

IN THE INCOME TAX APPELLATE TRIBUNAL "Guwahati" BENCH, Guwahati
(Through Virtual hearing at Kolkata)
BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI MANOMOHAN DAS, JM

ITA No. 168/GTY/2020
(Assessment Year: 2017-18)

**Asst. Commissioner of Income
Tax, Circle-1**

Aayakar Bhawan, G.S. Road,
Christian Basti,
Guwahati-781005, Assam

(Appellant)

PAN No. AALCS5046E

SRKM Steel (P) Ltd.

Lokhra Road Babylon, Post
Office-Sawkuchi, Guwahati-
781034, Assam

Vs.

(Respondent)

Assessee by : Shri Somnath Ghosh, AR

Revenue by : Shri Santosh Kumar Karnani, DR

Date of hearing: 17.11.2025

Date of pronouncement: 15.12.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the Commissioner of Income-tax (Appeals)-2, Guwahati (hereinafter referred to as the "Ld. CIT(A)"] dated 03.07.2020 for the AY 2017-18.

2. The only issue raised by the Revenue is against the order of Ld. CIT (A) deleting the addition of ₹2,86,21,750/- as made by the Ld. Assessing Officer in respect of unsecured loans and interest thereon by treating the same as unexplained cash credit u/s 68 of the Act.
 - 2.1. The facts in brief are that the assessee filed the return of income on 27.10.2017, declaring total income at ₹2,98,58,010/-. The case of the assessee was selected under scrutiny through Computer Assisted

Scrutiny Selection (CASS). Notice u/s 143(2) and 142(1) of the Act along with questionnaire were dully issued and served upon the assessee. During the course of assessment proceedings, the Id. AO observed that the assessee has taken unsecured loans aggregating to ₹2,82,00,000/- the details whereas is given in para no.3 of the assessment, which extracted as under:-

1.	ANS properties Pvt. Ltd.	₹9.38 lakhs	Income ₹0.50 lacs	₹8 lacs
2.	M.s. India Pvt. Ltd.	₹9.72 lacs	Loss ₹0.58 lacs	₹25 lacs
3.	Siddhi Vinayak India Pvt. Ltd.	₹51.24 lakhs	Income ₹9.93 lacs	₹38 lacs
4.	S.P. India Pvt. Ltd.	₹17.29 lacs	Loss ₹0.45 lacs	₹60 lacs
5.	Mohan Bansidhari India Pvt. Ltd.	₹2.24 lacs	Income ₹0.26 lacs	₹23 Lacs
6.	Total			282 lakhs

2.2. The Id. AO noted that the lender company has no creditworthiness to advance such loans as they have very meagre turnover and no credentials. The Id. AO concluded that the assessee has failed to establish the identity, creditworthiness of the lenders and genuineness of the transactions and added u/s 68 of the Act by treating the same as unexplained cash credit. Besides, the Id. AO added ₹4,21,750/- on account of interest paid on these unsecured loans.

2.3. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee after recording a finding of fact that the assessee has repaid the loans in the subsequent assessment years.

2.4. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has undisputedly raised unsecured loans from seven parties aggregating to ₹2,82,00,000/-. The Id. AO during the course of assessment proceedings called upon the assessee to furnish the evidences qua with these loans to prove the identity and creditworthiness of the lenders and genuineness of the transactions. Accordingly, the assessee furnished the details qua the loan creditors comprising names, addresses, audited balance

sheets, confirmations and bank statements etc. However, the Id. AO treated these loans as accommodation entries and added the same u/s 68 of the Act as unexplained cash credit without pointing out any defect or deficiencies in the evidences furnished by the assessee. Besides, the Id. AO added the interest on the above loans of ₹4,21,750/-. We note that the Id. CIT (A) has allowed the appeal after recording a finding of fact that these loans were repaid by the assessee in the subsequent financial years. In our opinion, once the assessee has established that loans were repaid in the subsequent assessment years with cogent evidences then the addition u/s 68 of the Act cannot be made. We have also gone through the written submission filed by the Id. DR however, in view of the decision of the Hon'ble Jurisdictional High Court, we are inclined to respectfully follow the decision of Hon'ble Jurisdictional High Court that the assessee has repaid the loan then section 68 of the Act cannot be invoked. The case of assessee is squarely covered by the decisions of the Hon'ble Calcutta High court in number of cases namely PCIT-2, Kolkata Vs. Rahul Premier India Agency Private Limited in ITAT/133/2025, IA No.GA/2/2025 vide order dated 05.08.2025, PCIT Vs. M/s Narayan Tradecom Pvt. Ltd. in ITAT/76/2025, IA No. GA/1/2025 dated 10.06.2025, PCIT Vs. Alom Extrusions Ltd. ITAT/268/2024, IA no. GA/1/2024, GA/2/2024 dated 17.12.2024, PCIT Vs. M/s Edmond Finvest Pvt. Ltd., in ITAT/28/2024, GA/2/2024 dated 26.02.2024, PCIT Vs. Parwati Lakh Udyong, ITAT/2/2024, IA No.GA/1/2024 dated 19.02.2024. In all the above decisions the Hon'ble court has held that where the assessee has filed all the evidences qua the loan creditors before the Id. AO and loans are also repaid then the same cannot be added us/ 68 of the Act. Similarly, the case of assessee is squarely covered by the decision of the Hon'ble Gujarat High Court in the case of Ambe Tradecorp (P.) Ltd., reported

