

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.688/Ind/2025
Assessment Year: 2015-16

Neminath Developers, 105, Mani Trade Centre, Shanku Marg Freeganj, Ujjain (Assessee/Appellant)	<u>बनाम/</u> Vs.	ACIT 2(1) Ujjain (Revenue/Respondent)
PAN: AAGFN3566L		
Assessee by	Shri Pavan Ved, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	05.03.2026	
Date of Pronouncement	10.04.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 08.07.2025 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 31.12.2017 passed by learned ACIT-Circle-2(1), Ujjain ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal.

2. The background facts leading to present appeal are as under:

- (i) The assessee is a partnership firm engaged in the business of land development.
- (ii) For AY 2015-16, the assessee filed return of income u/s 139 on 27.09.2015 declaring a total income of Rs. 19,59,450/-. The case of assessee was selected for scrutiny-assessment under CASS and notice u/s 143(2) dated 04.08.2016 was issued by ITO-2(1), Ujjain. Subsequent proceeding was conducted by ACIT-Circle-2(1), Ujjain ["AO"] who issued notices u/s 142(1) from time to time, which the assessee complied. Ultimately, the AO passed assessment-order after making, inter alia, following additions/disallowances:

1	Addition on account of bogus cash credit (squared up loans)	6,33,13,140/-
2	Addition on account of bogus cash credit (non-squared up loans)	5,80,09,541/-
3	Disallowance of interest expenses relating to above loans	1,54,36,666/-

- (iii) Aggrieved, the assessee carried matter in first-appeal before CIT(A) wherein the assessee raised legal grounds and also challenged the additions/disallowances made by AO on merit. The CIT(A) did not grant any relief on legal grounds. However, for merits of additions/disallowances, the CIT(A) granted certain relief.
- (iv) Still aggrieved, the assessee has come in next appeal before us.

3. The assessee has filed Form No. 36 three times, changing the "Grounds of Appeal". The Form No. 36 filed *Firstly and Secondly* contain identical grounds (seven grounds in number); the only change is in the amounts mentioned in the column of tax effect. However, the Form No. 36 dated 17.10.2025 filed *thirdly* vide Inward Entry No. 1995 dated 29.10.2025 of ITAT office, raises an additional ground challenging the action of AO in a rectification-order dated 09.10.2025 passed u/s 154. During hearing, we have indicated to Ld. AR to reject the Form No. 36 filed *thirdly*. This is for the reason that if the assessee has any grievance against the rectification done by AO, the assessee has to avail a separate remedy by way of filing a new appeal to CIT(A) against the order of rectification passed by AO and thereafter approach ITAT, if warranted. Learned Representatives of both sides agreed to this. Therefore, we reject Form No. 36 filed *thirdly* and proceed to adjudicate the grounds raised in Form No. 36 filed *firstly/secondly*, the same read as under:

"1. The Ld CIT(A) has erred in confirming the assessment made by LAO because the assessment was void ab initio as no notice was issued u/s 143(2) within time by jurisdictional AO that is the ACIT Ujjain and alternatively assessment made by another AO is without any transfer order.

2. The assessment order is invalid as it should have been mandatorily passed under AST mode or ITBA mode as per CBDT instruction.

3. The Ld. CIT(A) has erred in partially confirming addition out of addition of Rs. 6,33,13,140/- u/s 68 in respect of squared up unsecured loans as unexplained cash credit u/s 68 of assessment order.

4. The Ld. CIT(A) erred in partially confirming addition of non-squared up bogus cash credits of Rs. 5,80,09,541/- as per annexure A of order treating entire credits as bogus despite giving details of identity, capacity and genuineness which can be established from the order of LAO itself.

5. *The Ld. CIT(A) has erred in partially confirming disallowance of interest of Rs. 1,54,36,666/- on bogus cash credits, which includes all cash credits current and old.*
6. *The LAO was not justified in applying rate of tax as per sec 115BBE.*
7. *The appellant reserves right to add, amend or alter any grounds of appeal as above."*

Ground No. 1 & 2:

4. These are legal grounds in which the assessee has challenged the legality of assessment-order. During hearing, although Ld. Representatives of both sides made their respective submissions *qua* these grounds but ultimately, Ld. AR for assessee/appellant agreed that if the bench grants adequate relief in Ground No. 3 to 6, the assessee would be satisfied if the Ground No. 1 & 2 are kept open/unadjudicated. The Ld. DR for revenue does not have any objection to this proposition. **Accordingly, the Ground No. 1 & 2 are kept open/unadjudicated** since, in the discussions that would follow, appropriate and due relief is being given to assessee *qua* Ground No. 3 to 6.

Ground No. 3:

5. In this ground, the assessee claims that the CIT(A) was not justified in confirming addition of Rs. 6,33,13,140/- made by AO u/s 68 in respect of squared up loans.

6. The assessee has taken loans of Rs. 6,33,13,140/- from sixteen (16) creditors. The AO has extracted details of these loans on Page 15 of assessment-order, we re-produce the same for ready reference:

M/s Neminath Developers

List of Unsecured Loans Squared up during F.Y. 2014-15

Name	Amount	Supporting Documents Submitted
Adishwar Vyapar P. Ltd., Kolkata	4,927,908.00	Bank Account Copy, Highlighting the Amounts paid off
Anantnath Vincom P. Ltd., Kolkata	8,098,535.00	Bank Account Copy, Highlighting the Amounts paid off
Arpit Samdani, Ujjain	500,000.00	Bank Account Copy, Highlighting the Amounts paid off
Blockdeal Distributors P. Ltd., Kolkata	2,736,187.00	Bank Account Copy, Highlighting the Amounts paid off
Ecoscape Suppliers P. Ltd., Kolkata	3,833,514.00	Bank Account Copy, Highlighting the Amounts paid off
Highview Agencies P. Ltd., Kolkata	2,715,103.00	Bank Account Copy, Highlighting the Amounts paid off
Hombhuja Marketing P. Ltd., Kolkata	616,951.00	Bank Account Copy, Highlighting the Amounts paid off
Khandelwal Steel Traders, Kalol	12,007,557.00	Bank Account Copy, Highlighting the Amounts paid off
Manibhdra Builders & Developers, Ujjain	230,661.00	Bank Account Copy, Highlighting the Amounts paid off
Manju Purohit, Ujjain	1,803,340.00	Bank Account Copy, Highlighting the Amounts paid off
Nightshine Dealcomm Pvt. Ltd., Kolkata	2,174,475.00	Bank Account Copy, Highlighting the Amounts paid off
Kanhaiyalal Vasvani, Ujjain	525,000.00	Bank Account Copy, Highlighting the Amounts paid off
Pratibha Salgiya, Ujjain	1,000,000.00	Bank Account Copy, Highlighting the Amounts paid off
Promact Plastics Ltd., Mehsana	18,462,439.00	Bank Account Copy, Highlighting the Amounts paid off
Rajkumar Salgiya, Ujjain	1,621,500.00	Bank Account Copy, Highlighting the Amounts paid off
Shweta Bhandari, Ujjain	2,060,000.00	Bank Account Copy, Highlighting the Amounts paid off
	63,313,140.00	

02

7. The AO has treated these loans as unexplained cash credit u/s 68 and made addition. The reasons for making this addition are mentioned by AO in Para 10 of assessment-order; the same are extracted below:

"10. The reply of the assessee was perused and it was noted as under:

10.1. That the assessee could not conclusively prove the identity, creditworthiness and genuineness of transaction of unsecured Loan providers, whose Loans were squared up during F.Y. 2014-15.

10.2. Vide notice U/s 142(1) dated 11.09.2017, the assessee was specifically requested (vide question no. 27, of the said notice) to provide the details of Squared up Loans. For the case of the assessee a ready format was also

provided vide question No.-27. (Copy of the said question is already appended on page No. 02 of this order).

10.3. Subsequently the assessee was afforded another opportunity (vide letter NO. 1165 dated 22.12.2017; to provide justification w.r.t. the claim of Squared up loans copy of the said letter is already appended on page No. 07 of this order.

10.4. However in spite affording sufficient opportunities, the assessee only submitted copy of his own Bank Accounts and did not submit any other document w.r.t. identity, creditworthiness and genuineness of transaction of Loans Squared up during F.Y. 2014-15 (copy of the relevant portion of reply of the assessee is appended at page No. 10 of this assessment order.)

10.5. In light of the above discussion the undersigned was forced to treat that the unsecured Loans Squared upped during F.Y. 2014-15, as bogus cash credits to be disallowed u/s 68 r.w.s. 115BBE."

8. During first-appeal, although the CIT(A) upheld AO's findings yet granted limited relief to assessee by holding that where the loans had been taken in earlier/preceding year and merely represent opening balances, no addition could be made in current year. Accordingly, the CIT(A) remanded this issue to AO directing him to carrying out verification in this regard and grant relief. The order passed by CIT(A) reads as under:

"8.6. In the second Ground of Appeal, the appellant challenged the LAO's addition of Rs. 6,33,13,140/- as unexplained squared up bogus cash credit under section 68, stating these were opening balances of creditors, not new credits. The appellant contended that as no amounts were received during the year and all credits are opening balances, such additions for the current year are unwarranted, supported by the jurisdictional High Court ruling in Pukhraj Telecom. of addition of squared up unsecured loans added by the assessing officer. It appears com. The following are the details that in respect of the following balance of unsecured loans, the appellant had claimed repayment during the year and highlighted the bank payments thereof. However, the assessing officer for want of appellant proof to prove the identity credit worthiness and genuineness of the loan transactions treated the total squared up loans as unexplained cash credit under section 68 of the Act. The appellant relied on the decision of Hon'ble Jurisdictional High Court in the case of CIT vs Pukhraj Telecom P Ltd (ITA 82/2015) argued that only credits in the books of accounts received during the previous year is subject to addition under section

68 of the Act and the previous year credits appearing as opening balances cannot be added under section 68 of the Act.

XXX (Table of loan transactions – already reproduced in earlier para)

*In light of the established legal principle that any sum found credited in the books of accounts for a given year, for which the assessee either fails to provide an explanation regarding its nature and source or provides an explanation deemed unsatisfactory by the Assessing Officer, is liable to be taxed as income for that year-and considering the Hon'ble Jurisdictional High Court's decision in CIT vs. Pukhraj Telecom P Ltd (supra), I find the appellant's contention on this point to be well-founded. However, as the appellant has not substantiated that the unsecured loans squared up, amounting to Rs. 6,33,13,140, were actually received in preceding years and not during the current year, **the Assessing Officer is instructed to verify whether these loans were indeed received in earlier years and represent opening balances carried forward. Upon satisfactory verification, relief should be granted in accordance with the judicial precedent set by the Hon'ble High Court in the case of M/s Pukhraj Telecom. Subject to the above, the above ground of appeal is allowed.***

[emphasis supplied]

9. Before us, Ld. AR for assessee submitted that the AO has initially passed order dated 29.08.2025 giving effect ["OGE"] to the direction of Ld. CIT(A) and deleted the entire addition of Rs. 6,33,13,140/- accepting that all those loans were taken in earlier/preceding year. The copy of OGE is filed in Paper-Book; the same is scanned and re-produced below for an immediate reference:



Government of India,
Ministry of Finance (Department of Revenue),
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX -1(1)
BHARATPURI, UJJAIN- 456010

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F. No. ACIT-1(1)/Ujn/A.E/2025-26

Date- 29.08.2025

Name of Assessee & Address	M/s Neminath Developers 105, mani trade Centre Shanku Marg, Freeganj, Ujjain, 456010
PAN	AAGFN3566L
A.Y.	2015-16
Status	Firm
Date of Order	29.08.2025

**ORDER U/S.250 OF THE I.T. ACT- GIVING EFFECT TO THE ORDER OF HON'BLE
CIT (APPEALS), IN APPEAL NO. NFAC/2025-26/10731/2017-18**

The Hon'ble CIT (Appeals), NFAC vide order No. ITBA/NFAC/S/250/2025-26/1078277270(1) dated 08.07.2025 has partly allowed the appeal of the assessee. Accordingly, the resultant total income is being calculated as under-

Income as per order u/s. 143(3) dated 31.12.2017

Rs. 14,26,66,030/-

Less:-Relief allowed by Hon'ble CIT(A):-

01. In this case total addition of Rs.6,33,13,140/- were made on account of bogus cash credits (squared-up unsecured Loans) disallowed u/s.68. The Ld.CIT(A) vide order dated 08.07.2025 has instructed A.O. to verify whether these loans were indeed received in earlier years and represents opening balances c/f. upon satisfactory verification relief should be granted. On the direction of CIT(A), verification has been made and found in order.

Rs. 6,33,13,140/-

02. Addition of Rs.5,80,09,541/- on account of bogus cash credits (unsecured loans) were made. Out of total addition, the Ld. CIT(A) has confirmed addition of Rs.1,89,00,000/- on account of three cash credits (Helpful Wintrade Pvt. Ltd.65,00,000/-, Justify Vanijya Pvt Ltd.79,00,000/- And Royal Pet Commodal Pvt Ltd.45,00,000/-) and for balance cash credits, the Ld.CIT(A) has instructed A.O. to reconcile the documents submitted and also directed appellant to

provide any outstanding documents as per the assessment records in order to satisfactorily explain the identity, Creditworthiness, and genuineness of the creditors, irrespective of their Acceptance in prior years. The A.O. shall verify the submissions and grant relief to the appellant to the extent that the available documents and explanation substantiate the transactions under consideration in respect of above parties. As per direction, submission made by the assessee have been verified in respect of rest of the creditors and found in order.

Rs.3,91,09,541/--

03. Addition on account of bogus interest expenses of Rs.1,54,36,886, Rs.1,52,17,278/-
The Ld.CIT(A) has instructed A.O. to verify the credits only the interest accrued on credits deemed bogus during the current year may be considered for disallowance, while the balance of the interest should be allowed. As per instruction, this issue has been verified and relief is calculated accordingly.

04. The Ld.CIT(A) has deleted addition made on account of Rs. 39,47,228/-
sundry creditors stating that the account confirmation, and the supporting evidenced supplied by the appellant no justification for making an estimated disallowance of sundry creditors.

Resultant Total Income **Rs. 2,10,78,843 /-**

(Signature)
Dinesh Kajot
Assistant Commissioner of Income Tax-1(1),
Ujjain

10. However, the AO has subsequently passed rectification-order dated 09.10.2025 u/s 154 restoring addition partly to the extent of Rs. 2,39,32,432/- in respect of five (5) creditors on the basis that loans from those five (5) creditors were taken in current year (not taken in earlier/preceding year); the order passed by AO is scanned and re-produced below for an immediate reference:



OFFICE OF THE
ASSISTANT COMMISSIONER OF INCOME TAX-CIRCLE-2(1)
AAYAKAR BHAWAN, BHARATPURI, UJJAIN (M.P.)

1.	Name and Address of the assessee	:	Neminath Developers, 105 Mani Trade Centre, Shanku Marg Freeganj Ujjain 456010, Madhya Pradesh
2.	A.Y.	:	2015-16
3.	PAN	:	AAGFN3566L
4.	Date of order	:	09.10.2025
5.	Status	:	Firm
6.	Section under which Order is made	:	154

ORDER UNDER SECTION 154 OF THE I.TAX ACT. 1961

The assessee is a partnership firm engaged in the business of land development. For A.Y. 2015-16, it filed its return of income on 27/09/2015 declaring total income of ₹19,59,450/-. The case was selected for scrutiny under CASS, and the assessment was completed u/s 143(3) on 31/12/2017, determining total income at ₹14,26,66,030/-. Various additions were made on account of unsecured loans, squared-up credits, interest expenses, and sundry creditors. Aggrieved with the assessment order, the assessee preferred an appeal before the CIT(A), raising multiple grounds.

In the assessment order u/s 143(3) passed on 31/12/2017, addition of ₹6,33,13,140 towards unexplained squared-up bogus cash credits were made by the A.O. The Ld.CIT(A) has delivered decision on this ground vide order u/s.250 on 08.07.2025 and given instruction to A.O. in para 8.6 of the order to verify whether these loans were indeed received in earlier years and represents opening balances carried forward. Upon satisfactory verification relief should be granted in accordance with the judicial precedent set by the Hon'ble High Court in the case of M/s. Pukhraj Telecom.

4. Keeping in view the direction given by the Ld.CIT(A) vide order dated 08.07.2025 effect u/s.250 was given on 29.08.2025. On examination of the assessment records for the A.Y. 2015-16 it is found that while giving effect to the order of Ld. CIT(A) relief of Rs.6,33,13,140/- was wrongly calculated instead of Rs.3,93,80,708/-, hence, excess relief of Rs.2,93,32,432/- was allowed because out of total squared up cash credits, loans from the following persons have been obtained during the financial year 2014-15 relevant to A.Y. 2015-16 and these loans were not

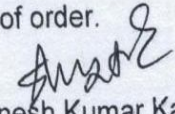
received in earlier years and not represents opening balances carried forward, hence not allowable:

S.No.	Name of the person	Amount of loan received in F.Y. 2014-15
1.	Kanhayalal Vaswani Ujjain	522500
2.	Pratibha Salgia Ujjain	1090000
3.	Promact Plastics Ltd. Mehsana	18624932
4.	Rajkumar Salgai Ujjain	1635000
5.	Shweta Bhandari, Ujjain.	2060000
	Total Loans	Rs.2,39,32,432

As discussed above, while giving effect to the order u/s.250 of the Income tax Act, 1961 mistake was done inadvertently in calculating relief. Being a mistake apparent from the face of the records, hence, notice u/s.154 was issued to the assessee on 09.09.2025 giving opportunity to send a written reply through e-proceeding mode on or before 15.09.2025. As, reply in this regard has not been received so far. Therefore, it is presuming that assessee has nothing to say about that matter. Hence appeal effect order passed on 29.08.2025 is hereby amended as under:

(1) Total taxable income vide appeal effect order dated 29.08.2025	2,10,78,843/-
(2) Add: Excess relief allowed as discussed above	<u>2,39,32,432/-</u>
Total taxable Income determined	4,50,11,275/-

Assessed at income of Rs. 4,50,11,275/- u/s.154. Issue revise form no. ITNS-150, demand notice and challan. Calculation of tax and interest charged u/s 234B and C is shown in form ITNS-150 appended herewith and forming part of order.


(Dinesh Kumar Kajot)
Asstt. Commissioner of Income-tax,
Circle-1(1), Ujjain.

Date:09.10.2025

Copy to the assessee.

Asstt. Commissioner of Income-tax,
Circle-1(1), Ujjain.a

11. Hence, Ld. AR submitted, the assessee's grievance is now confined to the addition of Rs. 2,39,32,432/- qua five (5) creditors, finally sustained by AO. Ld. AR submitted that the assessee is not satisfied with the limited relief granted by Ld. CIT(A). The assessee has already collected relevant documents from respective creditors and is ready to make an effective representation before AO. Therefore, in the interest of justice and fair play, one more opportunity be given to assessee by remitting the issue of five (5) creditors of Rs. 2,39,32,432/- to the file of AO.

12. Ld. DR for revenue though dutifully supported the orders of lower-authorities yet he is not against the request made by Ld. AR.

13. We have considered submissions of both sides and carefully perused the case-record including the orders of lower-authorities. After a careful consideration we find that the addition of Rs. 6,33,13,140/- initially made by AO in assessment-order has already reduced to Rs. 2,39,32,432/-. Now in so far as the surviving addition of Rs. 2,39,32,432/- is concerned, we find that the assessee had filed only bank statements of his own and no further evidences of five (5) creditors to establish three ingredients of section 68, namely (i) identity of creditors, (ii) creditworthiness of creditors, and (iii) genuineness of transactions, were filed and that is why the AO resorted to addition. However, the assessee has now placed A/c Confirmations of those five (5) creditors at Pages 49 to 70 of Paper-Book and is also ready to make an effective representation before AO. Therefore, in the interest of justice and fair play, we remand this issue to the file of AO for a fresh adjudication.

Needless to mention that the AO shall give proper opportunities to assessee, consider assessee's submissions and pass an appropriate order without being influence by his previous order in any manner. The assessee shall also extend full co-operation to AO. **Accordingly, this ground is allowed for statistical purpose.**

Ground No. 4:

14. In this ground, the assessee claims that the CIT(A) was not justified in partially confirming out of the addition of Rs. 5,80,09,541/- made by the AO u/s 68 in respect of non-squared up loans.

15. The assessee has taken loans of Rs. 5,80,09,541/- from different creditors. The AO has extracted details of these loans in a tabular format by way of "Annexure-A" to assessment-order; the same is quite lengthy and we refrain from re-producing.

16. The AO has treated these loans as unexplained cash credit u/s 68 and made addition. The reasons for making this addition are mentioned by AO in "Annexure-A" to assessment-order as well as in Paras 11.1 to 11.7 of assessment-order.

17. During first-appeal, out of total addition of Rs. 5,80,09,541/-, the CIT(A) upheld addition of Rs. 1,89,00,000/- *qua* following three loans taken by assessee:

Sl.	Creditor	Addition for Loan taken
1	Helpful Vinrade Private Limited	65,00,000
2	Justify Vanijya Private Limited	79,00,000
3	Royal Pet Commodeal Private Limited	45,00,000
	Total	1,89,00,000

However, for remaining loans of Rs. 3,91,09,541/- taken by assessee from other creditors, the CIT(A) remitted matter to the file of AO for further verification and grant appropriate relief.

18. Before us, Ld. AR for assessee submitted that the AO has already granted relief of Rs. 3,91,09,541/- in the OGE dated 29.08.2025 (re-produced earlier in Para 9). Therefore, at present the assessee's grievance is limited to the surviving addition of Rs. 1,89,00,000/- only *qua* three loan transactions noted above.

19. Having submitted thus, Ld. AR went ahead to make a detailed submission as to why the addition made by AO/upheld by CIT(A) *qua* these three loan transactions is not justified.

20. For this, Ld. AR firstly carried us to Paras 11.1 to 11.7 of assessment-order and "Annexure-A" to assessment-order to demonstrate that during assessment-proceeding, the AO called assessee to submit details/documents to establish the three ingredients of section 68, namely the identity and creditworthiness of creditors and genuineness of loan transactions. The assessee filed detailed submission. The AO thereafter

made direct enquiries from respective creditors through notices u/s 133(6) to which the creditors also replied. The AO has noted these findings, as under:

Sl.	Creditor	AO's findings in Para 11.2 of assessment-order	AO's findings in Annexure-A to assessment-order	
			Documents filed	Adverse observations
1	Helpful Vinrade Private Limited	The envelope containing reply-letter to notice u/s 133(6) is posted from Bda Bazar, Kolkata, Post Office at 12:42. This charactersitic of envelope is similar to other creditors namely (i) Silver Commosale Pvt. Ltd., (ii) Positive View Commercial, (iii) Lifewood Vinimay Pvt. Ltd. and (iv) Swarnim Distributors Pvt. Ltd.	<p><u>Documents filed by assessee:</u></p> <ul style="list-style-type: none"> • ITR of AY 2015-16 • Audit Report • Balance-Sheet • P&L Statement • A/c statement of Federal Bank • A/c Confirmation • Certificate of loan transaction through cheque <p><u>Documents filed by creditor in response to notice u/s 133(6):</u></p> <ul style="list-style-type: none"> • PAN card • Details of loans given to assessee in F.Y. 2012-13, 2013-14 & 2014-15 • ITR of AY 2013-14, 	<ul style="list-style-type: none"> • Reply to notice u/s 133(6) received from Bda Bazar, Kolkata, Post Office, posted on 19.12.2017 at 12:42. • Same envelope as others. • It proves that postage has been done by single individual. • Gross Total Income for AY 2014-15 is only Rs. 18,287/-. • All three parameters are not verifiable.

Neminath Developers
ITA No. 688/Ind/2025 – AY 2015-16

			<p>2014-15 & 2015-16</p> <ul style="list-style-type: none"> • P&L A/c and Balance-Sheet of F.Y. 2012-13, 2013-14 and 2014-15 • Bank Statement 	
2	Justify Vanijya Private Limited	<p>The envelope containing reply-letter to notice u/s 133(6) is posted from R.N. Mukherjee Road, Kolkata, Post Office at 12:48. This charactersitic of envelope is similar to other creditors namely (i) Royal Pet Commodeal Private Limited, and (ii) Cindrella Commodeal Pvt. Ltd.</p>	<p><u>Documents filed by assessee:</u></p> <ul style="list-style-type: none"> • ITR of AY 2015-16 • Balance-Sheet as on 31.03.2015 • P&L Statement for 31.03.2015 • Audit Report • A/c Confirmation • Certificate of loan transaction through cheque <p><u>Documents filed by creditor in response to notice u/s 133(6):</u></p> <ul style="list-style-type: none"> • PAN card • Details of loans given to assessee in F.Y. 2012-13, 2013-14 & 2014-15 • ITR of AY 2013-14, 2014-15 & 2015-16 • P&L A/c and Balance-Sheet of F.Y. 2012- 	<ul style="list-style-type: none"> • Reply to notice u/s 133(6) received from R.N. Mukherjee Road, Kolkata, Post Office, posted on 19.12.2017 at 12:49. • Same envelope as Royalpet Commodeal Pvt. Ltd. • It proves that postage has been done by single individual. • Gross Total Income for AY 2014-15 is only Rs. 19,529/-. • All three parameters are not verifiable.

Neminath Developers
ITA No. 688/Ind/2025 – AY 2015-16

			13, 2013-14 and 2014-15 • Bank statement	
3	Royal Pet Commodeal Private Limited	The envelope containing reply-letter to notice u/s 133(6) is posted from R.N. Mukherjee Road, Kolkata, Post Office at 12:48. This characteristic of envelope is similar to other creditors namely (i) Justify Vanijya, and (ii) Cindrella Commodeal Pvt. Ltd.	<p><u>Documents filed by assessee:</u></p> <ul style="list-style-type: none"> • ITR of AY 2015-16 • Balance-Sheet as on 31.03.2015 • Audit Report • A/c Confirmation • Certificate of loan transaction through cheque <p><u>Documents filed by creditor in response to notice u/s 133(6):</u></p> <ul style="list-style-type: none"> • PAN card • Details of loans given to assessee in F.Y. 2012-13, 2013-14 & 2014-15 • ITR of AY 2013-14, 2014-15 & 2015-16 • P&L A/c and Balance-Sheet of F.Y. 2012-13, 2013-14 and 2014-15 • Bank statement 	<ul style="list-style-type: none"> • Reply to notice u/s 133(6) received from R.N. Mukherjee Road, Kolkata, Post Office, posted on 19.12.2017 at 12:48. • Same envelope as Justify Vanijya Pvt. Ltd. • It proves that postage has been done by single individual. • Gross Total Income for AY 2015-16 is only Rs. 16,579/-. • All three parameters are not verifiable.

21. Thereafter, Ld. AR carried us to the relevant portion of order of first-appeal passed by CIT(A) upholding the addition made by AO, reading as under:

"8.8. With respect to the amounts borrowed during the year from M/s Helpful Vinrade Private Limited, M/s Justify Vanijya Private Limited, and M/s Royal Pet Commodeal Private Limited, the Assessing Officer, in paragraph 11.2 of the assessment order, analysed the responses received from the parties pursuant to notices issued under Section 133(6) of the Act. The officer concluded that these companies appeared to be bogus shell or paper entities with negligible and questionable creditworthiness. Furthermore, it was observed that the responses from these companies were all submitted by a single individual at the same post office and at the same time, raising doubts about the genuineness of the unsecured loans claimed by the appellant.

Additionally, the Assessing Officer noted discrepancies between the income reported by these companies and the loans purportedly extended to the appellant, further questioning their financial credibility. It was also highlighted that the group of companies outlined in paragraph 11.2 of the assessment order shared similar addresses and the same set of directors, with some having been classified as shell companies according to an intelligence report received by the Assessing Officer.

8.9. While the appellant claims to have furnished copies of ITRs for Assessment Year 2015-16, auditor's reports, balance sheets, profit & loss accounts, bank statements, and account confirmations from these companies, there remains a gap in establishing both the creditworthiness and genuineness of the transactions. Moreover, the appellant did not present any substantive evidence before this authority to rebut the observations or comments made by the Assessing Officer in the assessment order. Accordingly, the addition made by the Assessing Officer regarding the above three concerns stands confirmed."

22. Ld. AR submitted that the lower-authorities have made two-fold observations and arrived at a conclusion that the three parameters of section 68, namely identity, creditworthiness and genuineness of transactions, were not verifiable. These observations are primarily based on (i) the manner of posting of replies to notices issued by AO u/s 133(6), and (ii) the low Gross Total Income declared by the creditor-companies.

23. In so far as the *first* observation is concerned, Ld. AR submitted that the AO has himself recorded that the assessee/concerned creditors in response to notices u/s 133(6) have furnished various documentary evidences such as (i) ITRs, (ii) Audit Reports, (iii) Balance-Sheets, (iv) Profit & Loss Accounts, (v) Bank statements, (vi) Account confirmations and (vii) details of loan transactions. These are contemporaneous documents and the documents like ITRs and Financial Statements are very much part of official record of the Income-tax Department itself. It is submitted that no defect whatsoever has been pointed out by the lower authorities in any of these documents. However, the adverse inference has been drawn merely on the basis that the replies to notices u/s 133(6) were dispatched from the same post office and around the same time. According to Ld. AR, such circumstance, by itself, cannot be a decisive factor to disregard otherwise valid documentary evidences.

24. With regard to the *second* observation relating to low income of creditor-companies, Ld. AR submitted that income alone cannot be the sole criterion to judge the creditworthiness, particularly when the financial statements and bank records of creditors demonstrating availability of funds have been furnished.

25. Further, Ld. AR made a very important and significant submission that similar observations were made by AO in respect of other creditors, however, the additions in those cases stand deleted by AO in OGE pursuant to direction by CIT(A). To illustrate, Ld. AR referred demonstrated that the

additions made in respect of loans taken from (i) Silver Commosale Pvt. Ltd., (ii) Positive View Commercial, (iii) Lifewood Winimay Pvt. Ltd., (iv) Swarnim Distributors Pvt. Ltd, and (v) Cinderella Commodeal Pvt. Ltd. stand deleted. Therefore, according to Ld. AR, the adverse view taken in respect of these three creditors is a contradictory approach of department and such approach must be rejected.

26. Ld. DR for revenue, on the other hand, relied upon the orders of lower authorities.

27. We have considered rival submissions of both sides and perused the orders of lower authorities as well as the material available on record. Basically, the issue for our consideration is whether the assessee has discharged the onus cast upon it u/s 68 of the Act in respect of the impugned loan transactions. It is an undisputed fact that the assessee has furnished documentary evidences such as (i) ITRs, (ii) Audit Reports, (iii) Balance-Sheets, (iv) Profit & Loss Accounts, (v) Bank statements, (vi) Account confirmations and (vii) details of loan transactions. It is a further fact that the creditors have also responded to the notices issued u/s 133(6) by AO and the creditors have filed some of those documents directly to AO. It is a settled position of law that once the assessee furnishes primary evidences to establish identity of creditor and creditworthiness of creditors and genuineness of transactions, the onus shifts upon the Revenue to rebut the same with cogent material. In present case, the adverse inference drawn by the AO is primarily based on surrounding circumstances such as

common postal dispatch and low returned income, without pointing out any specific defect, discrepancy or falsity in the documentary evidences placed on record. In our considered view, such general observations and suspicion, howsoever strong, cannot take place of proof and are not sufficient to justify the addition made u/s 68 of the Act.

28. We further find a strong merit in the contention raised by Ld. AR that similar observations were made by AO in respect of other creditors, however, the additions in those cases stand deleted by AO in OGE. The Ld. AR has demonstrated this factual position with the support of illustrations of some creditors as mentioned by us in preceding para. When it is so, the AO is certainly not justified in denying similar relief to assessee.

29. In view of above discussion and for the reason stated therein, we are of the considered view that the addition of Rs. 1,89,00,000/- relating to afore-discussed three loan transactions deserves to be deleted. Therefore, we direct AO to delete the same. **Accordingly, this ground is allowed.**

Ground No. 5:

30. In this ground, the assessee challenges the disallowance of interest expenditure of Rs. 1,54,36,666/- made by AO.

31. The disallowance of interest is relating to the underlying additions of unexplained cash credits of Rs. 6,33,13,140/- and Rs. 5,80,09,541/- made by AO. At first, we note that the AO has already deleted the disallowance of

interest expenditure, partly to the extent of Rs. 1,52,17,278/- in OGE dated 29.08.2025. However, since we have granted further relief to assessee by way of remanding/deleting the underlying additions of loans while adjudicating Ground No. 4 & 5, we direct the AO make a systematic verification of interest disallowance and re-compute the same in accordance with the final outcome of the underlying loan additions. To make it clear, the Ld. AO shall delete the interest relatable to such loans which are finally deleted, and sustain the disallowance of interest only to the extent it pertains to loans that are ultimately upheld. **Accordingly, this ground is allowed for statistical purpose.**

Ground No. 6:

32. In this ground, the assessee challenges the invocation of higher rate of tax u/s 115BBE by AO to the additions/disallowances. Since we have already remanded/deleted the underlying additions/disallowances to AO while adjudicating Ground No. 3, 4 & 5, this ground becomes infructuous/academic at present. **Accordingly, this ground does not require adjudication at this stage.**

Ground No. 7:

33. This ground is general and no submission is made by either side. **Accordingly, this ground does not require any adjudication from us.**

34. Resultantly, this appeal is partly allowed in the terms indicated above.

Order pronounced in open court on 10/04/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER
Indore

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

दिनांक /Dated : 10/04/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore