SC) held that at the stage of issuing notice, the court only examines the existence of prima facie material, not its sufficiency or correctness. The Hon'ble Supreme Court in the case *Phool Chand Bajrang Lal v. Income-tax Officer* [1993] 69 Taxman 627 (SC) clarified that reassessment is permissible when fresh, specific information comes to light indicating that the earlier acceptance was based on untrue facts or accommodation arrangements, and such information may come from external sources like Investigation Wing. The recorded reasons narrate concrete inputs of cash-based layering through multiple Kolkata-based entities incorporated on the same date with nil turnover, and identify the two impugned credits, aggregating Rs. 50,00,000 in the Appellant's books, thereby meeting the "reason to believe" threshold, including the averment of failure to fully and truly disclose material facts in the original scrutiny. The Reasons were supplied following GKN Driveshafts protocol via the Appellant's registered e-mail, subsequent statutory notices were also issued on the same e-mail, and non-filing of objections and non-compliance cannot vitiate the reassessment once reasons and opportunity were afforded. During the remand proceedings, the AO confirmed that the credits under consideration comprised Rs. 25,00,000 from Primary Merchants Pvt. Ltd. and Rs. 25,00,000 from Comfort Merchandise Pvt. Ltd., explaining that the name "Booster Trading Pvt. Ltd." appearing earlier was an inadvertent misdescription, which does not impeach the entry-layering findings. Reopening is upheld and the allegation of violation of natural justice fails, as reasons were furnished, notices were issued, Investigation Wing material existed, and the minor misdescription is cured by remand clarification without affecting the core satisfaction. In view of the Above the grounds of Appeal No. 1 to 3 of the Appellant is here by dismissed.

Ground of Appeal No. 4 & 5:

In this ground the Appellant contended the Addition of Rs. 50,00,000 made by AO u/s 68 (two loans of Rs. 25,00,000 each). The Appellant acknowledges a loan of Rs. 25,00,000 from Primary Merchants Pvt. Ltd., supported by a bank entry dated 29.01.2011, confirmation, and ITR acknowledgement of the lender, while denying any transaction with "Booster Trading Pvt. Ltd.". The AO on re-verification confirmed that the second credit of Rs. 25,00,000 was from Comfort Merchandise Pvt. Ltd. on 29.01.2011, and that both loan credits stood examined in the earlier 143(3) and existed in the Appellant's records, thereby contradicting the Appellant's claim that there was no such second transaction. Under section 68, the Appellant must prove Identity of the creditor,



genuineness of the transaction, and creditworthiness, and mere filing of confirmatory letters, PAN/ITR, and routing through banking channels is not conclusive if surrounding facts indicate accommodation layering. Hon'ble Calcutta High Court In the case of Commissioner of Income-tax v. Precision Finance (P.) Ltd. [1995] 82 TAXMAN 31 (CAL.) held that account-payee cheques and confirmations are insufficient unless the assessee establishes all three pillars including capacity of the creditor, which aligns with the Investigation Wing's finding of shell-like entities with nil turnover and inflated bank turnover. Further in the case Shankar Industries v. Commissioner of Income-tax [1978] 114 ITR 689 (CAL.) Hon'ble HIGH COURT OF CALCUTTA reiterates that the assessee must prima facie prove the Identity, capacity of the creditor to advance money, and genuineness, failing which section 68 addition is warranted. In PCIT v. NRA Iron & Steel Pvt. Ltd [2019] 103 taxmann.com 48 (SC), the Supreme Court upheld additions where investor entities had negligible income, no real business, and were part of accommodation entry networks, holding that paper compliance is inadequate when creditworthiness and genuineness remain unproved in light of adverse material. The Hon'ble Supreme Court in the case of Sumati Dayal v. Commissioner of Income-tax [1995]80Taxman 89 (SC) and Commissioner of Income-tax v. Durga Prasad More [1971] 82 ITR 540 (SC) permits tax authorities to look beyond facade and test claims on surrounding circumstances and human probabilities, which is apt where Investigation Wing traced cash deposits and layering to shell entities.

For Primary Merchants, while identity stands evidenced by ITR acknowledgement and a confirmation, there is no credible demonstration of lender's real financial capacity or independent source of funds beyond a self-asserted downstream receipt, especially when the Investigation Wing traced the chain to initial cash deposits and non-genuine turnover of a web of entities. For Comfort Merchandise, the Appellant has not produced contemporaneous lender financials, bank statements evidencing capacity, or principal officers for examination, and the non-compliance during reassessment prevented the AO from verifying capacity/genuineness amidst adverse Investigation Wing material, thereby failing section 68's burden. The remand clarification substituting Comfort Merchandise for the earlier misnamed "Booster Trading" preserves the identity of the second impugned credit on the same date and amount, and does not prejudice the Appellant, who had full opportunity in appeal to rebut capacity/genuineness but did not furnish cogent lender-side evidence beyond internal records. In view of Precision Finance, Shankar Industries, and considering the decision of Hon'ble Supreme Court in the case of NRA Iron & Steel, the Appellant has not discharged the onus to prove creditworthiness and genuineness for both Rs. 25,00,000 credits when read against Investigation Wing findings and non-compliance, and the section 68



addition of Rs. 50,00,000 is sustained. The ground of Appeal No.4 & 5 of the Appellant Is here by Dismissed.

8. In the result Appeal of the Appellant is dismissed.

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 submitted by the Ld. AR that in this case the original assessment u/s 143(3) of the Act was made on 04.03.2014 and in response to the notice issued u/s 142(1) of the Act as mentioned on page 34 of the paper book, the details of unsecured loans were filed. Subsequently, the reasons were recorded that the assessee had received loans from M/s. Primary Merchants Pvt. Ltd. and M/s. Booster Trading Pvt. Ltd. amounting to ₹25 Lakh each and this was based upon the report of the Investigation Wing. It was submitted that it was alleged that the loans had been received through layering of the funds of the entities but the same had nothing to do with the assessee. The Ld. CIT(A) called for a remand report and the assessee furnished rejoinder to the remand report as per page 18 to 21 of the paper book filed. Our attention was drawn to page 13 of the paper book in which the statement that the loan from M/s. Primary Merchants Pvt. Ltd. was examined during the course of the initial assessment proceedings and details of unsecured loans, loan confirmation etc. were filed, which had been examined, is accepted in the remand report of the Ld. AO for the loan taken on 29.01.2011. It was also vehemently submitted by the the Ld. AR that the assessee did not have an account in Kotak Mahindra Bank in the relevant year as is incorrectly mentioned in the reasons recorded under the column 'Transferee bank account' and the loan was received by the assessee in its IndusInd Bank account. A copy of the bank statement was also filed. It was stated that

as regards the second loan, there was no transaction with M/s. Booster Trading Pvt. Ltd. and out of the two entities, the reasons recorded in respect of one entity were not correct. It was stated that the proviso to section u/s 147 of the Act was applicable as the initial assessment was made u/s 143(3) of the Act and there was no failure on the part of the assessee to disclose fully and truly all material facts for the computation of income as the confirmation for the loans were filed and the same were examined. The Ld. AR relied upon the decision of **New Delhi Television Ltd. vs. Deputy Commissioner of Income Tax [2020] 116 taxmann.com 151 (SC)/[2020] 271 Taxman 1 (SC)/[2020] 424 ITR 607 (SC)[03-04-2020]** and stated that there was no failure on the part of the assessee and, therefore, the case could not have been reopened. It was also stated that the bank statements in support of the reasons recorded were not provided to the assessee. It was requested that the addition as confirmed by the Ld. CIT(A) may be deleted as the Ld. CIT(A) has considered the same as typographical error and the reasons recorded cannot be modified/improved upon/supplemented as has been held by the Hon'ble Bombay High Court in the case of **Hindustan Lever Ltd. vs. R.B. Wadkar [2004] 137 Taxman 479 (Bombay)/[2004] 268 ITR 332 (Bombay)/[2004] 190 CTR 166 (Bombay)[25-02-2004]**. It was also stated that it has been held in the case of **Commissioner of Income-tax vs. Sant Lal [2020] 118 taxmann.com 432 (Delhi)/[2020] 273 Taxman 551 (Delhi)/[2020] 423 ITR 1 (Delhi)[11-03-2020]** that no addition can be made only on the basis of information from the Investigation Wing.

6. The Ld. DR stated that the same plea was taken before the Ld. CIT(A) who has disposed of the same as per his finding on page 34 of the appeal order. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.



7. We have considered the facts of the case, the submissions made and the documents filed. The Ld. CIT(A) had called for a remand report and the Ld. Assessing Officer had conceded that no loan was received from one of the two entities namely M/s. Booster Trading Pvt. Ltd. for ₹25 Lakh. The Ld. CIT(A) considered it as a mere typographical error. It was stated that the findings of the Investigation Wing had revealed that the source of the funds was the initial huge cash deposits in the bank accounts of several entities/companies such as Star Merchants Pvt. Ltd., Star Vyaapar Pvt. Ltd., Consistent Vyaapar Pvt. Ltd. However, the fact remains that no loan was received from M/s. Booster Trading Pvt. Ltd. Although the assessee had filed the return in response to the notice issued u/s 148 of the Act and the reasons for the reopening were supplied however, there was no objection to the reasons recorded either. Since there was no objection to the reasons recorded, therefore, there was no requirement of passing any speaking order, as was agitated in the course of the appeal on behalf of the assessee. However, the fact also remains that neither the details of the layering of cash through the alleged shell entities have been mentioned in the reasons recorded nor the details are found in the assessment order. Even the two bank accounts mentioned in the reasons recorded have been disowned by the Ld. AR as the assessee states that it did not have any account in Kotak Mahindra Bank but had an account in IndusInd Bank. The Ld. CIT(A) confirmed the addition by treating the incorrect name of one of the creditors as a typographical error which has been vehemently contested by the assessee. *Prima facie* the contention of the assessee appears to be correct as in the assessment order at more than one place, the Ld. AO has mentioned that the loans were received from M/s. Booster Trading Pvt. Ltd. amounting to ₹25 Lakh. Since the loan from M/s. Primary Merchants Pvt. Ltd. was examined in the course



of the initial proceedings by filing confirmation and nothing adverse was found, therefore, in the absence of additional information relating to this transaction the reopening was not permissible on account of change of opinion. As regards the second entity, the claim of the creditor was incorrectly mentioned and as has been rightly contested by the Ld. AR the reasons recorded cannot be subsequently supplemented or improved upon, relying upon the decision of the Hon'ble Bombay High Court in the case of **Hindustan Lever Ltd.** (supra). That being so, the Ground Nos, 1, 2, 3 and 4 are allowed and the findings of the Ld. CIT(A) are reversed and the Ld. AO is directed to delete the addition of ₹50 Lakh which was accepted in the original assessment order and no new facts or even the date of transactions have been mentioned in the assessment order or brought on record to counter the argument that it was a mere change of opinion and the reasons recorded were not fully applicable to the facts of the case of the assessee.

8. Ground No. 5 being general in nature does not require any separate adjudication.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 26th February, 2026 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
[George Mathan]
Judicial Member

Sd/-
[Rakesh Mishra]
Accountant Member

Dated: 26.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Mark Steels Limited, Room No.4, Commerce House, Bow Bazar, 2A, Ganesh Chandra Avenue, Kolkata, West Bengal, 700013.**
2. **DCIT, Circle-3(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata