

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHANDIGARH**

**HYBRID HEARING**

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT**  
**AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकर अपील सं./ ITA No.1066/CHANDI/2025**  
**(निर्धारण वर्ष / Assessment Year: 2012-13)**

M/s Skycity Builders and Promoters Pvt. Ltd. SCO-90, City Heart Kharar-Chandigarh Road, Kharar, Rupnagar (Punjab) - 140301	<b>बनाम/</b> Vs.	DCIT Ward 6(1) Room No.3, 1 <sup>st</sup> Floor Livestock Complex Sector – 68, Mohali -160062
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAPCS-2435-R</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

**&**

**2. आयकर अपील सं./ ITA No.1217/CHANDI/2025**  
**(निर्धारण वर्ष / Assessment Year: 2012-13)**

DCIT Ward 6(1) Room No.3, 1 <sup>st</sup> Floor Livestock Complex Sector – 68, Mohali -160062	<b>बनाम/</b> Vs.	M/s Skycity Builders and Promoters Pvt. Ltd. SCO-90, City Heart Kharar-Chandigarh Road, Kharar, Rupnagar (Punjab) - 140301
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAPCS-2435-R</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Sudhir Sehgal (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Ms. Yamini (CIT) - Ld. DR (Virtual)

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	05.02.2026
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	16.03.2026

## आदेश / O R D E R

### Manoj Kumar Aggarwal (Accountant Member)

1.1 Aforesaid cross-appeals for Assessment Year (AY) 2012-13 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 01-08-2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 143(3) r.w.s. 147 of the Act on 30-12-2019.

### 1.2 The assessee's grounds of appeal read as under:

1. That the Ld. CIT(A), NFAC, Delhi has erred in dismissing the grounds of appeal Nos. 1 to 4 taken before him with regard to reopening of the case u/s 148 vide order dated 01.08.2025.
2. That the Ld. CIT(A) has dismissed the appeal on the ground of 148 as, there was wrong reason to believe, formed by the Assessing Officer concerned as recorded in the reasons for reopening of the case u/s 148, about non filing of return of income.
3. That the Ld. CIT(A) has failed to appreciate that the assessee had filed the return of the above said year and which was duly evident from the record whereas, in the reasons as recorded by the AO, it has wrongly been stated that the assessee is non-filer.
4. That the Ld. CIT(A) has failed to appreciate that the PCIT had accorded his approval for reopening of the case in a mechanical manner and that approval has also been granted by the PCIT on the basis of incorrect facts that the assessee is a non-filer.
5. That the Ld. CIT(A) has failed to follow number of judgments of High Courts and of Jurisdictional ITAT as cited before him that if there is wrong reason to believe then, the reopening u/s 148 deserves to be quashed.
6. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.

### 1.3 The revenue's grounds of appeal read as under:

1. Whether, on the facts and in the circumstances of the case, the CIT(A) was correct in law in deleting the addition of Rs.77,29,69,000/- made under Section 68 of the Income-Tax Act, 1961 when the assessee had failed to establish the creditworthiness of creditors and the genuineness of loan transactions despite adverse findings of the Assessing Officer?
2. Whether, in law, the mere production of confirmations, PAN details, and audited financial statements of creditors can be treated as sufficient compliance with the requirements of section 68, without the assessee demonstrating actual financial capacity of lenders and genuineness of transactions?

3. Whether the CIT(A) erred in deleting the addition by not appreciating that the bank statements of creditors revealed heavy cash deposits immediately prior to advancing loans and that many creditors operated through cash credit accounts which turned into NPAs, thereby establishing that the transactions were not genuine?
4. Whether, on the facts and in law, the CIT(A) was justified in deleting the addition of Rs.2,02,41,851/- made on account of unexplained expenditure merely on the basis that the same was reflected as "pre-operative expenses" in the balance sheet, without verification of supporting vouchers, bills, OR other documentary evidence?
5. Whether, in law, book entries made by the assessee can be treated as conclusive evidence of genuineness of expenditure, without the assessee discharging the onus of establishing actual source and business nexus of such cash withdrawals with contemporaneous records.
6. Whether the deletion of addition of Rs.2,02,41,851/- by the CIT(A), without examination of material evidence, overlooks the principle that self-serving entries in books cannot substitute proof of genuineness of transactions?
7. The appellant craves leave or add OR amend any grounds of appeal before the appeal is heard OR disposed off?
8. It is prayed that the order of the Hon'ble ITAT be cancelled and that of Assessing Officer may be restored?

As is evident, the assessee challenges reopening of the case on legal grounds whereas the revenue is challenging deletion of twin quantum addition on merits.

1.4 The Ld. AR advanced arguments on legal grounds assailing reopening of the assessment. The Ld. CIT-DR also advanced arguments on merits of the case and pleaded for restoration of assessment order. The Ld. CIT-DR controverted the legal grounds as urged by Ld. AR. The written submissions have been filed by Ld. CIT-DR on 12-03-2026 which has duly been considered while adjudicating the appeals. Having heard rival submissions and upon perusal of case records, the appeals are disposed-off as under.

### **Assessment Proceedings**

2.1 The assessee filed regular return of income on 05-10-2013 vide acknowledgement No.814729751051013 which was processed u/s

143(1). Subsequently, the case was reopened pursuant to receipt of AIR information that the assessee purchased certain property for consideration of Rs.9 Crores during the period under consideration and in the absence of any Income-tax return as filed by the assessee, the income to that extent had escaped assessment. Accordingly, a notice u/s 148 was issued to the assessee by Ld. AO on 30-03-2019 after obtaining necessary administrative approval of Ld. Pr. CIT-2. In response to notice u/s 148, the assessee offered original return of income. The Ld. AO noted that though the assessee had filed return of income on 05-10-2013, but no scrutiny assessment was done for the year. The property in question was stated to be purchased out of unsecured loans. The Ld. AO proceeded to examine these loans and sought assessee's explanations with respect to the same.

2.2 During the course of assessment proceedings, it transpired that the assessee obtained unsecured loans from nine lenders entities as tabulated below: -

No.	Name of Entity	Loan taken during the period	Closing balance
1.	Bhola Trading Co.	10000000	5500000
2.	Binus Trading Co.	15000000	15000000
3.	H.R. Rice Industries	216069000	136659000
4.	N.B. Traders	45000000	9500000
5.	Sandeep Trading Co.	10000000	10000000
6.	Shiv Shakti Exporters P. Ltd.	35000000	25000000
7.	Sunrise City Prom. & Dev. P. Ltd.	35850000	35850000
8.	Surinder Verma	246750000	272750000
9.	Westron Homes P. Ltd.	159300000	159300000
	<b>Total</b>	<b>77,29,69,000</b>	<b>66,95,59,000</b>

Accordingly, the veracity of these loans was enquired into by Ld. AO at the threshold of provisions of Sec. 68 and the assessee furnished detailed reply for each of the lender entity.

2.3 The Ld. AO, upon examination of assessee's submissions and documentary evidences alleged that the onus as required u/s 68 was not discharged by the assessee. The findings with respect to each of the lender were summarized by Ld. AO at para 4.10 as under:-

PARTY-WISE DISCREPANCIES ESTABLISHING THE NON-GENUINENESS AND NON-CREDITWORTHINESS OF THE LOAN IS SUMMARISED AS UNDER:-

No.	Name of the Party	Amount of Loan received	Discrepancy noted
1	Westron Homes Pvt. Ltd.	159300000	<p>a. Non-filing of the ITR by M/s Western Buildcon (P) Ltd. and no comments regarding the non-filing of ITR by the assessee in its reply to the show-cause</p> <p>b. Report of the inspector about non-existence of M/s Western Buildcon (P) Ltd. and its directors.</p> <p>c. No comments from the assessee regarding the non-existence of M/s Western Buildcon (P) Ltd. and its directors even in reply to the show-cause issued to the assessee.</p> <p>d. Furnishing wrong particulars like name, bank account details by the assessee in respect of M/s Western Buildcon (P) Ltd. and no comments by the assessee in its reply to the show-cause regarding the same.</p> <p>e. Cash trail of Rs.2.88 cr found in the bank account of various concerns preceding to the advancement loan to the assessee company by M/s Western Buildcon (P) Ltd.</p>
2	Binus Trading Co.	15000000	<p>a. M/s Binus Trading Co. is a partnership firm having partners Smt. Binus Verma D/o Sh. Surinder Verma who is one of the directors of the assessee which point towards the closeness and accessibility of the assessee to Binus Trading Company and further giving an opportunity to the assessee to introduce its unaccounted money into its books of account.</p> <p>b. Both the bank accounts of Binus Trading Company which were operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>c. Loan remaining outstanding even after a gap of 8 years.</p> <p>d. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15 till date.</p> <p>e. Finding a cash trail of Rs. 70 lakhs preceding to the advancement of loan to the assessee company.</p> <p>f. Turning into a defaulter of a nationalized Bank (PNB).</p>
3	H.R. Rice Industries	2160690000	<p>a. Sh. Sudarshan Verma, one of the directors of M/s H.R. Rice Industries (P) Ltd. is also one of the directors of the assessee company which point towards the closeness and accessibility of the assessee to M/s H.R. Rice Industries (P) Ltd. to introduce its unaccounted income through bank accounts of M/s H.R. Rice Industries (P) Ltd.</p> <p>b. Both the bank accounts of H.R. Rice Industries (P) Ltd. which were operating from the same bank account as that the assessee company have money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>c. Loan remaining outstanding even after a gap of 8 years.</p> <p>d. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15 till</p>

			<p>date</p> <p>e. Finding cash trail of Rs. 4.08 cr. Preceding to the advancement of loan to the assessee company.</p> <p>f. Furnishing of two different copy of account of the assessee by M/s H.R. Rice Industries (P) Ltd. One during the course of its own assessment proceedings and another in reply to the summons u/s 131 issued during the course of assessee's assessment proceedings further highlighting the non-reliability and non-dependability on the evidences furnished by the party in response to the summons u/s 131.</p> <p>g. Turning into a defaulter of a nationalized Bank (PNB)</p>
4	N.B. Traders	45000000	<p>a. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15 till date.</p> <p>b. Both the bank accounts of N.B. Traders which were operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>c. Loan remaining outstanding even after a gap of 8 years.</p> <p>d. Furnishing of three completely different copies of account of N.B. Traders and Skycity Builders &amp; Promoters Pvt. Ltd. in their books of account respectively have been furnished by these assessee's on three different occasion as follows:-</p> <p>a) Copy of account of Skycity Builders &amp; Promoters submitted by N.B. Traders in response to summons u/s 131.</p> <p>b) Copy of account of N.B. Traders submitted by a Skycity Builders &amp; Promoters during its own assessment proceedings.</p> <p>Further highlighting the non-reliability and non-dependability on the evidences furnished by the party in response to the summons u/s 131</p> <p>e. Turning into a defaulter of a nationalized Bank (PNB)</p>
5	Sandeep Trading Co.	10000000	<p>a. Both the bank accounts of Sandeep Trading Co. which were operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>b. Loan remaining outstanding even after a gap of 8 years.</p> <p>c. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15</p> <p>d. Finding of cash trail of Rs.17 lakh preceding to the advancement of loan to the assessee company.</p> <p>e. Turning into a defaulter of a nationalized Bank (PNB)</p>
6	Shiv Shakti Exporters Pvt. Ltd.	35000000	<p>a. Sh. Surinder Verma &amp; Sh. Hitesh Verma, both are the directors of M/s Shiv Shakti Exporters (P) Ltd. and have been the directors of the assessee company which point towards the closeness and accessibility of the assessee to M/s Shiv Shakti Exporters (P) Ltd. and further giving an opportunity to the assessee to introduce its unaccounted money into its books of account.</p> <p>b.</p> <p>c. Both the bank accounts of Sandeep Trading Co. which were operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>d. Loan remaining outstanding even after a gap of 8 years.</p> <p>e. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15 till date.</p> <p>f. Finding of cash trial of Rs. 15 lakh preceding to the advancement of loan to the assessee company.</p> <p>g. Turning into a defaulter of a nationalized Bank (PNB)</p>
7	Sunrise City Promoters	35850000	<p>a. Non-filing of the ITR by M/s Sunrise City Promoters and Developers Pvt. Ltd. and no comments regarding the non-filing f ITR by the assessee in its reply to the show-cause.</p> <p>b. Report of the inspector about non-existence of M/s Sunrise City Promoters and Developers Pvt. Ltd. and its directors.</p>

			<p>c. No comments from the assessee regarding the non-existence of M/s Sunrise City Promoters and Developers Pvt. Ltd. and its directions even in reply to the show-cause issued to the assessee.</p> <p>d. Immediate cash deposits of Rs. 90 lakhs found in the bank account of M/s Sunrise City Promoters and Developers Pvt. Ltd. and no comments in reply to the show-cause.</p>
8	Surinder Verma	246750000	<p>a. Finding of cash trail of Rs.6.22 cr preceding to the advancement of loan to the assessee company.</p> <p>b. Sh. Surinder Verma is one of the directors of the assessee company which point towards the closeness and accessibility of the assessee to Sh. Surinder Verma and further giving an opportunity to the assessee to introduce its unaccounted money into its books of account.</p> <p>c. Bank account of Sh. Surinder Verma operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>d. Loan remaining outstanding even after as gap of 8 years.</p>
9	Bhola Trading Co.	10000000	<p>a. No justification or submission in case of loan received from M/s Bhola Trading Co. has been furnished by the assessee.</p> <p>b. Both the bank accounts of Sandeep Trading Co. which were operating from the same bank account as that of the assessee company have been found to be a classic case of routing money from one entity to another giving a proper resemblance of a colourable device and a mere conduit to introduce unaccounted money in the books of account of the assessee.</p> <p>c. Loan remaining outstanding even after a gap of 8 years</p> <p>d. Non-payment of interest and non-deduction of TDS by the assessee after A.Y. 2014-15 till date.</p> <p>e. Turning into a defaulter of a nationalized Bank (PNB)</p>

2.4 The Ld. AO thus summarized his conclusion for each of the lender party and alleged that the primary ingredients of Sec.68 remained to be fulfilled for these lender entities and accordingly, the unsecured loans thus received by the assessee were held to be lacking creditworthiness as well as genuineness. All these entities advanced loans which remained outstanding even after a gap of almost eight years especially when no interest was charged by these parties and no financial benefit accrued to these parties in spite of advancing such huge loans and keeping it outstanding for a period of more than eight years. All the lenders turned into bank defaulter. The entries were routed in such a manner so as to create illusion of genuineness but the loans were ultimately found to be originating from a bank account where cash had been deposited. There had been five

to six layers of routing of entries through different bank accounts after cash deposit in the first bank account. The fact of cash deposits coupled with layering of entries through different bank accounts would be nothing but a case of introduction of unaccounted money in the books of the assessee. Applying the test of preponderance of human probability as expounded by Hon'ble Apex Court in the case of **CIT vs. Durga Prasad More (1971) 82 ITR 540** as well as in **Sumati Dayal (214 ITR 801)**, the assessee's claim *qua* genuineness of unsecured loans was to be rejected. It was alleged by Ld. AO that the assessee used its related / family concerns to route its unaccounted money by creating number of layers of transactions and using them as colorable device to finally introduce its own unaccounted money. Finally, the assessee's evidence / explanation were rejected and aforesaid loans were added to assessee's income u/s 68 of the Act.

2.5 Another addition as made by Ld. AO was on account of unexplained expenditure which stem from the fact that the assessee deposited cash of Rs.351.40 Lacs which was sourced out of earlier withdrawals for Rs.644.40 Lacs. The assessee was asked to explain the expenses incurred for the differential amount of Rs.293 Lacs. Some amount was stated to be spent on execution of sale deed which was accepted by Ld. AO. The amount of Rs.202.41 Lacs was stated to be spent on certain development work. The Ld. AO observed that in the financial statements, these expenses were not booked and therefore, the expenditure remained unexplained though the assessee contended that the entries were shown under the head '*pre-operative*

*expenses*'. Finally, the amount of Rs.202.41 Lacs was added to assessee's income as unexplained expenditure and the assessment was framed which was subjected to assessee's further challenge in first appeal wherein the assessee challenged the reopening of the assessment on legal grounds and also challenged quantum additions on merits.

### **Appellate Proceedings**

3.1 On legal ground assailing reopening of the assessment, the assessee contended that the findings of Ld. AO were in the nature of '*reasons to suspect*' and not '*reasons to believe*'. The case was reopened on borrowed satisfaction. There was no link between the tangible material and formation of reason to believe that the income had escaped assessment. However, Ld. CIT(A) rejected the same on the ground that there exists reasonable ground to form the belief of escapement of income. Accordingly, the legal grounds as urged by the assessee were rejected.

3.2 On merits, the findings of Ld. AO with respect to each of the lender entities were noted. In the case of M/s Westron Homes Pvt Ltd, the assessee had furnished copy of account in the books of the assessee and also submitted copy of bank account of that party for FY 2011-12 contending that all the amount were received by cheque through banking channels. Out of the amount of Rs. 15.93 crores as received during the year under consideration, the amount of Rs. 14.13 crores had been returned back immediately in the next year through banking channels as per copy of the account as submitted by the

assessee. However, Ld. AO noted that though the return of income was filed by this party for AY 2011-12, no return of income was filed for AY 2012-13. The summons issued to the director of that entity remained unresponsive. Therefore, these loan credits were rejected by Ld. AO. With respect to Binus Trading Co., the assessee had filed confirmation of amount mentioning PAN and Income Tax Return of the lender entity for AY 2012-13 along with copy of its bank account and copy of accounts for the next year in support of the fact that interest was paid. However, the summons issued by Ld. AO remained unresponsive and also there were certain cash deposits and clearing in the bank accounts of the lender and therefore, the claim was rejected. With respect to remaining 7 lender entities, the assessee furnished respective confirmations & bank statements, copy of the Income Tax Returns and established payment of interest in some cases but Ld. AO rejected the same on the ground that there were credit and cash entries in respective bank accounts of lender entities. Though all the parties were being assessed to tax, Ld. AO pointed out that all the parties had CC limit from the same bank as that of the assessee. It was alleged that there was routing of entries from one account to another bank account and none of the party had appeared before the Ld. AO. The majority of the loans were still outstanding.

3.3 As against the findings of Ld. AO, the assessee furnished detailed paper-book which include bank statements, Ledger account, copies of Income Tax Returns along with supporting case laws to establish the satisfaction of primary ingredients of Sec.68. These

details, with respect to each of the party, has been tabulated by Ld. CIT(A) at para 4.4.1 of the impugned order. For all the lender parties, the assessee had furnished confirmation from lender entities, details of PAN, copies of Bank Account and Income Tax Returns of these lender entities. The copy of accounts for subsequent years were also filed which established that interest was charged by them in succeeding years and taxed in their hands. The substantial loans were repaid back to M/s Sunrise City Promoters and Developers Pvt Ltd. and also to M/s Westron Buildcon Pvt. Ltd. in AY 2013-14. By furnishing these documents, it was contended by the assessee that the amounts were received from identifiable parties through banking channels and all lender entities were duly assessed to tax. Further, except for two parties namely M/s. Sunrise City Promoters and Developers Pvt Ltd and M/s. Westron Buildcon Pvt Ltd, all the other parties had duly responded to the enquiries made by Ld. AO during the course of assessment proceedings wherein they had furnished the confirmed copy of account in their books of account quoting their PAN Numbers, copy of their bank account statements for FY 2011-12 from where the amounts were advanced to the assessee and also explained by way of separate letter giving details of the other particulars as desired by Ld. AO.

3.4 The Ld. CIT(A) concurred that with respect to M/s Bhola Trading Co., the assessee submitted confirmation from the lender party with PAN details, copy of ITR, copy of bank account statement, evidence of filing of return of income for the AY 2012-13. The interest was

charged by that lender in subsequent year. This entity was engaged in trading of rice and the source of loan as advanced to the assessee was out of CC limit of PNB. The assessment for this entity was completed by Ld. AO u/s 143(3) for AYs 2012-13 & 2013-14 wherein Ld. AO did not doubt the source of funds of the lender entity. On the date of advancement of loan, there was sufficient balance in the bank account of lender. The assessee maintained proper books of account and a sum of Rs.45 Lacs was already returned back through banking channel during the year under consideration. The assessment of that entity was completed u/s 143(3) without any adverse remarks. Therefore, there was no justification to make addition for this lender entity. Accordingly, the impugned addition for this lender party was directed to be deleted.

3.5 For Binus Trading Co., the assessee furnished confirmation of loan, PAN details, copy of Income Tax Return & bank statement of lender entity. In subsequent years, interest was charged on the loan. The assessment of lender entity stood completed by Ld. AO u/s 143(3) without any adverse view. The lender was regularly filing ITR with huge turnover and there was CC limit for the lender entity. Therefore, there was no justification in making addition for this lender entity.

3.6 In the case of M/s H.R. Rice Industries, the assessee had furnished confirmation of the lender, PAN details, copy of ITR and bank statement of that party. Interest was charged on the loans in subsequent years. The substantial loan stood repaid back to this party

during this year itself through banking channels. The lender entity was assessed u/s 143(3) in the same range without any adverse view. Therefore, the addition for this lender was held to be not justified.

3.7 For M/s N.B. Traders, the assessee furnished confirmation of the lender, PAN details, copy of ITR and the bank account of the lender and copies of accounts for later years wherein interest was credited. The substantial loan stood repaid back during this year itself. Therefore, the addition for this party was deleted. Similar were the findings for M/s Sandeep Trading Co. as well as for M/s. Shiv Shakti Exporters Pvt Ltd. The individual lender viz. Shri Surinder Verma acted as a director in the company and he was regularly been assessed to tax. Therefore, there was no justification in making the addition for these lenders.

3.8 For Sunrise City Promoters and Developers Pvt Ltd., this amount was not 'unsecured loan' but the amount was received against the proposed sale of some stock of land as possessed by the assessee. The assessee received amount of Rs.358.50 Lacs out of which the amount of Rs.350 Lacs was returned back immediately in the next year. In support, the assessee furnished confirmation, PAN details & copy of the bank account of that party. Since the deal did not materialize, the amount was returned back immediately in succeeding year which was evident from bank statement. Therefore, the addition for this party was deleted. Similarly, the amount was received from M/s Westron Homes Pvt Ltd, for sale of land. Since the deal did not materialize, the said amount was returned back in the immediately

succeeding year which was evident from supporting documents. Therefore, Ld. AO was directed to delete the addition for these entities.

3.9 While adjudicating the appeal, Ld. CIT(A) referred to the decision of Agra Tribunal in the case of **Sh. Agarsen Logistic (ITA No. 108/Agra/2025 dated 24-06-2025)** which was having similar facts and the appeal of the department was dismissed by the Tribunal. In the case of M/s Sunrise City Promoters and Developers Pvt Ltd and M/s Westron Homes Pvt Ltd, substantial amount was repaid back in immediately next year. Therefore, these credits could not be doubted as per the decision of Hon'ble Gujarat High Court in the case of **PCIT Vs Ojas Tarmake Pvt. Ltd. (158 Taxmann.com 176)** and the decision of Jurisdictional Punjab & Haryana High Court in the case of **CIT Vs Karaj Singh (15 Taxmann.com 70)**. The Agra Tribunal in the case of **Sh. Agarsen Logistic (supra)** held that the additional onus to prove the source of source of unsecured loans / borrowings as introduced by Finance Act, 2022 would apply only from AY 2023-24 and subsequent assessment years. The bench further held that addition u/s 68 could not be made on preponderance of probability and there has to be some evidence and substance in the contention put forward by Ld. AO. It is settled position of law that no matter how strong the suspicion is, it cannot take place of evidence. Therefore, in the absence of any evidence showing that the assessee exchanged cash in lieu of unsecured loans, no such addition could be made merely on the basis of suspicion. One the assessee has filed all the

details, the burden of proving the genuineness and creditworthiness of the creditor stood discharged by the assessee. The bench also referred to the decision of Hon'ble Gujarat High Court in the case of **PCIT Vs. Ojas Tarmake Pvt.Ltd. (supra)** holding that where a major portion of the credit stood repaid during the year, no addition was justified. The bench also referred to the decision of Hon'ble Punjab & Haryana High Court in the case of **CIT Vs. Karaj Singh (supra)** to support its conclusions.

3.10 In the light of above factual findings and after considering the ratio of various judicial decisions, the addition as made by Ld. AO u/s 68 was deleted for all the lender entities. Aggrieved, the revenue is in further appeal before us.

3.11 On the issue of addition of Rs.202.41 Lacs as stated to be incurred by the assessee on development work, it was contended by the assessee that the whole basis of making this addition was uncalled for and unreliable and deserves to be annulled. The assessee was maintaining the regular books of accounts which were subject to audit and the return of income was filed on the basis of audited books of accounts. The books were never rejected u/s 145(3) and no discrepancy was noted by Ld. AO in the same. When all the deposits and withdrawals stood considered in the regular books of accounts and there was no dispute about the same, the impugned addition was unjustified. Upon perusal of assessee's financial statements, Ld. CIT(A) concurred that the impugned amount was reflected as pre-operative expenditure under the heard '*non-current*

assets' as per *Annexure-H* of the Balance Sheet. Since the expenditure stood well explained, Ld. AO was directed to delete the impugned addition. Aggrieved, the revenue is in further appeal before us. The assessee, in its cross-appeal, challenges reassessment jurisdiction of Ld. AO.

### **Our finding and Adjudication**

4. From the fact, it emerges that the assessee filed regular return of income on 05-10-2013 which was initially processed u/s 143(1). However, the case of reopened on the allegation that the assessee had purchased certain property for consideration of Rs.9 Crores during the period under consideration and it was also alleged in the reasons for reopening that no return of income was ever filed by the assessee. Accordingly, opinion of escapement of income has been formed by Ld. AO. Pertinently, before reopening the case of the assessee, certain information was called for by DIT (I&CI) qua transaction of purchase of property vide letters dated 26-11-2013 & 26-12-2013. The same were duly been responded to by the assessee along with financial statements. The attention was drawn to the fact that Income Tax Return was already filed by the assessee on 05-10-2013. Thereafter, the case of the assessee has been reopened and reasons for reopening have been recorded by Ld. AO as late as on 30-03-2019 after obtaining necessary administrative approval of Ld. Pr. CIT-2, Chandigarh. These documents have been placed on record. In the opening paragraph of recorded reasons, Ld. AO, at para-1 has stated that *"As per ITD database, the assessee has not*

*filed any return of income for the year under consideration. No scrutiny assessment u/s 143(3) has taken place in the case of the assessee for the relevant year*". In para-3 also, it has been recorded by Ld. AO that *"On physical verification as well as from the ITD database, it is gathered that no return has been filed by the assessee for the A.Y.2012-13..."*. Similar fact has been reiterated at paras 4 & 5. In para-6, considering the fact that the assessee did not file return of income, Ld. AO invoked the provisions of clause (a) of Explanation-2 to Sec.147 which are specifically applicable only in case where no return of income is furnished by the assessee. This explanation provide that it would be a deemed case of escapement of income where no return of income had been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax. The said explanation is clearly not applicable to the case of the assessee. In contrast to this, while taking administrative approval of Ld. Pr. CIT-2, Chandigarh, the Ld. AO, in column 7(a) & (b) has stated that return of income was duly filed on 05-10-2013. In paras 8 to 11, the fact that the return was processed u/s 143(1) has been mentioned. The Ld. Pr. CIT-2, while granting the approval has stated that *"income has escaped assessment due to failure by taxpayer to file its return and disclose fully and truly all material facts necessary for its assessment for assessment year 2012-13 including purchase of property at Rs.9.00 Crores."* The same would clearly

highlight the fact that reopening proceeded on wrong / erroneous set of facts.

5. Upon combined reading of these documents, it could very well be concluded that the reopening of the assessment is without due application of mind and reopening proceeds on wrong facts. The return of income was already filed by the assessee on 05-10-2013. However, the recorded reason proceeds on the assumption that no return of income was ever filed by the assessee for this year. The approval has also been given on erroneous facts. The Ld. AO has invoked the provisions of clause (a) of Explanation-2 to Sec.147 which are specifically applicable only in case where no return of income is furnished by the assessee. These provisions are clearly not applicable to the case of the assessee and accordingly, assumption of reassessment jurisdiction by Ld. AO stood vitiated in law. Similar legal ground has been decided in assessee's favor by this Tribunal in the case of **ITO vs. Taj Land Developers & Promoters (P) Ltd. (ITA No.606/Chd/2024 dated 22-09-2025)**. The co-ordinate bench, on similar facts, at para-7, held that when Ld. AO proceeded on fundamentally wrong facts to come to the reasonable belief / conclusion that income chargeable to tax had escaped assessment, the reopening could not be sustained on legal grounds. It was further held by the bench that the opinion of AO should be based on reasonable application of mind exhibiting the escapement of income. The AO formed his belief on wrong foundation of facts. The approval granted by approving authority was also mechanical in nature since

the authority was not apprised with complete facts. This case law duly supports the legal ground as urged by the assessee in its appeal. Facts being *pari-materia* the same, taking the same view, we would hold that since formation of belief of escapement of income as well as approval for reopening of the case proceeded on wrong foundation of facts, the reassessment proceedings could not be sustained in law. The Ld. CIT-DR, in the written submissions, has stated that the case was reopened on specific, reliable and relevant information. The mentioning of 'non-filing of return; in the textual narration of the reasons was merely an inadvertent factual error in the body and it does not destroy the valid tangible material recorded in the proforma itself. However, we have already noted that there are not only factual errors but the approval has been granted by approving authority on the ground that there was failure by taxpayer to file its return and disclose fully and truly all material facts necessary for its assessment which is clearly not the case. Another argument is that the assessee never raised objections to reopening during assessment. However, the challenge to the jurisdiction of Ld. AO is a legal ground which could be taken at any time during the course of proceedings. Until and unless, Ld. AO has valid jurisdiction to reopen the case of the assessee, he could not proceed to assess the income of the assessee. If the primary jurisdictional conditions are shown to be not satisfied / fulfilled and the reopening proceeds on erroneous facts, the Ld. AO could not even proceed to make an assessment on the assessee. Therefore, this argument could not be accepted. Finally, in

the light of above facts and circumstances, we would hold that the impugned assessment is liable to be quashed on this first and foremost legal ground alone. We order so. The assessee succeeds in its appeal.

6. Though the reopening has been held to be unsustainable, however, for the sake of completeness, we deal with the issue on merits also which is subject matter of revenue's appeal. We find that as per the provisions of Section 68 of the Income Tax Act, 1961, where any sum is found credited in the assessee's books and assessee offers no explanation about the nature and source thereof or the explanation furnished is found to be unsatisfactory, the sum so credited may be charged to Income-Tax as the income of the assessee of that previous year. A proviso has been inserted to the said section by Finance Act, 2012 w.e.f. 01-04-2013 to provide that where the assessee is a company and the sum so credited consists of share application money, share capital, share premium etc., the explanation furnished by the assessee shall be deemed to be not satisfactory unless the person in whose name such credit is recorded also offers an explanation about nature and source of sum so credited and such explanation is found to be satisfactory. However, this proviso is not applicable to the facts of the present case since we are dealing with case of unsecured loans and advances. Such additional onus / requirement for unsecured loans / advances has been introduced by Finance Act, 2022 which is applicable only from AY 2022-23 and therefore, for the impugned AY 2012-13, there is no obligation on the

assessee to establish the source of source of unsecured loans and advances. Proceeding further, it would be the primary onus of the assessee to establish the identity of the lender, creditworthiness of the lenders as well as genuineness of the loan transactions. Once all the supporting documents have been furnished by the assessee, the primary onus of the assessee would stand discharged and it would be the onus of Ld. AO to rebut the claim of the assessee by bringing on record cogent / concrete evidences to dislodge the claim of the assessee. Unless this exercise is done by Ld. AO, no such addition of unexplained cash credit could be made in the hands of the assessee.

7. In the light of above settled legal position, we find that the assessee has obtained unsecured loans and advances from as many as nine lender parties. In support of the same, the assessee has furnished various documentary evidences to discharge the required onus of Sec.68. These documents have been tabulated by Ld. CIT(A) in the impugned order as under: -

No.	Particulars	Page Nos.
1.	Copies of the letters filed by the following parties in response to the loan advanced by different parties, mentioning PAN, confirmed copy of account in their books of account, Copies of Bank Account, Evidence of filing of ITR and other particulars.	
	(i) M/s. Bhola Trading Company	
	(a) Copy of documents as per Sr. No.1.	1-26
	(b) Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been charged by them in succeeding years and taxed in their hands.	26A-26B
	(ii) M/s. Binus Trading Company	
	(a) Copy of documents as per Sr. No.1.	27-101
	(b) Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been charged by them in succeeding year and taxed in their hands.	101A-101B
	(iii) M/s. H R Rice Industries Pvt Ltd	
	(a) Copy of documents as per Sr. No.1.	102-174
	(b) Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been charged by them in succeeding years and taxed in their hands.	174A-174B
	(iv) M/s. N B Traders	
	(a) Copy of documents as per Sr. No.1.	175-188
	(b) Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been	188A-188B

		charged by them in succeeding years and taxed in their hands.	
	(v)	M/s. Sandeep Trading Company	
	(a)	Copy of documents as per Sr. No.1.	189-234
	(b)	Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been charged by them in succeeding years and taxed in their hands.	234A-234B
	(vi)	M/s. Shiv Shakti Exporters Pvt. Ltd.	
	(a)	Copy of documents as per Sr. No.1.	235-412
	(b)	Copy of account of the company for the AY 2013-14 & 2014-15 where the interest has been charged by them in succeeding years and taxed in their hands.	413-414
	(vii)	Sri Surinder Verma	
	(a)	Copy of documents as per Sr. No.1.	415-430
2.		Copy of the bank statement of M/s. Sunrise City Promoters and Developers Pvt Ltd from where the party had advanced the amount to the assessee along with the copy of account in the books of assessee.	431-444
3.		Copy of account of M/s. Sunrise City Promoters and Developers Pvt Ltd in the books of the assessee for the subsequent year i.e. AY 2013-14, showing that the substantial amount has been paid back through the banking channel.	445
4.		Copy of the bank account of M/s. Western Build Con Pvt. Ltd., who had advanced the loan to us along with the copy of account of the FY 2011-12 in the books of assessee.	446-485
5.		Copy of the account of M/s. Western Build Con Pvt Ltd in the books of the assessee for the AY 2013-14 showing that the substantial amount has been paid back through the banking channel.	486
6.		Copy of the reply to the show cause notice dated 24.12.2019 as filed to the Assessing Officer.	

8. After due consideration of all these documents, Ld. CIT(A) has rendered factual finding for each of the lenders. The same has already been discussed in preceding paras 3.4 to 3.9. The Ld. CIT(A) concurred that the assessee furnished plethora of documents for each of the lender entity which include confirmation of the lender, their respective Income Tax Returns, PAN details, bank statement evidencing transfer of funds through banking channels. There was movement of loans in this year as well as in subsequent years. The substantial loan stood repaid in subsequent years. The interest has been charged on these loans in subsequent years. Most of these entities have been subjected to scrutiny assessment u/s 143(3) wherein Ld. AO has not doubted the source of funds for these entities. On the date of advancement of loan, there was sufficient balance in bank accounts of the lenders. One of the lenders i.e., Shri Surinder

Verma was a director who was regularly been assessed to tax. The two entities viz., Sunrise City Promoters and Developers Pvt Ltd. as well as M/s Westron Homes Pvt. Ltd. made advances for business deals which did not materialize. Consequently, these advances were repaid back in subsequent years. The assessee duly furnished confirmation, PAN details & copy of the bank account of these parties. On these factual findings, Ld. AO was directed to delete the impugned addition on merits. While arriving at its conclusion, Ld. CIT(A) has referred to the decisions of Agra Tribunal in the case of **Sh. Agarsen Logistic (ITA No. 108/Agra/2025 dated 24-06-2025)** which was rendered on identical facts. Since substantial loan stood repaid back, the same could not be doubted as per the decision of Hon'ble Gujarat High Court in the case of **PCIT Vs Ojas Tarmake Pvt. Ltd. (158 Taxmann.com 176)** and the decision of Jurisdictional Punjab & Haryana High Court in the case of **CIT Vs Karaj Singh (15 Taxmann.com 70)**. The Agra Tribunal held that addition u/s 68 could not be made on preponderance of probability and there has to be some evidence to establish the fact of unexplained cash credit. No addition could be made merely on the basis of suspicion. Once the assessee has filed all the details, the burden of proving the genuineness and creditworthiness of the creditor stood discharged by the assessee. The other decisions as placed on record by Ld. AR also support the same view. On the basis of factual findings of Ld. CIT(A), it could very well be concluded that the assessee had discharged the initial onus of proving these transactions in terms of the requirements

of Sec.68. Therefore, the onus had shifted on Ld. AO to dislodge the assessee's documentary evidences and bring on record cogent material to establish that the assessee generated unaccounted money and routed the same through banking channels in the garb of loans and advances. Unless such an investigation is shown to have been carried out, the additions would not be sustainable in law since it is trite law that no addition could be made on the basis of mere suspicion, conjectures and surmises. No such independent enquiry has been carried out by Ld. AO to dislodge the documentary evidences of the assessee. Nothing adverse could be borne out of the fact that most of the lenders and the assessee had bank accounts in common bank / branch and the lender entries turned bank defaulters. Therefore, the conclusion of Ld. CIT(A) could not be faulted with.

9. The Ld. CIT-DR, in written submissions, has stated that M/s Western Buildcon Pvt. Ltd. or its directors were not located at the known addresses. Further, the assessee recorded the name of this entity as *M/s Westorn Homes Pvt. Ltd.* and also mentioned wrong bank account of the lender. Further, there was credit including cash deposits of Rs.40 Lacs in the account of the lender. This entity filed its ITR for AY 2011-12 and not for AY 2012-13.

We find these arguments to be devoid of much merit. Once this entity is filing its ITR, its existence could not be questioned by the revenue. Further, the fact of non-filing of return of income for one year could not lead to adverse inference against the assessee. Mere typo errors in the name of the lender entity or in its bank account would not lead to a

conclusion that the credits as received by the assessee were unexplained cash credit. The substantial loan / advance stood repaid in next year through banking channels. The loans are supported by ledger extracts. Once loans are repaid within short period of time and the repayment has been accepted, the genuineness of the same could not be questioned.

Regarding M/s Binus Trading Co., it has been stated that it is a directly controlled entity. The loan remained outstanding for more than eight years whereas this entity paid interest on CC limit. There were cash deposits in the bank account of this entity.

We find that the assessee has furnished confirmation of loan, copies of Bank Account, ITR of lender entity and ledger extract for AYs 2013-14 & 2014-15 establishing that interest has been charged by this entity in succeeding year which is taxed in its hand. There is no prohibition in taking loans from related entities. The Ld. AO has assessed this entity u/s 143(3) without any adverse view. This being so, the objection raised by Ld. CIT-DR is devoid of any merits.

With respect to M/s H.R. Rice Industries, it has been stated that director of that entity was one of the director in the assessee entity. No interest was charged by lender and that lender entity became loan defaulter. Further, there are cash deposits in the bank accounts of lender entity.

We find that the assessee has furnished similar documents for this entity which include confirmation of accounts, copies of Bank Account, ITR and ledger extract for AYs 2013-14 & 2014-15 establishing that

interest has been charged by them in succeeding year and taxed in their hand. There is no prohibition in taking loans from related entities. The Ld. AO has alleged that two different ledger extracts have been furnished. However, what are the exact differences have not been specified. The lender entity has been assessed u/s 143(3) in the same range without any adverse view. This being so, the objection raised by Ld. CIT-DR is devoid of any merits.

Similar objections have been raised for M/s N.B. Traders whereas the assessee has furnished similar documents viz. confirmation of account, copies of Bank Account, ITR and ledger extract for AYs 2013-14 & 2014-15 establishing that interest has been charged by them in succeeding year and taxed in their hand. The substantial loan stood repaid during this year itself. The Ld. AO has alleged that three different ledger extracts have been furnished. However, what are the exact differences have not been specified. This being so, the objection raised by Ld. CIT-DR is devoid of any merits.

For M/s Sandeep Trading Co, Ld. CIT-DR has highlighted the fact that it has common directors and it has made circular transaction of sale and purchase with M/s H.R. Rice Industries. Further, there are cash deposits and this entity has defaulted in loans. The TDS has been deducted against this entity for AYs 2013-14 and 2014-15 only and not for this year.

We are of the considered opinion that it is not the onus of the assessee to explain the circular transaction of the lender entity. The assessee was required to discharge the onus of Sec. 68 only. In

support, the assessee has furnished confirmation of account, copies of Bank Account, ITR and ledger extract for AYs 2013-14 & 2014-15 establishing that interest has been charged by them in succeeding year and taxed in their hand. There is no prohibition in taking loan from related entities.

For M/s Shiv Shakti Exporters Pvt. Ltd., similar facts have been highlighted by Ld. CIT-DR. It has been stated that this entity is a related entity and TDS was deducted only for AYs 2013-14 & 2014-15. There were cash deposits and the lender entry became loan defaulter. Since the assessee has filed plethora of documents to discharge the onus of Sec.68, these objections could not be accepted.

Shri Surinder Verma has acted as one of the directors of assessee entity. The allegation of Ld. AO is that the lender entity to Shri Surinder Verma has turned defaulter of bank loan. Further, TDS has been deducted only in AYs 2013-14 & 2014-15 and all the sub-funding entities are related entities.

As per extant statutory provisions as already enumerated by us, the assessee is not required to establish the source of source of loan in this year. There is no prohibition in taking loan from related entities. As per submissions of Ld. CIT-DR, TDS has been deducted on interest payment in subsequent years which has, apparently, been accepted by revenue.

For Sunrise City Promoters & Developers Pvt. Ltd., it has been stated that this entity could not be located at the given address. Further, Shri

Surinder Kumar Saluja acted as director of M/s Western Buildcon Pvt. Ltd. and this entity has not filed its ITR for AY 2012-13.

We find these arguments to be devoid of much merit. We find that as per ledger extract of this entity, substantial loan from this entity stood repaid in AY 2013-14. The fact of non-filing of return of income for one year could not lead to adverse inference against the assessee. The loan is supported by ledger extracts. Once loans are repaid within short period of time and the repayment has been accepted, the genuineness of the same could not be questioned.

For M/s Bhola Trading Co., Ld. CIT-DR has highlighted the finding of Ld. AO that this entity is related entity and it became defaulter of bank loan.

We find that the assessee has submitted confirmation from the lender party, copy of ITR and bank statements etc. The interest has been charged by this lender entity in subsequent year. The loan has been sourced out of CC limit of PNB. Pertinently, this entity has been assessee u/s 143(3) for AYs 2012-13 & 2013-14 wherein Ld. AO has not doubted the sources of funds. Therefore, this loan has rightly been accepted by Ld. CIT(A).

In the light of all these facts and circumstances, we endorse the adjudication of Ld. CIT(A). In the result, the corresponding grounds as raised by the revenue stand dismissed.

10. On the issue of addition of Rs.202.41 Lacs, it could be seen that this expenditure has duly been reflected in assessee's financial statements as pre-operative expenses. It could also be noted that the

assessee has maintained regular books of accounts which were subject to audit. The return of income has been filed on the basis of audited books of accounts. The books are not rejected and no discrepancy has been pointed out by Ld. AO in the same. When all the deposits and withdrawals stood considered in the regular books of accounts, the impugned addition cannot be sustained. We concur with the adjudication of Ld. CIT(A) on this score also.

11. Finally, on the given facts and circumstances of the case and after considering the factual findings of Ld. CIT(A) in the impugned order, we find no fault in the approach of Ld. CIT(A) while deleting the twin additions on merits. By endorsing the same, we dismiss the appeal of the revenue.

12. In the result, ITA No.1066/Chandi/2025 stand allowed whereas ITA No.1217/Chandi/2025 stand dismissed.

Order pronounced on 16<sup>th</sup> March, 2026.

**-Sd-**  
**(RAJPAL YADAV)**  
**VICE PRESIDENT**

**-Sd-**  
**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 16.03.2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH