

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

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

**ITA No. 2124/Mum/2025  
(Assessment Year: 2012-13)**

Prodigy Infomatics Private Limited Director Plot No. D- 388, MIDC, TTC Industrial Area, Kukshet Village, Navi Mumbai - 400705	Vs.	ITO, 15(2)(4), Mumbai ITO, 15(2)(4), Mumbai Aayakar Bhavan Mumbai- 400020
PAN/GIR No. AADCP3211A		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Shri Virabhadra Mahajan, (SR. DR)

Date of Hearing	04.03.2026
Date of Pronouncement	10.03.2026

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order 18.02.2025 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 following grounds are reproduced below:

*"1. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in dismissing the appeal.*

*2. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in dismissing the appeal and that too without appreciating fully and properly the facts of the case.*

*3. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in confirming the action of the learned A.O. in making an addition of an amount of Rs. 14,37,000/- u/s 68 of the act.*

*4. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in confirming the action of the learned A.O. in making an addition of an amount of Rs.82,110/- by disallowing interest paid on unsecured loans.”*

2. At the very outset, we noticed that none appeared on behalf of the assessee when the case was called out repeatedly. On going through the case files, we found that on earlier occasions the assessee had sought adjournment, but even in spite of that, today nobody appeared.

3. On the other hand, the Ld. DR is present in the court and is ready with the arguments. Therefore, we decided to proceed with the hearing of the case ex parte.

4. **Ground Nos. 1 to 4** raised by the assessee are interrelated and interconnected and relate to challenging the order of the Ld. CIT(A) in confirming the action of the AO in making additions of Rs. 14,37,000/- u/s 68 of the Act and also the addition of Rs. 82,110/- by disallowing the interest paid on unsecured loans. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

5. We have heard the Ld. DR and perused the material placed on record and also the orders passed by the Revenue Authorities. We noticed that the Ld. CIT(A) has dealt in detail with the grounds raised by the assessee. The operative portion of the same is contained in Para Nos. 5 to 7 and is reproduced herein below:

5. **Ground No. 1-5-**

*The issues involved in these grounds are the addition of Rs.14,37,000/- under section 68 of the Act in respect of unsecured loans raised during the year and disallowance of interest of Rs.82,110/- on these loans. The appellant has also contended that the sufficient time was not granted by the AO to furnish the necessary documents.*

*5.1 While making aforesaid additions, the AO has made the observations as under-*

*1. 1.Unsecured Loans*

*5.1 It is seen from the balance sheet and the submission made that during the year fresh unsecured loans from the following parties aggregating to Rs. 14,37,000, for which the AR of the assessee was asked to submit the loan confirmations-*

Sr.No.	Name of the party	Amount of unsecured loan (Rs.)	Interest on Loan
1	Bhavna Obhan	400000	16800
2.	Divya Obhan	200000	8400
3.	Gunvant L. Patel	50000	2100
4.	Heena D. Hinduja	100000	8400
5.	Jayesh R. Shah	119000	4998
6.	Krishna Udyog	59000	4956
7.	Mehra textile Traders	59000	4956
8.	N.C.Textiles	100000	4200
9.	Pankaj R. Shah	250000	23100
10.	Rajkumari D. Obhan	100000	4200

	Total	1437000	82110
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5.2 The AR of the assessee failed to submit the loan confirmations with regard to the above mentioned fresh loans taken during the year. No evidences to establish the creditworthiness, identity and genuineness of the transactions have been submitted.

5.3 For the sake of brevity section 68 of the I.T.Act, 1961 is reproduced as under. Section 68 Cash Credits:-

*"Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to Income-tax as the income of the assessee of that previous year."*

5.4 *At this juncture, it is worthwhile to recall the observations of various higher authorities.*

5.5 *It is necessary for the assessee to prove prima facie the transaction which results in a credit in his books of accounts. Such proof includes proof of the identity of his creditor, the capacity of such creditor to advance the money and, lastly the genuineness of the transactions. These things must be proved prima facie by the assessee and only after the assessee has adduced evidence to establish the identity of the creditor is not enough. This view finds support in the following judgments of the Hon'ble Courts. (Shankar Industries v. CIT (1978) 114 ITR 689 (Cal), C.Kant & Co. vs. CIT (1980) 126 ITR 63(Cal), Prakash Textile Agency v. CIT (1980) 121 ITR 890 (CAL) Oriental Wire Industries P. Ltd., vs. CIT (1981) 131 ITR 688 (CAL), CIT vs. United Commercial & Industrial Co. (P) Ltd., (1991) 187 ITR 596, 599 (Cal), M.A. Unneeri Kutty vs. CIT, (1992) 198 ITR 147, 150 (Ker.).*

5.6 *It has also been held in Bharati P.Ltd. vs. CIT. (1978) 111 ITR 951 (Cal.), CIT vs WJ Walker & Co. (1979) 117 ITR 690, 694 (Cal), CIT vs. United Commercial Industries Co. (P) Ltd., (1991) 187 ITR 596, 599 (Cal.) that mere filing of confirmatory letters does not discharge the onus that lies on the assessee.*

5.7 *In the case of Sumati Dayal vs. CIT 214 ITR 801, the Hon'ble Supreme Court had held that in view of section 68, where any sum is found to be credited in the books of an assessee for any previous year. the same may be charged to income-tax as income if the explanation of the assessee is not found to be satisfactory by the Assessing Officer. Reliance is also placed*

*on the decisions of the Hon'ble Supreme Court in the case of CIT vs. Ganapati Mudiliar 53 ITR 623.*

*5.8 In view of the above and also in light of various judicial pronouncements viz., Jalan Timbers vs. CIT, 223 ITR 11, CIT vs. Precision Finance Pvt.Ltd., 208 ITR 465 (CaL), Nizam Wool Agency vs. CIT, 193 ITR 318 (AIL), CIT vs. Korley Trading Co. Ltd., 23 ITR 820, M.S.Unneri Kutty vs. CIT 198 ITR 147 and R.B. Mittal vs. CIT 246 ITR 283, it is clear that the assessee has not been able to prove that the identity, genuineness and creditworthiness of the parties from whom the unsecured loans were taken. Despite sufficient time given to the assessee, the assessee has failed to discharge its onus. In view of this it is clear that the unsecured loans shown by the assessee company are nothing but its own money.*

*5.9 In view of the above discussion, the loans taken during the year from the above parties amounting to Rs. 14,37,000/- are treated as bogus and also interest on the above loans amounting to Rs. 82110/- and added back to the total income of the assessee u/s. 68 of the Income-tax Act, 1961."*

*5.2 The appellant has made the submission as under on these grounds-*

*"WRITTEN SUBMISSION*

*The appellant is a private limited company and is regularly assessed tax under PAN No.*

*AADCP 3211 A with the I.T.O. ward 15(2) (4), Mumbai.*

*The appellant current corresponding address is Office no.G-004, Tower No. 2. Belapur Station Complex, CBD Belapur, Sector-11, Navi Mumbai 400614.*

*The applicant continued to carry on the same business of developing software and I.T. Solutions. For the year under consideration, the appellant filed a return*

*of income declaring a loss of Rs. 16,12,227/-. The return of income was initially processed u/s 143(1) of the Act and later taken up for scrutiny by issuance of notice u/s 143(2) of the Act. Thereafter, several notices of hearing were issued and the same were duly complied with and consequently, the learned A.O. completed the assessment by passing an order u/s 143(3) of the Act. The taxable income was determined at Rs. (-) 93,117/- as against the returned less of Rs. 16,12,227/-. It is this assessment order which is in appeal before the Hon'ble C.I.T.(A). Mumbai*

*We further submit that a notice dtd. 26/06/2018 received asking us to submit the details of the loan credits amounting to Rs. 14,37,000/ All the details were submitted along with our letter dtd. 8/7/2018 before the learned assessing officer. The details are available on page no. 34 to 84 this reply After submission no further communication was received from the assessing officer.*

*Now coming to the appeal as such, the following submissions may kindly be considered.*

*Ground Nos. 1,2 & 3*

*In this regard, at the outset the Hon'ble CIT(A)'s attention is invited to the chronology of events enclosed herewith from where it would be clear that almost all the effective notices of hearing were issued only in the month of March 2015, when the assessment was getting barred by limitation of time. Despite the last moment notice of hearing all the notices of hearing were duly complied with and all the readily available details were submitted. In fact, on 13-03-15 details of unsecured loans and secured creditors details were asked for and available details were submitted and the hearing was adjourned to 18-03-15. On 18-03-15, some more details confirmations were taken to be submitted, but the learned A.O. did not entertain the assessee on the ground, that the assessment order has already been passed on 17-03-15. However, the learned A.O. without considering fully and properly the details submitted as also without applying his mind to the facts and evidences submitted, completed the assessment by passing an order uis 143(3) of the act and determined the income at Rs. (-) 93.117/- as against the returned loss of Rs.(-)16,12,227/- Thus the assessment*

*order was passed in total violation of rules of natural justice and hence requires to be treated as invalid and bad in law and annulled.*

*"Ground No. 4*

*This ground of appeal is regarding the addition made of Rs.14,37,000/- u/s 68 of the act. This issue has been dealt with by the learned A.O. in Para 5 of his order. A perusal of Para 5 of the order would reveal that the learned A.O. has made the addition only on the ground that the assessee failed to produce confirmation letters.*

*The appellant submitted copy of account, address, PAN and details of the transactions, proper TDS had been deducted by the appellant on interest paid to these parties to evidence further such information so as to prove identity and genuineness of the transaction. Once the appellant has submitted such details which already shows that all such lending parties are assessed to tax, the primary onus of the appellant gets discharged. If the A.O. further wanted to examine, he could have issued summons or conducted necessary inquiry and thereafter could have confronted the appellant if any adverse report is there. This becomes more necessary when appellant show's its inability to give confirmation from all such parties in such a short period. But, the A.O. has not made any Inquiry and conveniently treated all the loan amount with interest as addition u/s 68 of the Act. Even the basic fact in two cases where the amounts got squared up through banking channel also not appreciated by A.O. properly. It is, therefore, such additions may not stand in the eyes of law and required to be deleted. The A.O. has not pointed out any discrepancy or adverse inference from the details submitted by the appellant before coming to conclusion of ie additions on the reason that appellant has not furnished the confirmation letter from the lenders. But, once appellant submit after furnishing details of loan a/c that those parties are not cooperating with appellant, then A.O. could have used his power of inquiries u/s. 131 of the Actor calling for information u/s. 133(6) of the Act or through inspector inquiries. Now, the appellant is submitting various additional details of Ten loan parties to show that all these parties are assessed to tax as all these parties are having PAN and proper TDS had been deducted*

*by the appellant on interest paid to these parties and deposited in Government a/c to evidence further such information so as to prove identity and genuineness of the transaction.*

*In this regard, it has to be submitted that though the assessment proceedings commenced only in the month of February, 2015, the loan details were called for as late as 27th February 2015, when the assessment proceedings were getting barred by limitation of time. However, the appellant submitted confirmation and other available details. The details submitted are available at page no. 208 to 214 and 216 to 259 of the paper book. Thereafter, the hearing proceedings were adjourned to 18-03-15, on which date further details were taken to be submitted but the same were not accepted on the ground that the assessment proceedings have already been completed by passing an order u/s 143 (3) of the act. Finally, the learned A.O. without carrying out any verification whatsoever and without seeking any further details/ clarification made the addition of the loan credits amounting to Rs. 14,37,000/- u/s 68 of the act. The details are available at page nos 34 to 84 of the paper book and a perusal of the same would clearly reveal that the loan credits are genuine leaving no room for any doubt.*

*In view of the above, it is submitted that the additions made of Rs. 14,37,000/- u/s 68 of the act be directed to be deleted*

*Ground No. 5.*

*This ground is a consequential ground, consequential to ground no.4 and therefore consequential directions/benefits may be issued."*

*HELD*

*6. I have considered the submission made by the appellant and have also gone through the material on record. As per balance-sheet as on 31-03-2012, there were unsecured loans of Rs.3,00,37,100/-. During assessment proceedings, the appellant furnished confirmations and other documents in respect of some of the creditors which were accepted by the AO as explained. However, the appellant*

*had not furnished confirmations and other documents in respect of 10 person detailed in the assessment order and therefore, the AO treated the same as unexplained cash credits under section 68 of the Act.*

*6.1 During appeal proceedings, the appellant had furnished the confirmations of account from the aforesaid persons and copy of bank statement of his account showing receipt of amount of loan and requested to admit these additional evidences as per Rule 46A vide its submission dated 24-04-2018 on the plea that sufficient time was not granted by the AO to furnish the same. The Id. CIT(A) having jurisdiction at that time called for a remand report from the AO on these additional evidences vide latter dated 6-06-2018 and a reminder was also given on 21-01-2019. But, as per record available, no remand report has been received. In view of these facts, fact that the first notice under section 142(1) was issued on 2-02-2015 and in the absence of any report from the AO, these additional evidences are being admitted for consideration As the evidences which he could not furnish during assessment proceedings have been admitted for the sake of principle of natural justice and therefore, the grievance of granting less time during assessment proceedings has been taken care of.*

*6.2 On perusal of the documents furnished by the appellant, it has been noticed that all these unsecured loans were raised during the year and not brought forward from preceding year. Therefore, the appellant's submission that in preceding year, unsecured loans were added to the income and the said amount was more than the amount of these loans is not relevant.*

*The appellant has furnished copies of accounts of these unsecured loans in its books of account claimed to be signed by other party at the end of the account as confirmation. He has also filed copies of bank statements of his bank account in which amount received was claimed to be credited. On careful examination of these confirmations, it is noticed that in the case of Krishna Udyog and Mehra Textile Trader and N.C.*

*Textiles, the accounts has been signed by some persons, but no where it is mentioned that in what capacity they he had signed the same. In respect of Pankaj Shah and Gunvant Patel even PAN has not been given. In respect of*

*Rajkumari D. Obhan, some other person has signed the account statement without mentioning the status and capacity he had signed on behalf of Rajkumari. All these facts show that these confirmations are not genuine. The appellant has also not furnished the copy of bank statement of these creditors and also copy of return of income in the absence of which creditworthiness is not proved.*

*6.3 As per settled position of law through the plethora of judicial pronouncements, some of those have been referred by the AO in the assessment order, the onus is on the assessee to prove prima facie the transaction which results in a credit in his books of accounts. Such proof includes proof of the identity of his creditor, the capacity of such creditor to advance the money and, lastly the genuineness of the transactions. Only after the assessee has adduced evidence to establish these ingredients of the transaction, the onus shifts to the AO to prove contrary if he considers the credit entry as non-genuine/For that purpose, he can conduct independent enquiry and may call the creditors for examination. But, in the present case, as discussed in the para above, the appellant has failed to discharge the primary onus cast upon him to explain the nature and sources of the alleged unsecured loans with corroborative evidences. Therefore, he cannot shift the onus to the AO. In view of these facts and legal position, the alleged unsecured loans of Rs. 14,37,000/- remained unexplained and therefore, addition of Rs. 14,37,000/- is confirmed and consequently, disallowance of interest of Rs.82,110/- on these unsecured loan is also confirmed. **Accordingly, these grounds are dismissed.***

*7. **Ground No. 6& 7-** These grounds are dismissed being withdrawn.*

6. After having gone through the orders passed by the Ld. CIT(A), we find that the additions pertain to unsecured loans received by the assessee. In this regard, it is a settled proposition of law that the initial/primary onus is on the assessee to prove prima facie that the transactions which resulted in credits in the books of accounts are genuine. In order to discharge this onus,

the assessee was expected to prove the identity of the creditors, the capacity of the said creditors to advance loans, and also the genuineness of the transactions.

7. As per the record, the assessee failed to discharge its primary onus which was cast upon it to explain the **“nature & source”** of the unsecured loans with corroborative evidence. Since the assessee had failed to discharge its initial onus, it cannot shift that onus onto the AO to prove the contrary. Hence, we find no reason to interfere with the orders passed by the Ld. CIT(A).

8. No new facts or evidence have been placed on record in order to controvert or rebut the findings so recorded by the Ld. CIT(A). Hence, we dismiss these grounds raised by the assessee.

9. In the net result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 10.03.2026

Sd/-

**(JAGADISH)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 10/03/2026

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