in [2022] 145 taxmann.com 27 (Gujarat), wherein it has been held as under :-

"3. The issue in this case arose in respect of the assessment year 2012-2013. It appears that the two loan transactions of Rs. 8,50,00,000/- and Rs. 23,70,00,000/- received by respondent assessee from one M/s. J.A Infracon Private Limited and M/s. Satya Retail Private Limited were treated by assessing officer to be sham in the sense that the creditworthiness etc. of the giver of the loan were not established. Accordingly, the assessing officer made addition under section 68 of the Act.

3.1 While the assessing officer dealt with unexplained cash credit from the M/s. Satya Retail Private Limited and from M/s. J.A Infracon Private Limited in his order in paras 5.1 and 5.2 respectively, the Commissioner of Income-tax in the appeal preferred by assessee found on facts and the material before it that the said two cash creditors had been holding there identity, creditworthiness and genuineness in respect of the loan transactions.

3.2 The appellate authority observed that, "In this regard, it has been noticed that ledger accounts and confirmations of the aforesaid two parties have been provided by the appellant to the AO in the assessment proceedings. Thereafter, the AO also carried out the independent inquiries u/s. 133(6) of the I.T. Act and in compliance thereto both the companies have submitted the requisite information."

3.3 The information supplied by assessee was duly noticed by appellate authority and facts in that regard were recorded also to arrive at a finding that the unsecured loans to the aforesaid parties have been paid by account payee cheques from the bank account of the assessee which was not in dispute, muchless in doubt. The accounts were finally settled with the repayment of the loan to the lender companies.

3.4 When the revenue preferred appeal before the Appellate Tribunal, the Tribunal confirmed the findings recorded by the Appellate Authority. The Tribunal referred to the decision of Durga Prasad More (82) ITR 540 and also in Sumati Dayal (214) ITR 801, to further record on the basis of the facts that the assessee had furnished the details such as copy of ledger account, bank statements, income tax returns, balance sheet etc. It was also recorded that notice under Section 133(6) of the Act was issued to the said parties which were duly responded by them. The identity of the parties could not be, therefore disputed, recorded the tribunal. The aspect was also noticed that the assessee was not beneficiary of the loan received by it and the loan was repaid by the assessee in the subsequent year. It led to unacceptable conclusion that the impugned transaction was a business transaction between the assessee and the loan parties and that they could not be doubted for their genuineness.

3.5 While the revenue has tried to put up a case that the transactions were in the nature of accommodation entries, this case has only presumptive and assumptive value not supported by any factual data. On the contrary, on the basis of the material before the authorities, the transactions were found to be genuine.

4. Learned advocate for the appellant attempted to emphasize that for the purpose of application of Section 68 of the Act, three ingredients were necessary. Firstly identity of the parties to the transaction of loan, second is the creditworthiness of such parties and thirdly the genuineness of the transaction. It was submitted in vain that neither of the ingredients were satisfied.

5. As discussed above, since the requisite material was furnished by assessee showing the identity and since the assessee was not beneficiary when the loan was repaid in the subsequent year, even the ingredients of creditworthiness and genuineness of transaction were well satisfied.

6. The Tribunal rightly recorded in para 29 of the judgment,

"Once repayment of the loan has been established based on the documentary evidence, the credit entries cannot be looked into isolation after ignoring the debit entries despite the debit entries were carried out in the later years. Thus, in the given facts and circumstances, were hold that there is no infirmity in the order of the Ld.CIT-A. "

7. For the reasons recorded above, no question of law muchless substantial questions arises in this appeal. It stands meritless and accordingly dismissed.

2.5. Considering the facts of the case before us in the light of the above decisions , we are inclined to uphold the appellate order on this issue by dismissing the revenue appeal. In the result, the appeal of the Revenue is dismissed

3. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 15.12.2025.

Sd/-
(MANOMOHAN DAS)
(JUDICIAL MEMBER)

Kolkata, Dated: 15.12.2025

Sudip Sarkar, Sr.PS

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Guwahati