

IN THE INCOME TAX APPELLATE TRIBUNAL

"G" BENCH, MUMBAI

BEFORE MS. PADMAVATHY S, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.925/MUM/2025

(Assessment Year : 2014-15)

Gopaal Bhagwandas Ahuja,

121, Soona Villa, Perry Cross Road,

Bandra (W), Mumbai - 400005

PAN – AABPA5620P

..... Appellant

v/s

ACIT, Circle- 17(1),

Mumbai

..... Respondent

Assessee by : Shri Tanzil R. Padvekar, Advocate

Revenue by : Shri Swapnil Choudhary, Sr.DR

Date of Hearing – 20/06/2025	Date of Order – 29/07/2025
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ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 23.01.2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*), by the learned Commissioner of Income Tax (Appeals) - 54, Mumbai [*"learned CIT(A)"*], for the assessment year 2014-15.

2. In this appeal, the assessee has raised the following grounds: –

"1. On the facts and in law, the Ld. Commissioner of Income Tax (Appeals) [in short Ld. CIT(A)] erred in confirming the addition made by the Ld. Assessing Officer [in short Ld. AO] to the tune of Rs.4,27,57,000/- under Section 68 of the Act disallowing the unsecured loan as income of the Appellant for the relevant assessment year.

2. On the facts and in law, the Ld. AO erred in making the impugned addition when there was no flow of money or cash but there was mere journal entry. Thus, when there is no physical transferred of money, provision of Section 68 shall not be applicable.

3. On the facts and in law, the alleged transactions were entered in books of accounts of the Assessee by way of journal entry as it did not involve any credit to cash account and therefore, the alleged transaction could not be treated as unexplained cash credit under Section 68 of the Act.

4. On the facts and in law, the conditions for making addition under Section 68 of the Act are not fulfilled and therefore, impugned addition under Section 68 of the Act is bad in law.

5. On the facts and in law, the impugned addition is made on the basis of inadvertent and erroneous submissions made during the course of the assessment proceedings. Admittedly, the Ld. AO has not found any transferred of money between parties during the course of the assessment proceedings."

3. The solitary grievance of the assessee is against the addition to the tune of Rs.4,27,57,000/- under section 68 of the Act on account of unsecured loan.

4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is an individual and is a dealer, trader, commission agent and investor/financer of real estate. The assessee is the proprietor of M/s. Ahuja Traders. For the year under consideration, the assessee filed its return of income on 27.09.2013, declaring a total income of Rs.47,45,580/-. The return filed by the assessee was selected for scrutiny under the CASS, *inter alia*, for the reason of "*large increase in unsecured loans*" and "*large amount squared up loans in the year*". Accordingly, statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, it was observed that the assessee had taken and squared up loans, during the year under consideration, from the following related parties: -

(a) Mrs. Komal Ahuja (wife of the assessee)

(b) Mrs. Prerna Ahuja (daughter-in-law of the assessee)

(c) M/s Komal Exotic Spices Pvt. Ltd. (in which Mrs. Komal Ahuja and Mrs. Prerna Ahuja were Directors).

5. In order to examine the genuineness of the transaction and creditworthiness of the lenders, the assessee was asked to submit return of income and capital account (if maintained) of Mrs. Komal Ahuja, Mrs. Prerna Ahuja and M/s Komal Exotic Spices Pvt. Ltd. From the details filed by the assessee, it was observed that during the year under consideration, Mrs. Prerna Ahuja filed the return of income declaring a total income of Rs.3,434/-. Accordingly, the assessee was asked to prove the creditworthiness of Mrs. Prerna Ahuja for giving a huge loan to the assessee. The assessee was also asked to submit the proof of payment of the loan and repayment of the loan to Mrs. Prerna Ahuja. However, the assessee failed to prove such a transfer of money via the banking channel. Accordingly, the assessee was asked to show cause as to why the loan received from Mrs. Prerna Ahuja should not be added to his income under section 68 of the Act. In response, the assessee submitted that Mrs. Prerna Ahuja had not given any loan to the assessee and the loan outstanding against M/s Komal Exotic Spices Pvt. Ltd. was shifted to Mrs. Prerna Ahuja through the journal entry, and the same was reversed in April, 2014. The assessee submitted that this was done for an internal purpose and with no *mala fide* intention. In support of the contention, copies of ledgers maintained by the parties were placed on record.

6. The Assessing Officer ("AO"), vide order dated 13.12.2016 passed under section 143(3) of the Act, disagreed with the submissions of the assessee and held that the assessee has tried to mislead the Department as initially the assessee submitted that the loan from Mrs. Perna Ahuja was received by cheque, however, the assessee is now submitting that no loan was received from Mrs. Perna Ahuja and the loan outstanding against M/s Komal Exotic Spices Pvt. Ltd. was shifted to Mrs. Perna Ahuja through a journal entry. Accordingly, doubting the genuineness of the transaction and the creditworthiness of Mrs. Perna Ahuja, the AO made an addition of Rs . 4,27,67,000/-, being the loan received from Mrs. Perna Ahuja under section 68 of the Act.

7. The learned CIT(A), vide impugned order, upheld the addition made by the AO under section 68 of the Act, by observing as follows: -

"5.3.5 The appellant has submitted that only journal entry was passed on behalf of Perna Ahuja in the books of the account of M/s. Ahuja Traders (Proprietor Gopal Ahuja). However, from details submitted, it is seen that M/s. Ahuja Traders has received amount of Rs.4,27,67,000/- on various dates. Further, the payment was also made to Komal Exotic Spices Pvt. Ltd. on various dates. Thus, in the books of the account of M/s. Ahuja Trader, there is actual receipt of money from Komal Exotic Spices Pvt. Ltd. From the MOU and deed of the assignment, the appellant acted as escrow for the transaction between Perna Ahuja and M/s. Komal Exotic in respect of assignment of property in Aamby Valey taken on lease by Perna Ahuja. Shri Gopal Ahuja was the escrow and Ahuja Trader was not the escrow between Perna Ahuja and Komal Exotic Spices Pvt. Ltd. In the balance sheet and the 3CD report, it has been specifically mentioned that loan of Rs.4,27,67,000/- was received from Perna Ahuja and some amount was repaid to Perna Ahuja. The appellant has not provided a copy of bank statement of personal account and the proprietary account also the escrow account. Therefore, it is not verifiable whether the amount was received in the bank account specifically maintained as escrow account. In the books of the account of Ahuja Traders, the loan has been mentioned as received from Perna Ahuja. Perna Ahuja filed return of the income showing meagre income. Thus, the creditworthiness of the Perna Ahuja remained in doubt. Further, the genuineness of the transaction has not also been proved by the

appellant. The appellant has failed to provide a complete link between the transaction between Komal Exotic Spices Pvt. Ltd., Prema Ahuja and the appellant. The appellant has also not proved that it was a journal entry and in fact the auditor has certified that the unsecured loan from Prerna Ahuja was received by cheque. Therefore, the addition of Rs.4,27,67,000/- made by the AO u/s.68 is upheld."

Being aggrieved, the assessee is in appeal before us.

8. We have considered the submissions of both sides and perused the material available on record. During the year under consideration, the assessee received a large sum of money from its related parties as a loan. As evident from the record, these parties are none other than the wife of the assessee, the daughter-in-law of the assessee and the company in which both the aforesaid individuals are Directors. Since the assessee could not prove the genuineness of the transaction and creditworthiness of the loan of Rs.4,27,67,000/- received from Mrs. Prerna Ahuja, i.e., daughter-in-law of the assessee, the AO made the impugned addition under section 68 of the Act.

9. It is the plea of the assessee that Mrs. Prerna Ahuja had not given any loan to the assessee, and the loan which was outstanding against M/s Komal Exotic Spices Pvt. Ltd., in which the wife and daughter-in-law of the assessee were Directors, was shifted in the name of Mrs. Prerna Ahuja through a journal entry. As per the assessee, Memorandum of Understanding dated 02.11.2012 was entered into between Aamby Valley Ltd. and Mrs. Prerna Ahuja for the lease of a plot in Aamby Valley City. Subsequently, a deed of assignment was signed between Mrs. Prerna Ahuja and M/s Komal Exotic Spices Pvt. Ltd. on 01.02.2013, whereby M/s Komal

Exotic Spices Pvt. Ltd. requested Mrs. Prerna Ahuja to grant assignment of a portion of the premises in Aamby Valley City to M/s Komal Exotic Spices Pvt. Ltd. in consideration of payment of monthly rent. According to the assessee, it was agreed between the parties that until the location and exact plot were identified, all money payable to Mrs. Prerna Ahuja by M/s Komal Exotic Spices Pvt. Ltd. would be held by the assessee in escrow. In this regard, during the hearing, the learned Authorized Representative ("*learned AR*") made a reference to the copy of the deed of assignment dated 01.02.2013, forming part of the paper book at pages 63-69. According to the assessee, a board resolution was also passed by M/s Komal Exotic Spices Pvt. Ltd. regarding the payment to Mrs. Prerna Ahuja through escrow, i.e., the assessee. We find that a copy of the board resolution is also placed on record by the assessee in its paper book at page 123, apart from the Memorandum of Understanding entered into between Aamby Valley Ltd. and Mrs. Prerna Ahuja, which forms part of the paper book from pages 124 to 128. As per the assessee since the transaction with Aamby Valey Ltd. did not go through the entire money with the assessee which was payable to Mrs. Prerna Ahuja was returned to Komal Exotic Spices Pvt. Ltd. As per the assessee, since the said money was held by the assessee in its fiduciary capacity as an escrow, though the same was received from M/s Komal Exotic Spices Pvt. Ltd., it was shifted to the name of Mrs. Prerna Ahuja through journal entry. In order to substantiate the aforesaid contention, the assessee has placed on record the ledger account of assessee's proprietary concern, i.e., M/s Ahuja Traders, in the books of M/s Komal Exotic Spices Pvt. Ltd.

From the perusal of the ledger account, we find that the amount was received from M/s Komal Exotic Spices Pvt. Ltd. and the same was transferred through journal entry in the name of Mrs. Perna Ahuja. The assessee has also placed on record the bank statement of M/s Komal Exotic Spices Pvt. Ltd. maintained with Tamil Nadu Mercantile Bank from which the payment was made for the aforesaid transaction. We find that these details were also submitted by M/s Komal Exotic Spices Pvt. Ltd. pursuant to the notice issued under section 133(6) of the Act during the assessment proceedings. From the perusal of the record, we find that the lower authorities did not dispute the fact that money was received from M/s Komal Exotic Spices Pvt. Ltd.

10. Further, it is pertinent to note that on one hand the learned CIT(A) is emphasizing on the aspect that the assessee in his personal capacity was an escrow and his proprietary concern was not the escrow, however, on the other hand, considering the entire transaction in the books of proprietary concern for making the impugned addition. In the present case, it is also pertinent to note that there is no allegation by the lower authorities regarding any circular trading of unaccounted money between related parties. Further, no evidence has been brought on record contrary to the claim of the assessee of the transaction with Aamby Valey Ltd. in respect of the plot of land in Aamby Valey City. Therefore, we are of the considered view that the assessee sufficiently explained the genuineness of the transaction. As regards the creditworthiness of Mrs. Perna Ahuja, from the perusal of the ledger account and bank statement submitted by the

assessee as noted above, we find merit in the submission of the assessee that the money received from M/s Komal Exotic Spices Pvt. Ltd. was transferred in the name of Mrs. Perna Ahuja through journal entry. As all the transactions in the ledger account are duly substantiated by the bank account statement furnished by the assessee, accordingly, we are of the considered view that the lower authorities, without any basis, doubted the creditworthiness of Mrs. Perna Ahuja when in fact no loan in a real sense was received by the assessee from Mrs. Perna Ahuja. Accordingly, we delete the impugned addition made by the AO under section 68 of the Act in the hands of the assessee. As a result, the grounds raised by the assessee are allowed.

11. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 29/07/2025

**Sd/-
PADMAVATHY S
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI DATED: 29/07/2024

Prabhat

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai