

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “A” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.6380/Del/2025
[Assessment Year : 2017-18]**

M/s. Jindal Charitable Society PS-2, C-3 Block, Ashok Vihar, Phase-II, New Delhi-110052. PAN-AAATJ0588L	vs	DCIT Central Exempt 1(1) Delhi
APPELLANT		RESPONDENT

**ITA No.9164/Del/2025
[Assessment Year : 2017-18]**

DCIT Central Circle-29 New Delhi	vs	M/s. Jindal Charitable Society PS-2, C-3 Block, Ashok Vihar, Phase-II, New Delhi-110052. PAN-AAATJ0588L
APPELLANT		RESPONDENT
Appellant by	Shri Lalit Mohan, CA & Shri Parth Singhal, Adv.	
Respondent by	Shri Jitender Singh, CIT DR	
Date of Hearing	18.02.2026	
Date of Pronouncement	14.05.2026	

ORDER

PER MANISH AGARWAL, AM :

The captioned cross-appeals are filed by assessee and the Revenue against the order dated 17.09.2025 of Ld. Commissioner of Income Tax (Appeals)-30, New Delhi [“Ld. CIT(A)”] in Appeal No. CIT(A), Delhi-40/10415/2019-20 passed u/s 250 of the Income Tax

Act, 1961 [“the Act”] arising out of the assessment order dated 31.12.2019 passed u/s 143(3) of the Act pertaining to Assessment Year 2017-18.

2. Both the cross-appeals filed by assessee and Revenue for the same assessment year therefore, both are decided by a common order for the sake of convenience.

3. Brief facts of the case are that the assessee is a charitable society, engaged in imparting education. The return of income was e-filed on 30.10.2017 which was revised on 04.12.2017, declaring NIL income. The case of the assessee was selected for scrutiny under CASS and notice u/s 143(2) were issued on 19.09.2018 and duly served upon the assessee. Thereafter, the statutory notices u/s 142(1) alongwith questionnaire were issued from time to time. The assessee is a registered society u/s 12A/12AA r.w.s. 80G of the Act. The AO society is enjoying the benefit of sections 11 & 12 of the Act however, it is observed that there were unsecured loans outstanding at the end of the year of INR 3,62,71,337/- as on 31.03.2016 which were increased to INR 7,97,33,115/- as on 31.03.2017 i.e. previous year relevant to year under appeal. Accordingly, the AO examined the increase of unsecured loans to the extent of INR 4,36,61,778/-. The assessee filed details with respect to loan creditors however, AO has not satisfied with the details filed by the assessee and made the addition of the closing balance of unsecured loans appearing in the

Balance Sheet as at 31.03.2017 of INR 7,97,33,115/- as unexplained credits u/s 68 r.w.s. 115BBE of the Act.

4. Aggrieved by the said order, assessee preferred appeal before Ld. CIT(A) and filed additional evidences to establish the genuineness and creditworthiness of the loan creditors and further claimed that the addition to the extent of opening balance should not be made u/s 68 of the Act as no fresh funds were received during the year under appeal to such extent. Ld. CIT(A) obtained the Remand Report from the AO and after considering the Remand Report and submissions of the assessee, admitted the additional evidences filed under Rule 46A of the Income Tax Rules, 1962 (“the Rules”) and thereafter, Ld. CIT(A) has confirmed the addition of INR 51.00 Lakhs of the loans received from three parties and deleted the balance additions.

5. Aggrieved by the order of Ld. CIT(A), both the parties are in appeal before the Tribunal by taking various Grounds of appeal mentioned in the appeal memo.

6. As all the Grounds of appeal of the assessee and the Revenue are with respect to the additions made u/s 68 of the Act as unexplained credit out of which part additions were sustained and remaining were deleted by Ld. CIT(A) therefore, all the Grounds of appeal taken by both the parties are decided as under :

7. Heard the parties at length and perused the material available on record. It is observed that **Ground of appeal No.1** raised by the Revenue is with respect to admission of additional evidences under Rule 46A of the Rules.

8. From the perusal of the appellate order, it is observed that during the course of appellate proceedings, assessee has filed prayer under Rule 46A of the Rules wherein assessee has stated that all the necessary details of the loans taken during the year under appeal as well as preceding assessment year and to establish the identity, genuineness and creditworthiness of the lenders, their particulars were filed as additional evidences. It was the claim of the assessee that during the course of assessment proceedings, it was not able to collect ITR and confirmations from the lenders as borrower always has subordinated position and cannot compel the lender for providing the details as per the Will of the borrower. However, after making the rigorous efforts, the assessee has been able to procure all such evidences and they were filed as additional evidences under Rule 46A of the Rules. The assessee further claimed that AO has made no effort of making verification directly from the lenders by issuing summons u/s 133(6) of the Act and in arbitrary manner has made the addition of entire outstanding amount of loans.

9. Ld. CIT(A) confronted these evidences filed by the assessee to the AO obtained Remand Report from the AO and copy of the Remand Report dated 02.09.2025 received from the AO is reproduced at pages

66 to 70 of the appellate order wherein the AO has discussed the provisions of Rule 46A and requested not to accept the additional evidences. In the said report in para 6.1, AO though admitted that the assessee has filed ITR and bank statements of the lenders however, he observed that merely filing their ITRs and bank statements etc. does not prove the genuineness of the transaction. The AO further observed that source of funds in the hands of the creditors remained unverified. Accordingly, the AO prayed not to admit the additional evidences filed by the assessee. The said report was supplied to the assessee for comments and the assessee's in re-joinder as reproduced in para 6.1 at page 70 to 77 of the appellate order, reiterated the same facts which were submitted in the submissions filed alongwith the additional evidences and further submits that Ld. CIT(A) has co-terminus power u/s 251 of the Act according to which CIT(A) can examine and decide the matter as he may think fit. Ld. CIT(A) after considering the facts and the submissions and the Remand Report, in para 8 of the order observed that the additional evidences filed are necessary to decide the appeals and the AO has proceeded on the basis of inadequate inquiries therefore, he admitted the additional evidences filed by the assessee and decided the appeal of the assessee after considering the merits of the submissions filed.

10. The entire series of facts as narrated above clearly shows that Ld. CIT(A) has provided sufficient and adequate opportunities to both the parties before admitting the additional evidences which action is

in accordance with Rule 46A of Rules and we find no error in the same. Merely because the same could not be filed before the AO, any evidence which is crucial and goes to the root of the matter cannot be denied for mere technicalities. In view of the above facts, we uphold the order of Ld. CIT(A) in admitting the additional evidences filed by the assessee.

11. Now coming to other Grounds of appeal of Revenue wherein Revenue has challenged the deletion of additions of INR 7,46,33,115/- made u/s 68 and assessee's Grounds of appeal are with respect to the confirmation of additions of INR 51 Lakhs by ld. CIT(A).

12. First and foremost, it is observed that AO has made the addition of the entire closing balance appearing in the balance sheet of unsecured loans as on 31.03.2017 at INR 7,97,33,115/- comprising of loans from Sixteen (16) parties out of which a sum of INR 3,62,71,337/- is the opening balance of unsecured loans from 13 parties and during the year under appeal, fresh borrowing of INR 5,51,04,633/- were taken after crediting of interest amount of INR 33,82,798/- and reducing the repayment of 1,50,21,020/-, the remaining balance at the end of year was of INR 7,97,33,115/-. Ld. CIT(A) observed that with respect to the opening balance of INR 3,62,71,337/- there were certain mis-match which could not be explained before the AO however, the assessee has been able to file the complete details before him and once it is found that the amount

of INR 3.62 crores represents the opening balance, no addition could be made for the said sum. During the year under appeal, the assessee has received fresh loans of INR 5.51 crores from following 04 parties:-

- | | | |
|-------|---|-----------------|
| (i) | Shri Pankaj Nakra | INR 10 lakhs |
| (ii) | Smt. Pravina Gupta | INR 11 Lakhs |
| (iii) | M/s. Jyoti Installment Pvt. Ltd. | INR 30 Lakhs |
| (iv) | M/s Venus India Asset Finance Pvt. Ltd. | INR 5.00 crores |

13. Ld. CIT(A) had deleted the addition towards the loan taken from M/s Venus India Asset Finance Pvt. Ltd. however, sustained the balance loans of INR 51 Lakhs taken from remaining 03 parties.

14. With respect to the deletion of the opening balances as per section 68, since no fresh funds were received during the year, no addition could be made for INR 3.62 crores which in fact is the opening balance of unsecured loans and this fact was appreciated by Ld. CIT(A) while deleting the addition. Before us, revenue has failed to give any justification as to why the opening balance of unsecured loans could be added as unexplained credit of the year under appeal u/s 68 of the Act, therefore, we find no error in the order of Ld. CIT(A) in deleting the addition to the extent of opening balances of unsecured loans brought forwards from the preceding year and included in closing balance of INR 7.97 crores of which addition was made by the Ao u/s 68 of the Act. Therefore, the order of Ld. CIT(A) to the extent of deletion of opening balances is hereby, confirmed.

15. Now with regard to the issue of fresh loans taken during the year of INR 5.51 crores, as observed above, Ld. CIT(A) held the fresh loan of INR 5 crores taken from M/s Venus India Asset Finance Pvt. Ltd. as genuine loan and deleted the same and further confirmed the addition of INR 51 Lakhs towards the fresh loans taken from 03 parties as named herein above. Before us, claim of the assessee was that during the course of course of appellate proceedings, assessee has filed all the necessary particulars and details of the loan creditors which includes their PAN, copy of ITR, copy of confirmation, copy of their bank statements etc. Ld.AR submits that in case of M/s Venus India Asset Finance Pvt. Ltd., assessee has further filed copy of loan agreement and stated that the lender is RBI registered NBFC and as per its return of income filed in the year under appeal total income of more than INR 21.58 crores were declared. Ld.AR further submits that all these evidences were filed as additional evidences which were sent for verification to the AO however, the AO has failed to point out any discrepancy in the details so filed and simply requested not to admit the additional evidences as they could not be produced in the assessment proceedings. Ld. AR further submits that out of the loan of INR 5 crores taken during the year, a sum of INR 31,17,320/- was repaid and the closing balance (including accrued interest) was of INR 4,68,82,680/- which was included in the closing balance of INR 7.97 crores. Ld. AR thus submits that the AO has not disputed the receipt of loan to the extent repaid during the year under appeal. Ld.AR further submits that loan taken from M/s Venus India Asset Finance Pvt. Ltd. has been repaid in subsequent AYs which is not

doubted. He therefore, submitted that Ld. CIT(A) has rightly deleted the addition on this account more particularly when the assessee has established the creditworthiness and source in the hands the lender. He further submits that though the provision of establishing the source of source in respect of loan creditors has come in the statute from 01.04.2022 applicable from AY 2023-24 however, the assessee has been able to establish the creditworthiness by filing the ITR of the said party having income of more than INR 21.58 crores and further filed the copy of bank account and confirmed copy of ledger account therefore, prayed for the confirmation of order of Ld. CIT(A) deleting the addition of loan received from it.

16. With respect to other 03 loans creditors, Ld.AR submits that assessee has filed the copy of ITRs wherein they have shown sufficient income and further filed the confirmed copy of account and copy of their bank statements wherein all the lenders have sufficient funds prior to transfer of funds to the assessee. Ld.AR further submits that in case of Shri Pankaj Nakra, Smt. Pravina Gupta and M/s. Jyoti Installment Pvt. Ltd, the assessee has taken further loans in subsequent AYs where the same have been accepted even in the proceedings u/s 143(3)/147 of the Act. He further submits that these loans were repaid in subsequent AYs where no doubts were raised at the time of repayment. Ld.AR submits that assessee has established the identity and creditworthiness by filing their ITRs and PAN. Further their bank statement was filed to prove the creditworthiness and genuineness of the transaction. Ld.AR thus, submits that the

addition made by AO be deleted. He placed reliance on the various judicial pronouncements which were placed on record.

17. On the other hand, Ld. CIT DR for the Revenue vehemently supported the orders of the lower authorities and submits that the assessee has failed to discharge the primary onus to prove the genuineness of transaction and creditworthiness of the lenders. The AO observed that there was discrepancy in the opening balances and therefore, AO has rightly made the addition and requested for the confirmation of the same. Ld. CIT DR further relied upon the judgement of Hon'ble Supreme Court in the case of **Pr. CIT vs NRA Iron & Steel (P.) Ltd.** reported in **[2019] 103 taxmann.com 48 (SC)** and judgement of Hon'ble Delhi High Court in the case of **Prem Nath Goel & Co. vs CIT** reported in **[2004] 271 ITR 390 (Del.)** wherein it is held by Hon'ble High Court that "*onus is on the assessee to establish the genuineness of the credit entries*".

18. Heard the contentions of both parties at length and perused the material available on record. The AO has made total addition of INR 7,97,33,115/- u/s 68 of the Act as unexplained credit of the closing balances of unsecured loans appearing in the Balance Sheet as at 31.03.2017 which includes opening balance of INR 3.62 crores. Ld. CIT(A) observed that AO has made the addition of the opening balance as there were some mis-match in the opening balances which could not be explained during the assessment proceedings. However, since the books were not rejected and AO himself has

observed that this amount as per balance sheet in preceding year therefore once the amount was not received during the year, no addition could be made for the same u/s 68 of the Act. Therefore, herein above, we have already upheld the order of Ld. CIT(A) in deleting the addition with respect to the opening balances of unsecured loans made u/s 68 of the Act during the year under appeal.

19. Now coming to the 2nd issue of deletion of addition of INR 5 crores of loans taken from M/s Venus India Asset Finance Pvt. Ltd., It is observed that though the assessee has taken loan of INR 5.00 crores from this party however, during the year, certain repayments were made and interest was also credited and the net amount outstanding as on 31.03.2017 was of INR 4,68,82,680/- which is forming part of the total addition of INR 7,97,33,115/- made by the AO. It is observed that the AO has accepted part of the loan received and repaid during the year as genuine transaction. It is further observed that during the course of assessment proceedings, assessee had not furnished details to establish the genuineness and creditworthiness of lender however, before Ld. CIT(A), assessee has been able to demonstrate that the loan taken from M/s Venus India Asset Finance Pvt. Ltd. is genuine transaction and further established the creditworthiness of the lender company by filing copy of its ITR wherein total income of INR 21,58,25,297/- was declared by the lender company as against which loan of INR 5.00 crores were given to the assessee. Further copy of bank statement of the lender

and confirmed copy of account are also filed. All these documents are placed at pages 673 to 680 of the Paper Book. Besides this, loan agreement was also filed.

20. All these documents established that the company is having sufficient creditworthiness to advance the loan to the assessee and once the ITR filed, its identity is established and since the transactions is carried out through banking channel and necessary copy of the bank account of the lender is submitted, the creditworthiness has also been established. Ld. CIT(A) considered these facts and in para 8.5 of the order has accepted the loan taken as genuine by making following observations:-

8.5. *“For fresh credit of Rs.5 crore, the appellant has placed on record a term/loan agreement, bank statements and repayment evidence in respect of funds received from Venus India Asset-Finance Pvt. Ltd. The agreement shows that funds were advanced as a finance facility for 36 months and the appellant is servicing interest/repayments to Venus. These materials satisfy the limbs of section 68 (identity, genuineness and creditworthiness) in relation to the credits advanced by Venus: (a) Venus is a regulated NBFC with documents on record; (b) the receipt was routed through bank accounts; (c) there is an agreement/term sheet; and (d) repayments/interest were being made. In these circumstances credits from Venus India are held to be explained and are not liable to be added.”*

21. Before us, Revenue has failed to controvert such findings nor any contrary material was brought on record to justify the addition made by the AO more particularly, when all the documents were filed as additional evidences before Ld. CIT(A) under Rule 46A which were confronted to the AO by Ld. CIT(A) and Remand Report was called for

wherein AO has not doubted the veracity of the document so filed and merely for the reason that these documents were not filed during the course of assessment proceedings has doubted the transaction. In the Remand Report, AO observed that ITR and bank statement filed, does not prove the creditworthiness of the lenders which is a bald statement made without considering the fact that the lender company has declared income of more than INR 21 crores for the year under appeal and sufficient balance was available in its bank account when the funds were transferred to the assessee. The lender company is a registered NBFC and engaged in the business of providing finance and therefore, once the availability of funds with the lenders is established and its creditworthiness is proved, the doubts cannot be raised with respect to the genuineness of transaction.

22. In view of these facts, we do not find any error in the order of Ld. CIT(A) in deleting the addition to the extent of loan taken from M/s Venus India Asset Finance Pvt. Ltd.

23. Now coming to the addition of INR 51.00 Lakhs sustained by Ld. CIT(A) of the loans taken from three entities namely Shri Pankaj Nakra of INR 10.00 Lakhs; Smt. Pravina Gupta of INR 11.00 Lakhs and M/s. Jyoti Installment Pvt. Ltd. of INR 30.00 Lakhs. It is observed that during before Ld. CIT(A), assessee has filed additional evidences comprising of copy of ITR, bank statements and confirmations. These documents are placed at pages 597 to 672 of the Paper Book. It is further observed that assessee has taken loans

from these entities in subsequent AYs where they have been accepted without raising any doubts. By filing these documents, identity of the lenders has been established. Further, genuineness of the transaction cannot be doubted as all the loans were taken through banking channel and copy of their bank statements were filed where at the time of making advances to the assessee, sufficient balances were available and this fact has been verified by us. Once the creditor has sufficient credit balance in the bank account, their creditworthiness cannot be doubted.

24. Once the loans taken in subsequent assessment years have been accepted wherein assessments were completed u/s 143(3) of the Act, the same should not be doubted in the year also, more particularly, when the assessee has discharged the burden casted upon it by filing all the relevant details of such loans and they have been repaid in subsequent AYs where the repayment has not been doubted. The Hon'ble Gujarat High Court in the case of **PCIT Vs Ojas Tarmake Pvt Ltd** reported in **156 Taxmann.com 75** has observed as under:

“Where appellant showed unsecured loans received during relevant assessment year and AO made addition on ground that appellant failed to discharge onus of liability as laid down under section 68, since amount of loan received by appellant was returned to loan party during year itself and all transactions were carried out through banking channels, impugned addition was to be deleted.”

25. Further by filing all the relevant details of the loan creditors, assessee has discharged the onus lies upon it. Therefore, there is nothing left on the part of the assessee to prove further. All these

details were confronted to the AO by Id. CIT(A) and sought remand report. If the AO wanted to inquire further, he has powers under the provisions of the section 131 and section 133(6) of the Act which he could have opted and could have verified whatever is submitted before him. The AO did not do so. This shows clearly the biased mind of the AO.

26. The Hon'ble Supreme Court in the case of **Orissa Corporation** reported in **[1986] 159 ITR 78 (SC)** has held that when the assessee furnishes names and addresses of the alleged creditors and the GIR numbers, the burden shifts to the Department to establish the Revenue's case and in order to sustain the addition the Revenue has to pursue the enquiry and to establish the lack of creditworthiness and mere non-compliance of summons issued by the Assessing Officer under section 131, by the alleged creditors will not be sufficient to draw an adverse inference against the assessee.

27. The Hon'ble Delhi High Court in the case of **CIT vs. Vrindavan Farms Pvt. Ltd.** in **ITA. No.71 of 2015** dated 12th August, 2015 held as under :

"The sole basis for the Revenue to doubt their creditworthiness was the low income as reflected in their return of income. It was observed by the ITAT that the Assessing Officer had not undertaken any investigation of the veracity of the documents submitted by the assessee, the departmental appeal was dismissed by the Hon'ble High court."

28. It is also relevant to state an amendment is made that vide Finance Act, 2022 wherein second proviso to section 68 is added, so

as to provide that the nature and source of any sum, whether in the form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider. However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well-regulated entity, *i.e.*, it is a Venture Capital Fund, Venture Capital Company registered with SEBI. This amendment has taken effect from 1st April, 2023 and accordingly applies in relation to the assessment year 2023-24 and subsequent assessment years. The year before us is AY 2021-22 thus this amendment is not applicable and as has been held by the hon'ble Delhi High court in the case of Vrindavan farms (supra), when the assessee had filed all the details, the burden of proving the genuineness and creditworthiness of the creditor stood discharged by the assessee.

29. As observed above, the requirement of explaining 'Source' of 'Source' in respect of loans is applicable from A.Y. 2023-24 and subsequent years. Reliance in this regard is placed on Delhi ITAT decision dated 31/05/2022 in the case of M/s Mall Hotels Ltd. Vs. CIT (ITA No. 2688/DEL/2014). The Hon'ble Delhi Bench of ITAT in the case of ACIT v Smt. Prem Anand (ITA No. 3514/Del/2014) vide its decision dated 13.04.2017 has held that amendment made in section 68 of the Act w.e.f. 01.04.2013 empowers the A.O. to examine source of source in case of share application money / share capital / share premium from 01.04.2013 and this amendment does

not give power to the A.O. to examine source of source of non-share capital cases.

30. Regarding surrounding circumstances, it is observed that while making addition u/s 68 of the Act, the AO has doubted the financial capacity of loan creditors but such addition cannot be made on preponderance of probability and there has to be some evidence and substance in contention. The Assessing Officer has not brought anything on record to establish that the sources in the hands of loan creditors is non-genuine. Merely because they have shown meagre income or no sufficient sources as presumed by Assessing Officer, loan taken by appellant from them cannot be held to be accommodation entries. It is well-settled position of law that no matter how strong suspicion is, it cannot take place of the evidence. Therefore, in the absence of any evidence showing that in fact, appellant has given cash in lieu of unsecured loan taken, merely on the basis of suspicion, no addition can be made for which reliance is placed on decision of Hon'ble Supreme court in the case of Daulatram Rawatmull, (1964) 53 ITR 574. The judgements relied upon by the revenue are distinguishable on facts as in the [resent case assessee has filed all the relevant details and discharged the burden casted upon it which was not done in the judgements relied upon by the revenue.

31. In view of the above facts, we are of the considered opinion that no addition should be made with respect to the loans taken from the

three parties. Accordingly, we direct the AO to delete the addition of INR 51.00 Lakhs made u/s 68 of the Act. Since we have deleted the additions made u/s 68 of the Act, the issue of denial of benefit of section 11 & 12 on such addition as raised by the assessee in its ground of appeal No. 3 does not survive. Accordingly, all the Grounds of appeal raised by the assessee are allowed and all the Grounds of appeal raised by the Revenue are dismissed.

32. In the final result, appeal of the assessee in **ITA No.6380/Del/2025 [Assessment Year 2017-18]** is allowed and appeal of the Revenue in **ITA No.9164/Del/2025 [Assessment Year 2017-18]** is dismissed.

Order pronounced in the open Court on 14.05.2026.

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:- 14.05.2026

Amit Kumar, Sr.P.S

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