

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” Bench, Mumbai**

**Before Shri Ravish Sood, Judicial Member
and Shri N.K.Pradhan, Accountant Member**

**ITA No.105/Mum/2018
(Assessment Year: 2010-11)**

I.T.O-20(2)(5)
Room No. 208, 2nd Floor,
Piramal Chambers,
Lalbaug, Parel,
Mumbai-400 012

PAN – ADNPA7375A

(Appellant)

Smt. Pratima Ashar,
266, Anand Smriti,
Vs. Deodhar Road, Matunga,
Mumbai – 400 019

(Respondent)

Appellant by: Shri Abi Rama Kartikiyen, D.R

Respondent by: Shri Bhupendra Shah, A.R

Date of Hearing: 03.04.2019

Date of Pronouncement: 06.06.2019

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the revenue is directed against the order passed by the CIT(A)-32, Mumbai, dated 29.09.2017, which in turn arises from the order passed by the A.O under Sec.143(3) r.w.s. 147 of the Income Tax Act, 1961 (for short 'I-T Act'), dated 14.03.2016 for A.Y. 2010-11. The revenue assailing the order of the CIT(A) has raised before us the following grounds of appeal:

- “1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in granting relief of Rs. 32,44,500/- of the alleged unsecured loan transaction from hawala parties. The information was received from the DIT (Investigation), Mumbai the one Shri Praveen Kumar Jain involved in providing accommodation entries of bogus unsecured loans to various parties through the companies managed and controlled by him.
2. On the facts and in the circumstances in law, the Ld. CIT(A) failed to appreciate the fact that the onus is on the assessee to explain

and substantiate the genuineness and true nature of the unsecured loan transaction .

3. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) has failed to appreciate the fact that the Shri Praveen Kumar Jain has admitted on oath before the DDIT (Inv.)-II, Mumbai that they have not carrying out any genuine business activity and indulge only in providing accommodation entries.*
4. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in concluding that treated the loans receipt as genuine since they are receive by cheque. Further, though the assessee had established identity of creditors by filling their affidavit, but in those affidavits they had not mentioned any specific source of money which was advance by them, it was to be held that assessee had failed to prove capacity of its creditors to advance money and genuineness of transaction. If such evidence of genuineness of transaction was given the same should have been remanded to the AO for his examination and comments.*
5. *The appellant prays that the order for the CIT(A) on the above grounds be reversed and that of the Assessing Officer be restored.*
6. *The appellant craves leave to amend or alter any ground or add a new ground which may be necessary.”*

2. Briefly stated, the assessee had filed his return of income for A.Y. 2010-11 on 09.10.2010, declaring total income at Rs.19,52,246/-. The return of income filed by the assessee was processed as such under Sec. 143(1) of the I-T Act. Information was received by the A.O from the office of the DDIT (Inv.)-II Mumbai, that the search proceedings conducted under Sec 132 of the I-T Act in the case of Shri Praveen Kumar Jain had revealed that he was engaged in providing accommodation entries through companies managed and controlled by him. As per the information, the A.O was intimated that the assessee had also taken accommodation entries from certain bogus companies which were controlled by Shri. Parveen Kumar Jain viz. (i) M/s Raghunandan Rayons Ltd; (ii) M/s Olive Overseas Pvt. Ltd; (iii) M/s Ryan International ; (iv) M/s Casper Enterprises Pvt. Ltd.; (v) M/s Tanika Commodities Pvt. Ltd.; and (vi) M/s Seven Star Gems. On the basis of the aforesaid information the case of the assessee was reopened u/s 147 of the I-T Act.

3. During the course of the assessment proceedings, it was observed by the A.O, that the assessee company had claimed to have raised loans aggregating to Rs.1,05,00,000/- from the aforementioned companies which were alleged to be involved in providing accommodation entries, as under :

Sr. No.	Name	A.Y.	Amount (Rs.)
1.	M/s Ryan International	2010-11	3000000
2.	M/s Seven Star Gems	2010-11	1500000
3.	Olive Overseas Pvt. Ltd.	2010-11	2000000
4.	Ostwal India Trading Pvt. Ltd.	2010-11	1500000
5.	Raghunandan Rayons Ltd.	2010-11	1000000
6.	Tannika Commodities Pvt. Ltd.	2010-11	1500000
Total			1,05,00,000/-

On the basis of the aforesaid details the A.O called upon the assessee to explain as to why the aforesaid loan transactions, which as per the information received were in the nature of accommodation entries, many not be added to his total income. In reply, the assessee objected to the said proposed action of the A.O on multiple grounds viz. (i) that, in the absence of any specific mention by Mr. Pravin Kumar Jain in his statement recorded during the course of the search proceedings that he had provided any accommodation entry to the assessee, no adverse inferences were liable to be drawn; (ii) that, even otherwise Mr. Praveen Kumar Jain had retracted from his statement that was recorded during the course of the search proceedings; (iii) that, the confirmations of the lender companies along with their financial statements substantiating the genuineness of the loan transactions were placed on record in order to substantiate the veracity of the loan transactions; (iv) that, the copy of the bank statement evidencing the raising of the loans and the repayment of the same duly substantiated the genuineness of the loan transactions; (v) that, it was neither the case of the department nor a fact borne from the records that unaccounted cash in any manner was paid by the assessee to

facilitate the aforesaid loan transactions; and (vi) that, the fact that the assessee had paid interest on the loans raised from the aforementioned parties, which was offered by the latter as income in their respective income tax returns further fortified the authenticity of the loan transactions. Accordingly, in the backdrop of the aforesaid facts, it was the claim of the assessee that no adverse inferences on the basis of the stand alone statement of Shri Praveen Kumar Jain could be drawn for dubbing the genuine loans raised by the assessee from the aforementioned companies as accommodation entries. Apart there from, the assessee in order to drive home his claim that genuine loans were raised from the aforementioned parties, therein placed on record the copies of the 'affidavits' of the directors of the aforementioned companies. Accordingly, it was the claim of the assessee that now when the identity and creditworthiness of the entities from whom loan was raised, and also the genuineness of the transactions was proved, therefore, no addition under Sec.68 in respect of the said loan transactions was called for in his hands.

4. The A.O in order to verify the genuineness of the aforesaid transactions issued notices under Sec.133(6) to the principal officers of the aforementioned lender companies, wherein they were called upon to furnish details as regards the exact nature of activity of the company along with the source from where the loan was advanced to the assessee. In reply, the requisite details as regards the loans that were advanced by the aforementioned companies along with the supporting documents viz. copy of ledger accounts, bank statements etc. were filed by the said companies with the A.O. The A.O in the backdrop of the 'material' gathered by him and the contentions advanced by the assessee to impress upon him that genuine loans were raised from the aforementioned companies, was however, not persuaded to accept the claim of the assessee for certain reasons viz.

(i) that, a perusal of the information gathered during the course of the search proceedings on Shri Praveen Kumar Jain conclusively proved that he was engaged through a web of concerns run and operated by him, which were engaged in providing accommodation entries of various nature viz. bogus unsecured loans, bogus share application money and bogus sales (purchases for the beneficiaries) etc; (ii) that, in the course of the search proceedings it was found that the group concerns of Shri Praveen Kumar Jain were not carrying out any genuine business at their respective premises, which was in contradiction of their claims raised in their respective income tax returns, MCA websites and bank documents; (iii) that, in case of many concerns formed by Shri Praveen Kumar Jain group, various persons who were shown to be the directors/proprietors were non-existent at the given addresses; (iv) that, in certain cases the name sake directors/proprietors had in their statements recorded under Sec.132(4)/131 of the I-T Act admitted that they were merely dummy directors/proprietors and used to sign the papers for a nominal consideration given by Shri Praveen Kumar Jain; (v) that, a perusal of the information gathered in the course of the search proceedings revealed that Shri Praveen Kumar Jain was controlling, operating and managing a large number of dummy concerns which were not carrying on any genuine business; (vi) that, the nature of the transactions carried out by Mr. Praveen Kumar Jain revealed that basically he was into providing accommodation entries through a web of paper companies which were either owned by him or directly/indirectly under his control; and (vii) that, the payment made to the assessee by the aforementioned companies through account payee cheques did not conclusively prove the genuineness of the transactions. Accordingly, the A.O on the basis of his aforesaid deliberations being of the view that the assessee had only taken accommodation entries of unsecured

loans aggregating to Rs.1,05,00,000/- from the abovementioned parties, thus added the same as an unexplained cash credit under Sec. 68 of the I-T Act in the hands of the assessee.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A). The CIT(A) in the course of the appellate proceedings observed that the assessee had furnished certain documentary evidence which duly substantiated the genuineness of the loan transactions viz. (i) copies of the returns of income of the lender companies, along with their audited financial statements; (ii) copies of the bank accounts of the lender companies; and (iii) the 'affidavits' of the directors of the lender companies wherein they had confirmed the loan transactions. It was observed by the CIT(A) that all of the lender companies had filed their returns of income for the year under consideration. Further, it was noticed by him, that a perusal of the bank accounts of the lender companies clearly revealed that there was no immediate cash deposits prior to the issuance of the cheques in order to facilitate advancing of unsecured loans to the assessee. In fact, it was noticed by him that the unsecured loans were received by the assessee vide account payee cheques through normal banking channels. Also, it was observed by the CIT(A) that interest was paid/credited by the assessee to the lender companies after deduction of tax at source as per the mandate of law. In the backdrop of the aforesaid facts, it was observed by the CIT(A) that the assessee by placing on record the aforesaid documents which substantiated the genuineness and veracity of the loan transactions, had thus, clearly discharged the 'onus' that was cast upon him as regards proving the authenticity of the loan transactions. Rather, the CIT was of the view that in case the A.O was not satisfied with the documents which were filed by the assessee, then, it was open for her to have made necessary enquiries from the lenders by summoning them, which however was not done on her part. It was

observed by the CIT(A) that the A.O had not carried out any independent verifications from the lender companies. On the basis of the facts as were discernible from the records, it was observed by the CIT(A) that the A.O had neither issued any summons under Sec. 131 to the lender companies, nor recorded their statements as regards the genuineness of the specific loan transactions which were carried out by them with the assessee. Apart there from, the CIT(A) observed that the A.O had not brought on record any documentary evidence which would controvert the claim of the assessee that he had raised genuine loans from the aforementioned companies. Further, the A.O had also not recorded any such observations, which would reveal that the documentary evidence placed on record by the assessee were untrustworthy or lacked credibility. In sum and substance, it was observed by the CIT(A) that the A.O had not made any attempt to discharge the burden that was cast upon her to rebut the documentary evidence which was produced by the assessee. Accordingly, the CIT(A) was of the view that as the assessee had discharged the 'onus' that was cast upon him for establishing the identity and creditworthiness of the lender companies, and also the genuineness of the transactions, with the help of relevant supporting documentary evidence which could not be disproved by the A.O, therefore, the addition of Rs.1,05,00,000/- made by him under Sec. 68 could not be sustained and was liable to be vacated.

6. The revenue being aggrieved with the order of the CIT(A) has carried the matter in appeal before us. The ld. Departmental Representative (for short 'D.R') at the very outset of the hearing of the appeal took us through the relevant facts of the case. It was submitted by the ld. D.R that the CIT(A) had erred in vacating the order passed by the A.O. The ld. D.R in support of his contention that the A.O had rightly made the addition under Sec. 68 relied on certain judicial

pronouncements viz. (i) Aaspas Multimedia Ltd. Vs. DCIT, Circle-1(1) (2017) 83 taxman.com 82 (Guj); (ii) Bright Star Syntax (P) Ltd. Vs. ITO-9(2)(1) (2016) 71 taxman.com 64 (Bom); (iii) Pushpak Bullion (P) Ltd. Vs. DCIT, Circle-3(1) (2017) 88 taxman.com 603 (Guj); and (iv) CIT-II Vs. Jan Sampark Advertising & Marketing (P) Ltd. (2015) 56 taxman.com 286 (Del).

7. Per contra, the ld. Authorized Representative (for short 'A.R') for the assessee relied on the order passed by the CIT(A). It was submitted by the ld. A.R that all the documentary evidence which could support the genuineness and veracity of the loan transactions were filed by the assessee in the course of the assessment proceedings. Apart there from, it was submitted by the ld. A.R that the fact that the assessee had deducted TDS on the interest paid on the loans raised from the aforementioned companies further fortified the genuineness of the loan transactions under consideration. It was further submitted by the ld. A.R that the A.O without making any field investigations or calling for any information, had summarily characterised the genuine loans transactions as bogus transactions. In support of his aforesaid contention that now when the assessee had duly discharged the 'onus' that was cast upon him to prove the genuineness of the loan transactions, no adverse inferences could have been drawn in his hands, reliance was placed by him on the order of the ITAT "SMC" bench, Mumbai in the case of ITO-(2)(5) Vs. Payal Nitesh Hedpara (ITA No. 4668/Mum/2017).

8. We have heard the authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record. Admittedly, the assessee had raised loans aggregating to Rs.1,05,00,000/- from six companies which are allegedly stated to be controlled by Shri Praveen Kumar Jain. On a

perusal of the orders of the lower authorities, we find, that the assessee on being called upon to substantiate the genuineness and veracity of the loan transactions that was entered into by him with the aforementioned companies, had placed on record substantial documentary evidence in support of the same viz. (i) confirmations of the lender companies; (ii) copies of the financial statements of the lender companies; and (iii) copies of the bank statements evidencing the advancing of loans by the lender companies to the assessee through normal banking channel. Apart there from, the assessee had submitted before the A.O that the interest paid on the loans advanced by the lender companies was subjected to deduction of tax at source as per the mandate of law. We further find that the assessee in order to buttress his claim as regards the genuineness of the loan transactions had also drawn support from the fact that the respective loans were repaid by him to the aforementioned companies. Further, the notices issued by the A O under Sec. 133(6) to the principal officers of the aforesaid companies, therein calling upon them to furnish the requisite information as regards the exact nature of the activity carried out by the respective companies, along with the source from which the loans were advanced to the assessee, was also complied with and the required details viz. details of the loan transactions, copy of ledger accounts, copies of the bank statements etc were furnished by the abovementioned parties with the A.O. In sum and substance, the assessee had placed on record substantial supporting 'material' to drive home his contention that genuine loans were raised by him from the aforementioned companies.

9. We have perused the observations of the A.O and find that he had in support of his claim that the assessee had obtained accommodation entries from the aforementioned companies, primarily focused on the fact that the said companies as per the information

received by him from the office of the DDIT(Inv)-II, Mumbai, were controlled by Shri Praveen Kumar Jain, who as per the information shared by the DDIT (Inv.)-II, Mumbai, was found to be involved in providing accommodation entries of bogus unsecured loans to various parties through companies managed and controlled by him. In fact, a perusal of the assessment order reveals that the A.O had not even attempted to dislodge the documentary evidence which was placed on record by the assessee to substantiate the authenticity of the loan transactions and had rejected the explanation of the assessee and characterised the said loans as accommodation entries, observing as under:

- “1. *A perusal of the information reveals that the search action resulted into collection of evidences and other findings which conclusively proved that the Shri Praveen Kumar Jain Group through a web of concerns run and operated by him, is engaged in providing accommodation entries of various nature like bogus unsecured loans, bogus share application and bogus sales (purchases for the beneficiaries), etc.*
2. *During the course of the search at various premises which were shown by the assessee group to be the place of operation and registered addresses as per the Income tax Returns, MCA website and bank documents, it was found that the entities at these and no genuine business was being carried out at any of these premises.*
3. *In many concerns formed by Shri Praveen Kumar Jain Group, various persons shown to be the directors/proprietors were non-existent on the given addresses. In certain cases, in the statements recorded u/s 132(4)/131 of the I.T Act these directors/proprietors admitted that they were merely dummy directors and used to sign different papers for nominal consideration given by Shri Jain.*
4. *In view of the above, it is seen that through various dummy directors/proprietor, he controls, operates and manages a large number of concerns. All such concerns are not carrying out any genuine business. They do not have any physical stock of goods, which they claimed to be dealing in, all such concerns have no employed persons except the few common accountants who manage accounts and banking transactions of all such concerns. All such concerns are indulged in the activity of providing accommodation entries only.*
5. *Further it is seen that Mr. Jain basically gives accommodation entries which are routed through the companies under his control. All the companies are either owned by him or directly/indirectly under his control are paper companies with no real business transactions. In most of the cases various, brokers who operate in the field of providing accommodation entry like bogus unsecured loan, bogus LTCG, etc. however, in very few cases the end beneficiaries also approach him when they want an*

accommodation entry. Based on the specific type of accommodation entry required, Mr. Jain either provides the same through the companies under his control or contact other brokers and facilitate the accommodation entries providers.

6. *The payment through account payee cheque, if any, does not substantiates the assessee's claim as it is already accepted by the persons. Perusal of information is enough to show that the assessee has taken only accommodation entry in the name of unsecured loan. These entities were not carrying out any business.*

After going through the facts, information gathered and the above elaborate discussion it is concluded that the assessee has taken accommodation entry of unsecured loan of Rs.1,05,00,000/- from the above said parties.”

10. We have given a thoughtful consideration to the facts of the case, and are unable to persuade ourselves to subscribe to the view taken by the A.O. As per Sec. 68 of the I-T Act, the assessee remains under a statutory obligation to substantiate both the “Nature” and “Source” of a ‘sum’ found credited in his books of accounts maintained for any previous year. In case, the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the A.O, satisfactory, then the sum so credited may be charged to income tax as the income of the assessee for that previous year. Accordingly, as per the mandate of the aforesaid statutory provision, the assessee is obligated to substantiate on the basis of a plausible explanation the nature and source of a sum found credited in his books of accounts. In the case before us, we find, that as is discernible from the records, the assessee in discharge of the ‘onus’ that was cast upon him as regards proving the “Nature” and “Source” of the amount aggregating to Rs.1,05,00,000/- which was claimed by him to have been raised as loans from the aforementioned six companies, had therein placed on record supporting documentary evidence viz. (i) copies of the returns of the lender companies; (ii) copies of their audited financial statements; (iii) copies of the bank accounts of the lender companies; and (iv) the ‘affidavits’ of the principle officers of the lender companies, wherein they had confirmed

the loan transactions. Further, on a perusal of the bank accounts of the aforementioned lender companies, all of which we find were being assessed to income tax, therein revealed that there was no immediate cash deposits in their respective bank accounts in order to facilitate advancing of the loans to the assessee. In nutshell it is neither the case of the revenue, nor a fact borne from the records, that the assessee had routed his own money in the garb of the unsecured loans raised from the aforementioned parties. As observed by the CIT(A), the assessee had also deducted tax at source at the time of payment/crediting of the interest on the loans raised from the aforementioned companies. Accordingly, in the backdrop of the aforesaid facts, we are of a strong conviction that the assessee had sufficiently discharged the 'onus' that was cast upon him as regards proving the authenticity of the loan transactions under consideration. As per the settled position of law, once the assessee had proved the genuineness of the transactions, identity of the creditors and the creditworthiness, the 'onus' was thereafter shifted on the A.O to prove otherwise. In fact, in the case before us, as the loans had been raised by the assessee from certain companies which on the basis of information received by the A.O from the office of the DDIT(Inv)-II, Mumbai, were stated by the A.O to be the companies which were controlled by Shri. Praveen Kumar Jain, an infamous accommodation entry provider, therefore, it was all the more onerous on the part of the A.O to have demonstrated on the basis of supporting 'material' that accommodation entries in the garb of loans was provided by the said six companies by adopting the modus operandi of Sh. Praveen Kumar Jain and his group entities. However, we find, that as observed by us hereinabove, the A.O except for harping on the fact that the assessee had raised the loans from the companies which were controlled by Shri Praveen Kumar Jain, had absolutely done nothing which would

conclusively prove that no genuine loans were raised by the assessee from the aforesaid companies. On the contrary, the notices which were issued by the A.O under Sec.133(6) to the aforementioned companies, wherein they were called to share certain information viz. nature of activities of the lender companies, source for giving the loans etc., were duly complied with by the said concerns and the requisite documents were placed on the record of the A.O by the aforementioned companies. We find that the A.O who ought to have made necessary verifications as regards the authenticity of the loan transactions by summoning the principal officers of the aforementioned companies under Sec.131 of the IT Act, and also carrying out field inquiries/investigations as regards the identity and creditworthiness of the investor companies, and also the genuineness of the transactions, had however, not even done the bare minimum. Rather, only on the basis of his observations that the search proceedings conducted on Shri Pra veen Kumar Jain group revealed that he was engaged in the business of providing accommodation entries, that the A.O had hushed to the view that the loan raised by the assessee from the aforementioned companies were to be dubbed as accommodation entries. We are unable to persuade ourselves to subscribe to the aforesaid view so arrived at by the A.O. In fact, a perusal of the assessment order reveals as if the A.O was framing the assessment in the case of Shri Praveen Kumar Jain, and not in the case of the assessee. It is in the backdrop of the aforesaid factual position, we find, that the CIT(A) observing that as the assessee had duly discharged the 'onus' that was cast upon him under Sec. 68 for proving the authenticity of the loan transactions, therefore, in the absence of any 'material' placed on record by the A.O to dislodge the said duly substantiated claim of the assessee, there was no occasion for him to have to re-characterised the loans raised by the assessee as

accommodation entries. The CIT(A) while so concluding had observed as under:

“4.1.2 I have considered the submissions of the appellant and perused the material available on record including the judicial decisions relied upon by him. The point for adjudication is whether the AO was justified in treating the unsecured loans of Rs.1,0,500,000/- shown to have been taken by the appellant from aforesaid six parties owned, controlled and managed by Mr. Praveen Kumar Jain as bogus or non-genuine u/s 68 of the Act adding the same to the total income of the appellant. In this connection, it is well-established that the onus lies on the assessee to adduce necessary documentary evidence so as to prove all the three ingredients of section 68 viz. identity of the creditor, creditworthiness of the creditor and the genuineness of the transaction as the relevant facts are within the exclusive knowledge of the assessee. It has also been held that the evidences adduced by the assessee has to be examined not superficially but in depth and having regards to the test of the human probabilities and normal course of human conduct. The Hon’ble ITAT, Mumbai Bench, Mumbai in case of ITO v. Anant Shelters Pvt. Ltd 51 SOT 234 (Mum) has enumerated certain legal principles regarding cash credits u/s 68 as under:

- I. Section 68 can be invoked when there is a credit of sum of money in the books maintained by the assessee during the previous year and either the assessee offers no explanation about the nature and source of such credits or the explanation furnished by the assessee in the opinion of the AO is not satisfactory.*
- II. The opinion of the AO for not accepting the explanation offered by the assessee as not satisfactory is required to be formed objectively with reference to the material on record.*
- III. Courts are of the firm view that that the evidence produced by assessee cannot be brushed aside in a casual manner.*
- IV. The onus of proof is not static. The initial burden lies on the assessee to establish the identity and the creditworthiness of the creditor as well as the genuineness of transaction.*
- V. The identity of creditors can be established by either furnishing their PANs or assessment orders. The genuineness of the transaction can be proved if it was shown that the money was received by a/c payee cheque. Creditworthiness of the tender can be established by attending circumstances.*

4.1.3 It is now to examine whether the appellant has been able to discharge the onus placed on him u/s 68 of the Act in light of the aforesaid legal principals or propositions. As stated above, the appellant has furnished copies of returns of lender companies accompanied by their audited financial statements, bank accounts of the lender companies and sworn affidavits of the lender companies confirming the loan transactions. All the lender companies had duly filed their returns for A.Y. under consideration. A perusal of bank accounts of the lender companies clearly reveals that there were no immediate cash deposits therein prior to the issuance of cheques towards unsecured loans to the appellant. It is noticed that the unsecured loans were received vide account payee cheques through normal banking channels. It is also noticed that interest was duly paid/credited lender companies and TDS thereon was deducted in accordance with law. In these circumstances, it can

by no means be said that the appellant had not discharged the initial onus cast upon him to establish the identity and creditworthiness of the creditors as well as genuineness of the transactions. Therefore, the onus shifted to the AO. If the AO was not satisfied, she had the option of making inquiries from the lenders by summoning them. However, it is noticed that no independent verification was carried out by the AO with the lender companies. No summons u/s 131 was issued to the lender companies and no statements were recorded in regards to the genuineness of specific transactions with the appellant. No evidence was brought on record in order to controvert the claims of the appellant. There is no finding by the AO that the evidences produced by the appellant were untrustworthy or lacked credibility. In other words, the AO did not make any attempt to discharged his burden of proof to rebut the evidences produced 'by the appellant or to bring any contrary material on record. Thus, is found that the appellant had discharged onus of establishing the identity and creditworthiness of the lender companies and genuineness of the transactions with help of relevant supporting evidences which could not be disproved by the AO. Therefore, the said addition of Rs.1,05,00,000/- made by the AO u/s 68 is directed to be deleted. Ground No. 4 taken up by the appellant is accordingly allowed."

We have perused the aforesaid order of the CIT(A), and finding ourselves to be in agreement with the view taken by him, that the 'onus' discharged by the assessee as regards the authenticity of the loan transactions had not been disproved or dislodged by the A.O by placing on record any supporting material, therefore, uphold his order. Accordingly, finding no infirmity in the order passed by the CIT(A), we do not find any merit in the appeal filed by the revenue.

11. The appeal filed by the revenue is dismissed.

Order pronounced in the open court on 06.06.2019

Sd/-
(N.K. Pradhan)
ACCOUNTNAT MEMBER

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 06.06.2019

Ps. Rohit

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT,**
Mumbai