

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

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.9091/MUM/2025
(Assessment Year: 2009-2010)**

**ITA No.9092/MUM/2025
(Assessment Year: 2010-2011)**

Piyush Ashok Mehta

3601, India Bull Blu, Ganpatrao Kadam Marg,
Worli, Mumbai - 400013. Maharashtra
[PAN:AATPM2034R]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax
Central Circle 6(4), Mumbai**

Room No.1926, 19th Floor, Air India Building
Nariman Point, Mumbai – 400021.
Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Subodh Ratnaparkhi
For the Respondent/Department : Ms. Deepika Arora

Date

Conclusion of hearing : 04.03.2026
Pronouncement of order : 11.03.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeals preferred by the same Assessee involving identical issues. The appeals were heard together and are being disposed off by way of common order.
 - 1.1. ITA No.9091/Mum/2025 has been preferred by the Assessee against the Order, dated 13/10/2025, passed by the Commissioner of Income Tax (Appeals) – 54, Mumbai [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 20/04/2016, 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 2009-2010.
 - 1.2. ITA No.9091/Mum/2025 has been preferred by the Assessee against

the order, dated 13/10/2025, passed by the Learned CIT(A) whereby the Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 20/04/2016, passed under Section 143(3) read with Section 147 of the Act for the Assessment Year 2010-2011.

2. The facts common to both the appeals are that the Assessee is a part of the Cosmos Group and holds position of partner/director in the associate concerns. For the relevant Assessment Years 2009-2010 and 2010-2011, the Assessee offered to tax business and income from other sources. Assessee filed its original return of income for the Assessment Year 2009-2010 on 30/09/2009 and for Assessment 2010-2011 on 29/09/2010 declaring total income of INR.4,70,704/- and INR.2,36,116/-, respectively. The return was processed under Section 143(1) of the Act. Thereafter, reassessment proceedings were initiated for the Assessment Year 2009-2010 and 2010-2011 after recording the following reasons for reopening the assessment:

"A survey u/s.133A was also conducted at the business premises of M/s. Vinay Unique Developers, an associate concern of Cosmos Group. Bogus unsecured loans amounting to Rs.8,97,00,000/- were detected during the post-search proceedings in the case of M/s.Landmark Realty (Rs.8,69,00,000/-) a group concern of M/s. Vinay Unique Developers and in the individual account of a partner, Piyush Ashok Mehta (Rs.28,00,000/-). During the post-search proceedings in the case of M/s. Vinay Unique Developers, it was seen that Shri Piyush A. Mehta, a group concern, had taken unsecured loans from M/s.Cartier Gems as under:

M/s. Cartier Gems

Sr. No.	F.Y	Unsecured Loan received (INR.)
1	2008-09	20,00,000/-
2	2009-10	8,00,000/-
Total unsecured loans		28,00,000/-

Also, interest paid on these unsecured loans also needs to be disallowed.

In view of the above and after considering the returns of income filed by the assessee, I have reason to believe that substantial incomes (specified as above) chargeable to tax have escaped assessment for

Assessment Year 2009-10 and 2010-11 in terms of section 147 of the I.T.Act. Further, with reference to first proviso to section 147 of the I.T.Act, there is a failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment."

3. As per the reason recorded for re-opening the assessment, a survey under Section 133A of the Act was conducted at the business premises of M/s Vinay Unique Developers, an associate concern of Cosmos Group. During the proceedings that followed it was detected that bogus unsecured loans aggregating to (a) INR.8,69,00,000/- were taken by Landmark Realty - a group concern of M/s. Vinay Unique Developers; and (b) INR.28,00,000/- were taken by the Assessee - a Partner in Landmark Realty from M/s. Cartier Gems.
4. Thus, the Assessing Officer noted that the Assessee had taken bogus unsecured loan amounting to INR.20,00,000/- during the Financial Year 2008-2009 (Assessment Year 2009-2010) and INR.8,00,000 during the Financial Year 2009-2010 (Assessment Year 2010-2011) from M/s. Cartier Gems. According to the Assessing Officer there was failure on the part of Assessee to disclose fully and truly all material facts necessary for assessment. Therefore, reassessment proceedings were initiated for the Assessment Year 2009-2010 and 2010-2011. The Assessee filed objections to the reopening of the assessment proceedings vide Letter, dated 23/03/2016, which were disposed off by the Assessing Officer vide Order, dated 29/03/2016. The Assessing Officer proceeded to pass order under Section 147 read with Section 143(3) of the Act and made addition of INR.20,00,000/- and INR.8,00,000/- for Assessment Years 2009-2010 and 2010-2011, respectively, giving the following reasoning:
 - (a) During the course said survey proceedings carried on the business premises of M/s.Vinay Unique Developers, documents relating to unsecured loans by the Assessee were impounded. The said documents revealed that the Assessee had taken unsecured loans from M/s. Cartier gems.

- (b) The Assessee has taken unsecured loans from accommodation entry provider who had given similar entries to Cosmos Group
- (c) A statement under Section 131 of the Act of the Assessee was recorded on 03/03/2015 wherein he could not prove the identity, genuineness and creditworthiness of the loans taken from M/s.Cartier Gems.
5. The Learned CIT(A) dismissed the appeals preferred by the Assessee challenging the above additions made by the Assessing Officer for the Assessment Year 2009-2010 and 2010-2011.
6. Now, therefore, the Assessee has preferred the present appeals for the Assessment Year 2009-2010 and 2010-2011 before this Tribunal challenging the validity of the reassessment proceedings and the addition made by the Assessing Officer on merits.

Assessment Year 2009-2010 [ITA No. 9091/Mum/2025]

7. We would first take up appeal for the Assessment Year 2009-2010 preferred by the Assessee. Following grounds have been raised by the Assessee in ITA No. 9091/Mum/2025:
- "1. The Hon CIT(A) erred in upholding the re-opening of assessment u/s 147 of the I. Tax Act 1961, by issue of the notice u/s 148 on 23.03.2016, not appreciating that such re-opening of assessment u/s 147 was bad-in-law and the asst. order flowing therefrom, being the order u/s 143(3) r.w.s. 147 was also invalid and bad in law and hence the same was required to be quashed.*
- 2. The Hon CIT(A) erred in upholding the addition of Rs.20,00,000/- made by the Id AO as unexplained cash credit u/s 68 of the IT Act 1961 on account of unsecured loan borrowed from one M/s Cartier Gems, not appreciating that the said unsecured loan was a genuine loan and duly supported by substantial evidence and that the appellant had fully discharged the onus placed by section 68 of the I.T. Act, 1961 and the addition was not justified and is required to be deleted."*
8. When the appeals were taken up for hearing the Learned Authorised

Representative for the Assessee, at the outset, submitted that the Assessing Officer has in the reasons recorded for reopening assessment had referred to unsecured loans borrowed by M/s. Landmark Realty amounting to INR.8,69,00,000/- and by the Assessee amounting to INR.28,00,000/-. Identical additions giving identical reasoning were made in the hands of M/s. Landmark Realty and the Assessee in respect of unsecured loans. The Assessing Officer had made addition of INR.8,69,00,000/- in the hands of M/s. Landmark Realty and INR.28,00,000/- in the hands of the Assessee. The case of M/s. Landmark Realty had travelled to the Tribunal and a Co-ordinate Bench of the Tribunal has dismissed the appeal preferred by the Revenue challenging the relief granted by the Learned Commissioner of Income Tax Appeals in the case of M/s. Landmark Realty. Thus, the addition of INR.8,69,00,000/- made in the hands of M/s. Landmark Realty stands deleted by the Order, dated 07/12/2022, passed in ITA No. 3953 & 3954/Mum/2019 pertaining to Assessment Year Assessment Year 2011-2012 and 2012-2013, respectively. It was further submitted that the Hon'ble Bombay High Court had declined to admit the appeal preferred by the Revenue against the aforesaid decision of the Tribunal, dated 07/12/2022. A copy of the judgment of the Hon'ble Bombay High Court in the case of Pr. CIT vs M/s. Landmark Realty [ITA (IT) 567 of 2024, dated 03/12/2025, 2025:BHC-OS:23419-DB] was placed on record by the Learned Authorised Representative for the Assessee. On the basis of the aforesaid, it was submitted that identical reasoning given by the Assessing Officer was rejected by the Tribunal and additions made by the Assessing Officer in respect of unsecured loans were deleted. After taking us through paragraph 12 to 14 of the decision of the Tribunal in the case of the of the M/s Landmark Realty [ITA No. 3953 & 3954/Mum/2019], the Learned Authorised Representative for the Assessee submitted that in the present case also the Assessee had discharged the onus in terms of Section 68 of the Act while the

Assessing Officer had simply rejected the documents/details filed without any inquiry or verification. In this regard reliance was placed upon the following:

- (a) Loan confirmation containing the PAN as well as the address of M/s. Cartier Gems.
- (b) Ledger account of M/s. Cartier Gems in the books of the appellant.
- (c) Reply u/s 133(6) furnished by M/s. Cartier Gems.
- (d) Income tax return ack of M/s. Cartier Gems.
- (e) Bank statement of M/s. Cartier Gems.
- (f) Balance sheet and profit & loss A/c of M/s. Cartier Gems.
- (g) Notice u/s 133(6) of the 1.T Act, 1961 issued to M/s. Cartier Gems.

9. Per Contra, the Learned Authorised Representative for the Assessee placed reliance upon the order passed by the Assessing Officer and the Learned CIT(A). It was submitted that Assessing Officer had paragraph 6 of the Assessment Order recorded that during the survey action under Section 133A of the Act at the Business Premises of M/s. Vinay Unique Developers documents related to unsecured loans were impounded which revealed that the Assessee had taken unsecured loans from M/s. Cartier Gems engaged in providing accommodation entry. Statement of the Assessee was recorded under Section 131 of the Act on 03/03/2015 and that Assessee failed to prove the identity, genuineness & creditworthiness of the loans taken from M/s. Cartier Gems.
10. We have considered the rival submissions and have perused the material on record.
11. We note that the Assessing Officer has recorded in paragraph 6 of the Assessment Order that in response to show-cause notice, the Assessee

had filed reply Letter, dated 20/04/2016. On perusal of the same we find that the Assessee had placed before the Assessing Officer the following documents:

- (a) Loan Confirmation from Cartier Gems
- (b) Ledger Account maintained by the Assessee
- (c) Response given by Cartier Gems to Section 133(6) notice issued by the Assessing Officer along with loan confirmation, bank statement of Cartier Gems and the Financial Statements of Cartier Gems.

12. In our view, by furnishing the above documents the Assessee had discharged the onus cast upon the Assessee in terms of Section 68 of the Act. On perusal of the Assessment Order, we find that the Assessing Officer has not made any further inquiry or verification. By relying upon the statement of the Assessee recorded under Section 131 of the Act, the Assessing Officer has rejected the documents. We note that identical approach adopted by the Assessing Officer was rejected by the Tribunal in the case of M/s Landmark Realty [ITA No. 3953 & 3954/Mum/2019, Common Order, dated 07/12/2022]. The relevant extract of the said decision reads as under:

"12. We have heard the rival contentions and perused the record. The Assessing Officer has reopened the assessment for A.Y. 2011-12 in order to verify the loan taken by the assessee from M/s. Centre Point Gems Pvt. Ltd. The return of income filed for A.Y. 2012-13 was taken up for scrutiny mainly for the purpose of examining the loan taken by the assessee from the above said concern in that year. The facts, which triggered the Assessing Officer to do so, have been explained in earlier paragraphs i.e. since the Cosmos Group have surrendered the loans taken from various concerns, the Assessing Officer has entertained the belief that the M/s. Centre Point Gems Pvt. Ltd. is also a bogus concern. In this process, we noticed that the Assessing Officer has completely disregarded the information and explanations furnished by the assessee and also disregarded the results of his own inquiry.

13. There is no dispute with regard to the fact that the assessee has furnished complete financial details of M/s. Centre Point Gems Pvt. Ltd., viz., financial statements, copy of bank statement, copy of income tax statement and confirmation letter. We noticed that the Assessing Officer himself has conducted an independent inquiry by issuing notice under section 133(6) of the Act to M/s. Centre Point Gems Pvt. Ltd and the said notice has been duly replied by the lender. We noticed that the Assessing Officer has not found fault with any of the information and explanations furnished both by the assessee and lender.
14. Under section 68 of the I.T. Act, initial onus to prove the cash credit is placed upon the shoulders of the assessee i.e. the assessee has to prove the three main ingredients namely – identity of the creditor, creditworthiness of the creditor and genuineness of the transactions. In the instant case it is not the case of the Assessing Officer that the assessee has failed to discharge the initial onus placed upon it. It is also settled law that, once the assessee has discharged onus placed upon him, onus to disprove the evidences furnished by the assessee would shift to the shoulders of the Assessing Officer. In the instant case, admittedly, the Assessing Officer has not found any fault with the evidences furnished by the assessee and the lender. However, the AO did not bring any material on record to controvert the evidences furnished by the assessee, meaning thereby, the Assessing Officer has failed to discharge the onus shifted upon him under the provisions of section 68 of the Act.
15. *The Learned DR submitted that the financial position of the lender is not commensurate with the loan amount given by it. In this regard he invited our attention to the capital owned by the lender as well as profit earned by it. However, a perusal of the Balance-sheet of the lender would show that the lender was having enough funds in the form of its own funds and also by way of loans taken by it from others. Hence the lender was having sufficient funds for giving the impugned loan to the assessee. It is not the case of the Assessing Officer or learned DR that the borrowings disclosed in the balance sheet of the lender are bogus in nature. Hence, the source for giving loan to the assessee has been duly explained by the lender and cannot be doubted with.*
16. *We notice that the Ld CIT(A) has passed a detailed order, which is*

extracted above, after duly verifying the facts prevailing in this case. The Ld CIT(A) has called for a remand report from the AO and in the remand report also, the AO could not point out any deficiency in the information and explanations furnished by the assessee. Hence, there is no reason for making addition u/s 68 of the Act and accordingly, we are of the view that the learned CIT(A) was justified in deleting the additions made u/s 68 of the Act as well in deleting the interest disallowances in both the years under consideration. Accordingly, we confirm the orders passed by the learned CIT(A) in both the years.

17. In the result, both the appeals filed by the Revenue are dismissed.”

13. It is admitted position that vide Order, dated 03/12/2025, passed in ITA (IT) No. 567 of 2024, [2025:BHC-OS:23419-DB] the Hon'ble Bombay High Court has declined to admit the appeal preferred by the Revenue against the above order of the Tribunal.
14. In view of the above, given the parity in facts, respectfully following the decision of the Tribunal in the case of M/s Landmark Realty [ITA No. 3953 & 3954/Mum/2019, Common Order, dated 07/12/2022], we delete the addition of INR.20,00,000/- made in the hands of the Assessee for the Assessment Year 2009-2010. Thus, Ground No.2 raised by the Assessee is allowed. Ground No.1 raised by the Assessee challenging the validity of the reassessment proceedings is dismissed as having been rendered academic and therefore, not pressed by the Assessee.
15. In result, appeal preferred by the Assessee for the Assessment Year 2009-2010 is partly allowed.

Assessment Year 2010-2011 [ITA No. 9092/Mum/2025]

16. Next, we would take up appeal preferred by the Assessee for the Assessment Year 2010-2011. The Assessee has raised following grounds of appeal :

- "1. The Hon CIT(A) erred in upholding the re-opening of assessment u/s 147 of the I. Tax Act 1961, by issue of the notice u/s 148 on 23.03.2016, not appreciating that such re-opening of assessment u/s 147 was bad-in-law and the asst. order flowing therefrom, being the order u/s 143(3) r.w.s. 147 was also invalid and bad in law and hence the same was required to be quashed.*
- 2. The Hon CIT(A) erred in upholding the addition of Rs.8,00,000/- made by the Id AO as unexplained cash credit u/s 68 of the IT Act 1961 on account of unsecured loan borrowed from one M/s Cartier Gems, not appreciating that the said unsecured loan was a genuine loan and duly supported by substantial evidence and that the appellant had fully discharged the onus placed by section 68 of the I.T. Act, 1961 and the addition was not justified and is required to be deleted."*

17. During the course of hearing both the sides had agreed that in facts and circumstances identical to the Assessment Year 2009-2010, addition of INR.800,000/- was made in the hands of the Assessee under Section 68 of the Act in respect of unsecured loan taken by the Assessee from M/s Cartier Gems during the relevant previous year. Therefore, our findings/adjudication in relation to grounds raised in appeal for the Assessment Year 2009-2010 shall apply mutatis mutandis to the grounds raised in appeal for the Assessment Year 2010-2011. Accordingly, keeping in view identical facts and circumstances, and adopting the reasoning given while adjudicating ITA No.9091/Mum/2026 for the Assessment Year 2009-2010 hereinabove, we proceed to adjudicate the ground raised in the present appeal. Accordingly, In view of our finding/adjudication in paragraph 10 to 14 above, we delete the addition of INR.8,00,000/- made in the hands of the Assessee under Section 68 of the Act for the Assessment Year 2010-2011. Accordingly, Ground No. 2 raised by the Assessee in the present appeal is allowed. Ground No.1 raised by the Assessee challenging the validity of the reassessment proceedings is dismissed as having been rendered academic and therefore, not pressed by the Assessee.

18. In result, appeal preferred by the Assessee for the Assessment Year 2010-2011 is partly allowed.
19. In conclusion, both the appeals preferred by the Assessee are partly allowed.

Order pronounced on 11.03.2026.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 11.03.2026
Milan, LDC

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त/ The CIT
4. प्रधान आयकर आयुक्त/ Pr.CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापितप्रति //True Copy//

उप/सहायकपंजीकार /(Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai