

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI PAWAN SINGH (JUDICIAL MEMBER)**

**ITA No. 4286/MUM/2025
Assessment Year: 2019-2020**

DCIT, Central Circle 7(1),
Room No. 653, 6th floor,
Aayakar Bhavan, MK Road,
Churchgate,
Mumbai-400020.

Appellant

Vs. A P Trading Co.
1, Peral Mansion (N), 91, M K
Road,
Mumbai-400020.

**PAN NO. AAFA 1869 P
Respondent**

**CO No. 193/MUM/2025
(Arising out of ITA No. 4286/MUM/2025)
Assessment Year: 2019-2020**

A P Trading Co.
1, Peral Mansion (N), 91, M K
Road,
Mumbai-400020.

**PAN NO. AAFA 1869 P
Appellant**

Vs. DCIT, Central Circle 7(1),
Room No. 653, 6th floor, Aayakar
Bhavan, MK Road, Churchgate,
Mumbai-400020.

Respondent

Assessee by : Mr. Snehal Shah
Revenue by : Mr. Rajesh Kumar Yadav, CIT-DR

Date of Hearing : 30/03/2026
Date of pronouncement : 07/04/2026



ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue and the cross-objection by the assessee are directed against order dated 24th April, 2025, passed by the Ld. Commissioner of Income Tax (Appeals)-49, Mumbai [in short 'the Ld. CIT(A)'] for the assessment year 2019-20.

2. The grounds raised by the Revenue are reproduced as under:

1. On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in allowing the appeal of the assessee despite the fact that assessee could not prove the repayment of the unsecured loans along with sources of repayment and reasons thereof.

2. On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in allowing the appeal of the assessee despite the fact that assessee could not prove the creditworthiness of the lenders and the genuineness of the transactions.

3. On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in allowing the appeal of the assessee despite the fact that assessee could not provide any satisfactory explanation about the nature and source of the amount credited in its books of accounts. Therefore, the assessee held that the amounts totaling to Rs. 12,69,00,000/- found credited in the books of accounts of the assessee during the year under consideration as unsecured loans are nothing but accommodation entries.

4. On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in allowing the appeal of the assessee despite the fact that assessee could not prove that the entire chain of flow of funds and there is a complex layering. It is claimed that some of the funds advanced to the assessee were received from the assessee group's other entities itself. The funds could have been transferred directly from one Group Company to the other group company and the unnecessary layering and circular movement indicate mala fide intentions.



2.1 The grounds raised by the assessee in the cross-objection are reproduced as under:

1. *The Learned DDIT(Inv.). Unit-1(2), Mumbai, erred in issuing search warrant No. MUM C/U-4/18-19/06 dated 17.04.2018, led by Team-JWO-6, without having any information in its possession on the basis of which a reasonable belief can be founded that the respondent has omitted or failed to produce books of accounts or other documents before conducting search action u/s 132 of the Act or that the respondent was in possession of any money, bullion, jewellery or other valuable article which represents wholly or partly any income or property, which has not been disclosed by the respondent. In view of the same, the search warrant No. MUM C/U-4/18- 19/06 dated 17.04.2018, led by Team-JWO-6, is clearly illegal, bad in law and ultra-vires the provisions of the Income Tax Act, 1961.*

2. *The Learned DDIT(Inv.). Unit-1(2), Mumbai, erred in issuing search warrant No. MUM C/U-4/18-19/06 dated 17.04.2018, led by Team-JWO-6, in the name of the respondent on the pretext of search action being actually conducted on M/s. Asuti Trading Pvt Ltd. that does not operate from the address viz. 1, Pearl Mansion [N], 91, M. Karve Road, Mumbai - 400 020.*

3. *The Learned Assessing Officer erred in issuing notice u/s 153A of the Income Tax Act, 1961 without appreciating the fact that there are no incriminating documents in seized material suggesting that any income has escaped assessment. Hence, the notice issued u/s 153A of the Act is clearly Bad in Law, illegal and ultra-vires the provision of the Act*

4. *The ground of appeal is without prejudice to the other.*

3. Briefly stated, the facts of the case are that the assessee was subjected to a search and seizure action under section 132(1) of the Income Tax Act, 1961 [in short 'the Act'], on 17th April, 2018, along with other entities of the 'Jatia' Group. The assessee filed its return of income on 28th August, 2019, declaring a total income of Rs.4,077/-. The return of income filed by the assessee was selected



for scrutiny, and statutory notices under the Act were issued and complied with. The assessment under section 143(3) of the Act was completed on 30th September, 2021, wherein the Assessing Officer made an addition in respect of the unsecured loan received from Prathna Private Limited and treated the same as unexplained cash credit. According to the Assessing Officer, said loan was of Rs.12,69,00,000/-.

4. On further appeal, the Id. CIT(A) following the finding of the Co-ordinate Bench of the Tribunal in the case of the assessee for assessment year 2018-19 deleted the addition.

5. Aggrieved the Revenue is in appeal by way of raising the grounds as reproduced above, whereas the assessee has filed the cross-objection challenging the validity of the search warrant issued.

6. At the threshold of the hearing, the Learned Counsel for the Assessee stated that the Assessee did not intend to press the grounds raised in the Cross-Objection, which challenged the jurisdictional validity of the search actions under Section 132 and the subsequent notices under Section 153A. In view of this categorical submission, the **Cross-Objection is dismissed as not pressed.**



6.1 As far as grounds of the Revenue is concerned, the sole issue in dispute is of addition of Rs.12,69,00,000/- made by the Assessing Officer which has been deleted by the Ld. CIT(A).

7. Before us, the Ld. counsel for the assessee filed a Paper Book containing pages 1 to 241 along with compilation of the legal cases.

7.1 The brief facts qua the issue in dispute are that during the course of assessment proceedings, the Assessing Officer issued notice u/s 133(6) of the Act to Prathna Pvt. Ltd. for verification of the loan given to the assessee. The said party responded and filed copy of the acknowledgement of the return, audited account, ledger confirmation and ledger account. The Assessing Officer observed that the said lender was having negative networth and claimed Nil income in the return of income and also did not submit the copy of the bank statement. Therefore, the Assessing Officer asked the assessee to explain the genuineness and creditworthiness of said unsecured loan lender. After considering the submission of the assessee, the Assessing Officer was not convinced. According to him, admitting the various companies of the group before the NCLT was not relevant for establishing the genuineness of the loan transaction. He further noted that the assessee had not submitted the purpose of the loan. Further, the Assessing Officer issued summons u/s 131 of the Act to the said lender company to produce books of accounts and to reveal the source of the fund. But in



response authorized representative attained instead of director of the Company. According to the Assessing Officer said authorized representative did not furnish the source of the fund advanced to the assessee.

7.2 It was submitted by the assessee that unsecured loan received from said party was subsequently repaid but according to the Assessing Officer said loan was still outstanding. The Assessing Officer noted that said company Prathna Pvt. Ltd. was part of the Jatia group and was having transactions with the companies of the Jatia group and therefore, source of the fund in the hand of the said company might be tented. The Ld. Assessing Officer relied on number of decisions of various Hon'ble High Court and Supreme Courts and Co-ordinate Benches of the Tribunal and held that the amount of Rs.12,69,00,000/- as loan received from the Prathna Pvt. Ltd. was unexplained cash credit in terms of section 68 of the Act.

8. On further appeal, the assessee explained before the Id CIT(A) transaction of loan with M/s Prathna Pvt. Ltd in detail. According to which, the assessee had repaid the loan of Rs.12,69,00,000/- in assessment year 2018-19 to Prathna Pvt. Ltd. and whereas in the year under consideration only loan of Rs.6,41,85,000/- was received. It was contested by the Ld. counsel for the assessee that Assessing Officer has wrongly considered the amount of loan repaid in the assessment year 2018-19 as loan taken in the year under



consideration. Therefore, the action of the Assessing Officer considering the unexplained cash credit is wrong at the root level itself. Further, the Ld. CIT(A) relied on the decision of the Coordinate Bench of the Tribunal in the case of the assessee in assessment year 2018-19, where also on the basis of the entire loan transaction of the Prathna Pvt. Ltd. of 2018-19 upto 2021-22 and return of the entire loan has been considered and the Tribunal deleted the addition of unexplained cash credit in the assessment year 2018-19. Accordingly, the Ld. CIT(A) in the year under consideration deleted the addition of unexplained cash credit in respect of loan from Prathna Pvt. Ltd.

9. We have heard rival submissions of the parties and perused the relevant materials on record. We find that the AO's addition is built on a precarious factual foundation. The record indicates that the AO treated the figure of Rs. 12,69,00,000/- as an unexplained credit for the year under consideration, whereas evidence suggests this sum pertains to repayments made in the prior assessment year. It is a settled position of law that a repayment of a loan cannot be categorized as a "fresh credit" in the books of accounts for the purpose of Section 132 or Section 68 in a subsequent year.

9.1 The issue of the genuineness and creditworthiness of M/s Prathna Pvt. Ltd. has been adjudicated in favor of the assessee by this Tribunal in AY 2018-19. While the principle of res judicata does



not strictly apply to tax proceedings, the rule of consistency—as enunciated by the Hon’ble Supreme Court in **Radhasoami Satsang vs. CIT 193 ITR 321 (SC)** mandates that where a fundamental aspect underpinning the assessment has been decided as a matter of fact in one year, it should not be departed from in subsequent years unless a material change in circumstances is evidenced.

9.2 The Ld. Departmental Representative mainly submitted that facts in the year under consideration are different from the fact for assessment year 2018-19 and in the year under consideration notice u/s 133(6) of the Act was issued to the lender and notice u/s 131 of the Act was also issued. He further submitted that in the year under consideration, the assessee has not filed copy of the bank statement of the lender party. However, on verification, we find that the Ld. CIT(A) in assessment year 2018-19 has noted that notices u/s 133(6) of the Act was issued to Prathna Pvt. Ltd. on 22.04.2021. The Ld. CIT(A) further noticed that notice u/s 131 of the Act was issued on 18.06.2021 and in response, the Chartered Accountant of the said company attained and filed copy of the bank statement highlighting transaction with the assessee ledger account, confirmation of the accounts, copy of the ITR and balance sheet. Before us, the Ld. counsel for the assessee submitted that similar details were filed by the said party in response to the summon issued u/s 131 of the Act. In such a situation, we do not



find any distinguishable facts as compared to the assessment year 2018-19.

9.3 The Revenue's contention regarding the non-appearance of the Director is not sufficient to trigger Section 68 if the identity, creditworthiness, and genuineness are otherwise established through documentary evidence. The lender responded to notices under Section 133(6) and summons under Section 131, providing bank statements and audited accounts. The mere fact that the lender has a low taxable income does not, *ipso facto*, lead to the conclusion that the transaction is an accommodation entry, especially when the flow of funds is through banking channels and the debt has been subsequently serviced or repaid.

9.4 We find no distinguishable facts that would warrant a departure from the view taken by the Co-ordinate Bench in the preceding year. The Ld. CIT(A) correctly identified that the AO's addition was based on a misinterpretation of the loan ledger and a disregard for established judicial precedents. In view of the binding precedent of the Co-ordinate Bench of the Tribunal, we do not find any infirmity in the order of the Ld. CIT(A) in deleting the addition of the unsecured loan of Rs.12,69,00,000/- which was actually amount of loan repaid by the assessee in assessment year 2018-19. The grounds of appeal of the Revenue are accordingly dismissed.



10. In the result, both the appeal of the Revenue and cross-objection of the assessee are dismissed.

Order pronounced in the open Court on 07/04/2026.

**Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 07/04/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai