



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

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

I.T.A No.4166/Mum/2025
(Assessment Year: 2012-13)

Anandmangal Investment & Finance Pvt Ltd, 201, Hemlok Apartment, 87, Kilachand Path, Kandivali, Mumbai PAN: AAACA5241L	vs	Income-tax Officer, W-12(1)(1), Mumbai 129, 1 st Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020
APPELLANT		RESPONDENT

Assessee by : Shri Ajay Singh & Shri Akshay Pawar
Respondent by : Shri Surendra Mohan (SR DR)

Date of hearing : 15/09/2025
Date of pronouncement : 18/09/2025

ORDER

Per Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld. CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for the Assessment Year 2012-13, date of order 19/01/2024. The impugned order emanated from the order of the Learned Income-tax Officer, Ward 12(1)(1), Mumbai (in short, 'the Ld.AO') passed u/s 143(3) r.w.s. 147 of the Act, date of order 16/12/2019.

2. The Registry has reported that the appeal was filed with a delay of 454 days. The Ld. AR submitted petition for condonation of delay with two affidavits executed by the Directors of the company and the Chartered Accountant of the assessee-company.

One affidavit, affirmed on 06/09/2025 by Shri Narendra R. Gadekar, Director of the assessee-company, states that in Form No. 35, the communication email was mentioned as “rajendrahadiya@gmail.com”. Subsequently, the said Director, Shri Rajendra Hadiya, expired on 29/01/2020, and thereafter, the case was transferred to NFAC. However, the impugned appellate order was served on the email address of the Chartered Accountant, Shri Prakash Shah, who had used his email only for the limited purpose of filing the assessee’s appeal against the assessment order. Since Shri Shah was primarily handling the assessee’s income-tax audit and accounting matters, the appellate order went unnoticed. It was only upon receiving further communication from the Income-tax Department that the CA informed the assessee, after which the present appeal was filed, albeit with a delay of 454 days. A separate affidavit of Shri Prakash Shah, Chartered Accountant, duly affirmed on 04/09/2025, has been filed in original.

The Ld. DR opposed the condonation of delay of 454 days, though notably, he raised no objection regarding the service of the appellate order on the Chartered Accountant’s email instead of the company’s registered email.

Considering the submissions of the Ld. AR, we are satisfied that there existed sufficient cause for the delay in filing the appeal. As the impugned appellate order was served on the Chartered Accountant’s email rather than on the company’s email, we hold that the delay of 454 days stands condoned. Accordingly, the appeal is admitted for adjudication.

3. The brief facts of the case are that the assessee's case was reopened u/s 148 on ground for receiving of unsecured loan amount to Rs.2.5 crores. The Ld.AO treated this alleged loan as accommodation entry and treated this as a bogus transaction. The recorded reason was supplied to the assessee and accordingly assessee submitted to the objection that the alleged loan was not transacted to the impugned assessment year, but the assessee received this amount from M/s Piyali Trading Company, previously known as Revathy Resorts Pvt Ltd for A.Y. 2002-03. So, the entire transaction was made for financial year 2001-02 on 30/03/2002 amount to Rs.50 lakhs each in 5 instalments in the State Bank of India, Novalakha Branch, Indore. Hence, the addition cannot be sustained for the impugned assessment year. Finally, the assessment was framed by addition amount to Rs.2.5 crores with the total income of the assessee. Being aggrieved, assessee filed an appeal before the Ld.CIT(A). the assessee challenged the addition in both legally and on merit. The Ld.CIT(A) rejected both the grounds of the assessee's appeal. Being aggrieved, assessee filed an appeal before us by challenging the issue on legality as well as on merit.

4. The Ld. AR argued the matter and submitted a paper book containing pages 1 to 66, which has been placed on record. He stated that after receiving the recorded reasons and notice issued under section 142(1) of the Act, the assessee, by letter dated 11/10/2019 (**APB, page 39**), submitted that the entire transaction pertained to 30/03/2002, relevant to A.Y. 2002-03. He further clarified that the cheque number mentioned in the bank account was incorrect, and accordingly provided the correct cheque number. Subsequently, the assessee furnished further details before the Ld. AO vide letter dated 25/11/2019, which are annexed at **APB**

pages 43 to 47. The relevant supporting documents were also filed before the Ld. AO, duly annexed at **APB pages 57 to 86**, along with the e-Processing Response Acknowledgement. The Ld. AR further argued that in the written submissions filed before the Ld. CIT(A) with all relevant evidence. The assessee had enclosed confirmations of accounts, receipts, the State Bank of India, Indore bank statement, the audited financial statements as on 31/03/2002, as well as confirmations from loan creditors. These are annexed at **APB pages 57 to 73.**

The Ld. AR then drew our attention to paragraphs 6.2 to 6.2.4 of the impugned appellate order, which are reproduced below: –

“6.2 The appellant in its grounds of appeal 2, 3 and 4 has assailed the AO for making an addition of Rs. 2,50,00,000/- u/s 69 A of the Income Tax Act. The grounds are being taken up together for the sake of convenience and to avoid repetition. The appellant has stated that the loan was taken in A.Y. 2002-03 and has submitted that the loan is still outstanding in its books. The appellant has again submitted that the loan from M/s Piyali Trading Co. Pvt. Ltd. was taken vide cheques no. 209763, 209764, 209765, 209766 and 209767 of Rs. 50 lakh each on 30.3.2002 and has further submitted that the case is reopened on the basis of the information received from ITO Ward 7 (3) (3), Mumbai without giving the opportunity for cross examination of the assessee company and neither AO examined M/s Piyali Trading Co. Pvt. Ltd. in its case.

6.2.1 The appellant has submitted a copy of bank statement showing the loans received by it in 2002-03. The perusal of the same shows that the cheques no. mentioned in the bank statement are 00003845, 00003846, 00003847, 00003848 and 00003849 dated 19.7.2002 but in the submission before the AO and in appellate proceedings it has stated that the loan was received by cheques nos. 209763, 209764, 209765, 209766 and 209767 dated 30.3.2002. Therefore, the cheques no. and date mentioned by the appellant in his submissions does not match with the date and cheques no. mentioned in the bank account statement. Also the statement does not have the name from whom the said cheques have been received. In view of the same the appellant is unable to prove his contention about the loan having being received in 2002-03.

6.2.2 As regards the contention of the appellant that AO did not produce the witnesses whose statements were recorded and used against the Appellant. The contention of the Appellant is not acceptable in view of the judgment of the Hon'ble ITAT, Mumbai in the case of GTC Industries Ltd. vs ACIT, ITAT, Mumbai, [1998] 65 ITD 380 (BOM) wherein it was held that "Where statements of witnesses were only secondary and of subordinate material used to buttress main matter connected with amount of additions, it had to be held that there was no denial of principles of natural justice if witnesses were not allowed to be cross-examined by assessee".

6.2.3 The Hon'ble Supreme Court in the cases of Kale Khan Mohammad Hanif vs. CIT (1963) 50 ITR 1 (SC) and Roshan di Hatti vs. CIT (1977) 107 ITR 938 (SC) has held that the law is well settled that the onus of proving the source of a sum of money found to have been received by an assessee, is on him. Where the nature and source of a receipt, whether it be of money or other property, cannot be satisfactorily explained by the assessee, it is open for the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that the income is from any particular source.

6.2.4 In view of the fact that the appellant has not been able to prove that the loans were received by it in A.Y. 2002-03 and respectfully following the judgments mentioned in paras 6.2.2 and 6.2.3 above the addition made by the AO is sustained."

5. The Ld. DR argued and stated that the assessee has taken this amount in impugned assessment year and the said loan is still continuing and it is found that the said loan is taken from bogus entity. He stands in favour of order of revenue authorities and requested for upholding the impugned addition. The relevant paragraphs of impugned assessment order is reproduced as below: -

"15. During the year, assessee is found the owner of Rs 2,50,00,000/- for which it has failed to submit the explanation about its nature and source of fund. Assessee has not filed any single paper which proves the source of fund.

16. It is incorrect to say that the onus to prove the genuineness of transaction and nature and source of the fund has been discharged by the assessee. From above factual analysis, it is evident

beyond doubt that the cartel of entry provider has been used as legal framework for fraudulent activities i.e. providing of accommodation entry of Rs 2,50,00,000/-in the shape of unsecured loans. The truth is that the assessee has routed its own unaccounted fund of Rs 2,50,00,000/- and failed to justified in its accounts.....”

6. We have heard the rival submissions and considered the documents available on record. The addition of Rs.2.50 crores was confirmed by the Ld. AO under section 68 of the Act on account of an alleged bogus unsecured loan. The said amount was received from M/s Piyali Trading Company, formerly known as M/s Revathy Resorts Pvt. Ltd., in A.Y. 2002-03. As the impugned assessment order, the assessee was unable to discharge the onus regarding the identity of the creditor and the genuineness of the transaction. The Ld. AO further expressed dissatisfaction about the creditworthiness of the creditor.

However, in the first appellate proceedings, the assessee furnished documents establishing the identity of the creditor, the bank statements evidencing the loan transaction, and confirmation from the creditor in respect of the loan taken in A.Y. 2002-03. In the impugned assessment year, the loan was merely carried forward and disclosed in the balance sheet as an unsecured loan, as reflected in the financial statements placed in the **APB at pages 65 to 86**. On perusal of **APB page 84**, it is seen that the loan stood in the name of M/s Revathy Resorts Pvt. Ltd. It is also noted from the investigation records that certain cheque numbers mentioned in the bank account were incorrectly reflected; however, the assessee provided the correct cheque numbers before the Ld. AO as well as the Ld. CIT(A). When compliance was made in response to notice issued under section 142(1), the Ld. AO remained completely silent on the assessee's submissions. Despite the assessee furnishing documentary evidence, the Ld. AO proceeded to treat the entire

transaction as bogus without assigning cogent reasons. On the other hand, no material has been brought on record by the Ld. AO to show that any loan transaction took place in the impugned assessment year. The fact that the loan transaction pertained to A.Y. 2002-03 is duly acknowledged in the appellate order itself. The first appellate authority, however, failed to identify any specific defect in the loan transaction. Further, the loan creditor is a registered company under the Companies Act, 1956. The issue of creditworthiness, therefore, cannot be re-examined in the impugned year in respect of a loan already accepted in earlier years. It is thus evident that no fresh loan was taken during the impugned year; rather, the balance was merely carried forward in the name of M/s Revathy Resorts Pvt. Ltd. In these circumstances, the addition of Rs.2.50 crores sustained by the authorities below is wholly unjustified. We, therefore, set aside the impugned appellate order and direct that the addition be deleted.

7. Having adjudicated the issue on merits, the legal grounds raised by the assessee are rendered academic and require no further adjudication.

8. In the result, the appeal of the assessee bearing **ITA No.4166/Mum/2025** is allowed.

Order pronounced in the open court on 18th day of September 2025.

sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 18/09/2025
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
JODHPUR
5. गार्ड फाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI