

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"D" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.7561/MUM/2025  
(Assessment Year:2012-2013)**

**Assistant Commissioner of Income Tax 4(3)(1), Mumbai**

R. No.649, 6<sup>th</sup> Floor, Aaykar Bhavan, M.K.Road,  
Mumbai – 400020. Maharashtra

..... **Appellant**  
Vs

**Qmax Synthetics Private Limited**

174, Sanjay Building No.5-B,  
Mittal Industrial Estate, A. K. Road,  
Marol, Mumbai – 400059. Maharashtra.  
[PAN: AAACQ0206D]

..... **Respondent**

**Appearance**

For the Appellant/Department : Shri Annavarani Kosuri  
For the Respondent/ Assessee : Shri Ashok Bansal

**Date**

Conclusion of hearing : 02.02.2026  
Pronouncement of order : 20.02.2026

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal preferred by the Assessee is directed against the order, dated 01/09/2025, passed by the Additional/Joint Commissioner of Income Tax (Appeals) -6, Delhi [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had allowed the appeal against the Assessment Order, dated 14/12/2016, passed under Section 143(3) read with Section 147 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2012-2013.
2. The Revenue has raised following grounds of appeal :
  1. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 16,00, 000/- made u/s 68 of the Income Tax Act, 1961, treating unsecured loans received from M/s Olive Overseas Put. Ltd. (Realgold Trading Co.*

*Put. Ltd.) as genuine, without appreciating that the said concern was identified by the Investigation Wing, Mumbai, as a paper entity controlled by Shri Pravin Kumar Jain engaged in providing accommodation entries.*

2. *The Ld. CIT(A) erred in relying solely on the ITAT'S decision in the assessee's own case for A. Y. 2008-09 without appreciating that the present addition is based on independent post-search evidence received from the Directorate of Investigation after the search in the Pravin Kumar Jain group on 01.10.2013, constituting fresh tangible material for this assessment year.*
  3. *The Ld. CIT(A) erred in deleting the disallowance of interest expenditure of Rs.2,63,243/- (comprising Rs. 1,74,641/- paid to Olive Overseas Put. Ltd. and Rs.88,602/- to other non-genuine lenders), without appreciating that such disallowance was consequential to the non-genuine loans and was justified u/s 37(1)/ 69C of the Act.*
  4. *The Ld. CIT(A) erred in holding that penalty proceedings /s 271(1)(c) became infructuous upon deletion of additions, without considering that such proceedings were validly initiated and are independent of quantum proceedings.*
  5. *On the facts and in law, the Ld. CIT(A) erred in granting relief without appreciating that the additions made by the Assessing Officer were based on credible and corroborated material gathered through the Investigation Wing and were in conformity with section 68 and settled judicial principles on bogus loans and accommodation entries.*
  6. *The appellant craves leave to add, amend, or alter any of the above grounds of appeal before or during the course of hearing, in the interest of justice."*
3. We have considered the rival submission and have perused the material on record.
  4. The assessee is a company engaged in the business of trading in textiles on wholesale basis. The assessee filed the return of income on 30/09/2012 declaring total income of INR.1,26,65,820/- Subsequently, the assessment was reopened under Section 148 of the Act. The reasons recorded while reopening the assessment stated that as per the information provided by the DIT(Inv), Mumbai, the Assessee has obtained bogus/accommodation entries of loan amounting to INR.16,00,00/- from hawala companies floated by Mr. Pravin Kumar

Jain. The Assessing Officer called on the Assessee to give justification for the loan transactions in the books of accounts. The Assessee submitted the following details with regard to the loans obtained:

Sr. No.	Name of the concern controlled and managed by Shri Pravin Kumar Jain	Amount (INR.)
1.	Olive Overseas Pvt. Ltd. (Realgold Trading Co. Pvt. Ltd.)	16,00,000/-
	Total	16,00,000/-

5. In order to substantiate the above transaction, the Assessee submitted confirmation, copy of Income Tax Return and Bank Statements pertaining to the above parties. Relying upon the report of the Investigation Wing, the Assessing Officer held that the loan amount of INR.16,00,000/- was unexplained credits taxable in the hands of the Assessee under Section 68 of the Act. The Assessing Officer noted Assessee had failed to produce the parties for verification and had failed to discharge the onus to establish creditworthiness of the lender and the genuineness of the transactions. The Assessing Officer also made an addition of INR.1,74,641/- under Section 69C of the Act in respect of interest on the aforesaid loan. Further, an addition of INR.88,602/- was also made in respect of interest claimed to have been paid by the Assessee on the unsecured loans from Casper Enterprises Pvt. Ltd. and Kush Hindustan Entertainment Ltd.; and held to be unexplained cash credit under Section 68 of the Act in Assessment Year 2011-2012.

6. Being aggrieved, the Assessee filed appeal before the Learned CIT(A) the CIT(A) allowed the appeal preferred by the Assessee holding as under:

"6.2 *Aggrieved by the order of the AO, the appellant has preferred an appeal before this forum. During appellate proceedings, notice u/s 250 of the Income Tax Act, 1961 was issued to the appellant. In response to the said notice, the appellant has furnished written submission along with relevant documents and requested for personal hearing through Video*

*Conference. The appellant's AR appeared through video conferencing and was heard in detail. The various grounds of appeal concern primarily regarding Addition of Rs. 16,00,000/- under Section 68 of the Income Tax Act, 1961; and Disallowance of Interest of Rs. 1,74,641/- and Rs. 88,602/- Both these grounds are taken together to avoid repentance.*

- 6.3 *The appellant contended that the assessing officer erred in law and on facts by relying solely on the general findings of the Investigation Wing and a statement of Shri Pravin Kumar Jain, a third party who was neither a director nor shareholder in the lender company, while completely disregarding the voluminous documentary evidences furnished by the appellant to prove the genuineness of the loan transaction. In this regard, it is also relevant to note that the appellant has submitted that an identical issue had arisen in the appellant's own case for the Assessment Year 2008-09, wherein the appellant had received Rs 1,64,00,000/- from 7 parties related to Sh Pravin Kumar Jain, of which one lender party was Olive Overseas Pvt. Ltd. (Real Gold Trading Co. Pvt. Ltd.) from whom 30 lacs was received, and the appellant had shown interest expenses to these parties of Rs 7,82,106 and similar additions were made by the AO under section 68 and 69C of the Act. The facts and allegations in that year were materially identical, the AO had concluded that the lenders were merely paper companies controlled by Shri Pravin Kumar Jain and was used to provide accommodation entries. However, the Ld CIT(A) deleted the additions and the order of the Ld CIT(A) was upheld by the Hon'ble Income Tax Appellate Tribunal, Mumbai Bench, vide its order in ITA No. 4378/Mum/2017 dated 27.04.2022, which held in favour of the appellant by deleting the entire addition under section 68 as well as the disallowance of interest expenditure. The ITAT's findings in the said order are reproduced below for reference:*

- "5. *Heard both the sides and perused the material on record. Without reiterating the facts as elaborated above the A.O has reopened the assessment of the assessee on the reasons that it had obtained accommodation entries of loan amount from the 7 concerns controlled and managed by Shri Pravin Kumar Jain as elaborated above in this order. The A.O has added the entire amount of Rs.1,64,00,000/- obtained by the assessee from such concern in the form of unsecured loan as unexplained cash credit u/s 68 of the Act and the interest of Rs.7,82,106/- paid on these loan was also added u/s 69C of the Act. The Id. CIT(A) has deleted the impugned addition as elaborated in his finding reproduced supra in this order. The Id. CIT(A) has given detailed finding stating that the A.O had merely referred to*

*the statement made by Shri Pravin Kumar Jain without bringing on record any evidence to disprove the supporting evidences furnished by the assessee. During the course of assessment proceedings the assessee has submitted the relevant supporting detail comprising confirmation of the parties, PAN numbers, full postal address, bank statement highlighting the transactions and copies of returned filed. The assessee has also submitted copies of balance sheet along with auditors report of the companies with whom the assessee was having loan transaction. The assessee has also submitted that all the transactions were by account payee cheques and copies of bank statement of the lenders were also filed. The A.O has not supplied any copy of statement of Shri Pravin Kumar Jain recorded by the investigation wing during the course of assessment proceedings in spite of repeated request made by assessee. The Id. CIT(A) has discussed in detail in his finding stating that as per the documentary evidences brought on record the assessee has discharged the onus of proving the genuineness of transactions, identity and capacity of the lenders. The assessee has produced evidences such as copies of annual amount repots, Directors report, latest postal address of the parties, PAN numbers and copies of Income Tax return of the parties, loan confirmations etc. The assessee has also provided copies of bank statement of the parties demonstrating that all the transaction were made through banking channel by account payee cheques. However, the A.O has not made any further investigation to disprove the supporting material furnished by the assessee. The Id. CIT(A) also stated that the A.O has not brought any material or evidence to disprove the evidences and explanation given by the assessee other than merely relying on the retracted statement of Shri Pravin Kumar Jain. After taking into consideration the material on record and the detail finding of the Id. CIT(A) as reproduced supra in the order, we don't find any reason to interfere in the finding of Id. CIT(A), therefore, this ground of appeal of the revenue is dismissed.*

- 6.4 *The above decision of the Hon'ble ITAT has been rendered in the case of the same appellant, on exactly identical facts, involving the same lender, Olive Overseas Pvt. Ltd. (Real Gold Trading Co. Pvt. Ltd.). Therefore, the findings of the Tribunal are squarely applicable to the present case. Respectfully following the binding precedent of the coordinate bench in the appellant's own case,*

*and considering the principle of consistency, the addition of Rs.16,00,000/- u/s 68 and the consequential interest disallowance of Rs.2,63,243/- u/s 69C are liable to be deleted.*

6.5 *Hence, without going into further merits of the case, and respectfully following the decision of the Hon'ble ITAT in ITA No. 4378/Mum/2017 for A.Y. 2008-09, the appeal is of the appellant is hereby allowed on both issues and additions made on account of bogus unsecured loan and disallowance of interest expenditure stand deleted.*

6.6 *The Assessing Officer has also initiated penalty proceedings under Section 271(1)(c) for furnishing inaccurate particulars of income and concealment of income. The basis for such initiation is the additions made under Section 68 and disallowances of interest. The appellant has argued that since the penalty proceedings are contingent on the outcome of the additions and disallowances, they should not be sustained. As the additions in the case of appellant are deleted, the penalty proceeding has no legs to stand.*

7. *In the result, the appeal filed by the appellant is allowed."*

7. Being aggrieved, the Revenue carried the appeal before the Tribunal on the grounds reproduced at Paragraph 2 above.
8. We find that the Learned CIT(A) has allowed the appeal preferred by the Assessee by placing reliance upon the decision of the Tribunal in Assessee's own case for the Assessment Year 2008-2009 [ITA No.4378/Mum/2017, dated 27/04/2022].
  - 8.1. On perusal of the above decision we find that during the Assessment Year 2008-2009 the Assessing Officer had made addition of INR.1,64,00,000/- in the hands of the Assessee under Section 68 of the Act. The aforesaid addition included addition of INR.30,00,000/- in respect of loan taken by the Assessee from Olive Overseas P. Ltd. (Real Gold Trading Co. P. Ltd.). During the previous year relevant to Assessment Year 2008-2009, the Assessing Officer had adopted approach identical to Assessment Year 2012-2013 while making the aforesaid addition. The Learned CIT(A) deleted the additions made by

the Assessing Officer under Section 68 of the Act observing as under:

5.3.28. *xx No cogent material was adduced by him to show that loans were unexplained. Therefore/ the impugned addition of under the heading share application money as made in the assessment order, fails on several counts (1) reliance on evidence that is totally inadequate; (2) failure to make available incriminating material (reports, statements etc.) forming basis for action by the AO; (3) failure to give due opportunity to the appellant to cross examine witnesses, whose statement might have been relief upon; and (4) failure to recognize the satisfactory nature of the explanation /evidence tendered by the appellant to explain identity of creditors, creditworthiness of the creditors and the genuineness of the loan transactions. Hence the impugned addition of said loan amount cannot be sustained. In view of the facts and circumstances of the case as well as judicial pronouncements referred and relied above by me and also certain judicial pronouncements relied upon by the appellant in its written submission which has been referred above, addition made by the AO under the heading share capital / share application money as well as loans / advances, cannot be sustained and therefore the AO is directed to delete the amount of Rs.1,64,00,000/-.*

5.3.29(ii) *As regards disallowance of Rs.7,82,106/- under the heading interest expenses by the AO u/s.69C of the I.T Act, 1961, the A.O. has discussed the issue in para 4.13.1. The AO has not given any reason for the same.*

*In this regard, the Id. AR has submitted that the basis on which addition has been made, i.e. the statement of Shri Pravin Kumar Jain recorded by the investigation wing, was never provided for rebuttal. It has further been argued by the Id. AR that the AO has not considered any of the evidences submitted by the appellant to prove the genuineness of the loan. However, keeping in view of the entire facts and circumstances of the case, it is to be concluded that this amount has been disallowed/added by the AO as consequential effect of addition of loans as referred above. Since the addition of said loans has been deleted, the disallowance of interest being consequential in nature, also needs to be deleted. Accordingly the A.O is directed to delete the amount of Rs.7,82,106/-."*

The above findings of the Learned CIT(A) were sustained by the Tribunal vide Order dated 27/04/2022, passed in ITA No.4378/Mum/2017 pertaining to 2008-2009 holding as under:

- "5. *Heard both the sides and perused the material on record. Without reiterating the facts as elaborated above the A.O has reopened the assessment of the assessee on the reasons that it had obtained accommodation entries of loan amount from the 7 concerns controlled and managed by Shri Pravin Kumar Jain as elaborated above in this order. The A.O has added the entire amount of Rs.1,64,00,000/- obtained by the assessee from such concern in the form of unsecured loan as unexplained cash credit u/s 68 of the Act and the interest of Rs.7,82,106/- paid on these loan was also added u/s 69C of the Act. The Id. CIT(A) has deleted the impugned addition as elaborated in his finding reproduced supra in this order. The Id. CIT(A) has given detailed finding stating that the A.O had merely referred to the statement made by Shri Pravin Kumar Jain without bringing on record any evidence to disprove the supporting evidences furnished by the assessee. During the course of assessment proceedings the assessee has submitted the relevant supporting detail comprising confirmation of the parties, PAN numbers, full postal address, bank statement highlighting the transactions and copies of returned filed. The assessee has also submitted copies of balance sheet along with auditors report of the companies with whom the assessee was having loan transaction. The assessee has also submitted that all the transactions were by account payee cheques and copies of bank statement of the lenders were also filed. The A.O has not supplied any copy of statement of Shri Pravin Kumar Jain recorded by the investigation wing during the course of assessment proceedings in spite of repeated request made by assessee. The Id. CIT(A) has discussed in detail in his finding stating that as per the documentary evidences brought on record the assessee has discharged the onus of proving the genuineness of transactions, identity and capacity of the lenders. The assessee has produced evidences such as copies of annual amount repots, Directors report, latest postal address of the parties, PAN numbers and copies of Income Tax return of the parties, loan confirmations etc. The assessee has also provided copies of bank statement of the parties demonstrating that all the transaction were made through banking channel by account payee cheques. However, the A.O has not made any further investigation to disprove the supporting material furnished by the assessee. The Id. CIT(A) also stated that the A.O has not brought*

*any material or evidence to disprove the evidences and explanation given by the assessee other than merely relying on the retracted statement of Shri Pravin Kumar Jain. After taking into consideration the material on record and the detail finding of the Id. CIT(A) as reproduced supra in the order, we don't find any reason to interfere in the finding of Id. CIT(A), therefore, this ground of appeal of the revenue is dismissed.*

6. *In the result, the appeal of the revenue is dismissed."*

9. During the course of hearing Learned Departmental Representative had sought to distinguish the above decision of the Tribunal contending that in the present case the Assessing Officer had directed the Assessee to produce the lenders/parties during the assessment proceedings. It was also specifically recorded by the Assessing Officer that the Investigation Wing had carried out detailed inquiry and therefore it was not a case where not inquiry/clarification was independently carried out by the Assessing Officer. Refuting the aforesaid submissions made by the Learned Departmental Representative, the Learned Authorized Representative for the Assessee submitted that the Assessee had in Paragraph 4.14 of the Assessment Order specifically recorded that in the facts of the present case keeping in view the detailed investigation carried out by the Investigation Wing no further independent inquiry/investigation was warranted. On perusal of Paragraph 4.14 of the Assessment Order, we find that Assessing Officer has noted as under:

*"4.14 Further, it is also not out of place to mention here that the Investigation Wing of the Income-tax Department has conducted search and survey action in the case of Shri Pravin Kumar Jain Group and after conducting several enquiries and recording the statements of several persons including Shri Pravin Kumar Jain, it was concluded that Shri Pravin Kumar Jain through his associates was engaged in the business of providing accommodation entries only and not into any real business. Therefore, conducting independent enquiries in the case of such parties again will frustrate the entire efforts put-forth by the department to prove that these parties are non-genuine." (Emphasis Supplied)*

10. We note that vide Order dated 27/04/2022 passed in ITA No. 4738/Mum/2017 pertaining to Assessment Year 2008-09 in identical facts and circumstances the Tribunal had deleted the identical additions made in respect of unsecured loan taken from the said party observing that the Assessee had produced evidence such as confirmation of the parties, PAN numbers, full postal address, bank statement highlighting the transactions and copies of income tax return to discharge the primary onus caused upon the Assessee under Section 68 of the Act. However, the Assessing Officer had not made any further investigation/inquiry to controvert the material placed on record by the Assessee. The Tribunal had further recorded that the Assessing Officer had made the disallowance/additions by merely relying upon the statement of Shri Pravin Kumar Jain without any corroborative material. In the present case the Learned CIT(A) had deleted the additions made under Section 68 of the Act by following the aforesaid decision of the Tribunal rendered in identical facts and circumstances. Accordingly, we do not find any infirmity in the order passed by the Learned CIT(A) in deleting the additions made by the Assessing Officer under Section 68 of the Act in respect of unsecured loan of INR.16,00,000/- taken by the Assessee from Olive Overseas Pvt. Ltd. (Realgold Trading Co. Pvt. Ltd.) and interest of INR.174,641/- paid in relation to the same.
11. As regards disallowance of interest of INR.88,602/- is concerned, we find that the same has been paid to Casper Enterprises Pvt. Ltd.(INR.40,438/-) and Kush Hindustan Entertainment Ltd. (INR.48,164/-). On perusal of order dated 27/04/2022 passed by the Tribunal in the case of the Assessee for the Assessment Year 2008-2009 [ITA No.4378/Mum/2017, dated 27/04/2022] we find that the additions made in respect of corresponding loans have been deleted by the Tribunal. Therefore consequent disallowance of interest made by the Assessing Officer could not have been sustained. Accordingly, we

do not find infirmity in order passed by the Learned CIT(A) deleting the disallowance of INR.88,602/- made by the Assessing Officer in respect of loans taken from M/s Casper Enterprises Pvt. Ltd. and M/s. Kush Hindustan Entertainment Ltd.

12. In terms of above, the present appeal preferred by the Revenue is dismissed.

Order pronounced on 20.02.2026.

*Sd/-*  
**(Makarand Vasant Mahadeokar)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated :20.02.2026  
*Milan, LDC*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai