

IN THE INCOME TAX APPELLATE TRIBUNAL “I” BENCH MUMBAI

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND**

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No. 4199/MUM/2025

Assessment Year: 2016-17

Preity G Zinta 403 Parishram, Smt. Nergish Dutt Road, Bandra West MUMBAI - 400050 PAN: AAAPZ2650B	Vs.	Income Tax Officer, Int Tax, Ward 4(3)(1), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri. Dharan Gandhi
and Ms. Vinita Nara, Advocates

Revenue : Shri Krishna Kumar, Sr. DR

Date of Hearing : 21.08.2025

Date of Pronouncement : 17.11.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the assessment order passed under the directions of order of Dispute Resolution Panel-2, Mumbai, vide order no. ITBA/DRP/F/144C(5) r.w.s. 254_260A/2024-25/1075167929(1), dated 28/03/2025, passed u/s. 144C(5) r.w.s. 254/260A of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), for Assessment Year 2016-17.

2. Grounds taken by the assessee are reproduced as under:

“1. The reopening of the assessment u/s 147 of the Act vide notice u/s 148 dated 30.03.2021 is bad in law and without jurisdiction, therefore should be set aside.

2. The Ld. AO and the Ld. DRP erred in adding a sum of Rs. 10,84,27,700/- u/s. 68 of the Act being credits in the bank account.

3. The Ld. Income-tax Officer, International Tax Ward 4(3)(1), Mumbai, had no jurisdiction to passed the impugned order

4. The directions of Ld. DRP vide order dated 28.03.2025 and the final assessment order dated 29.04.2025 are barred by limitation and are therefore, bad in law

5. The Ld. AO has erred in the levying interest u/s. 234A, 234B, 234C and 234D of the Act.

6. The Ld. AO, has erred in initiating penalty proceeding u/s 271(1)(c) of the Act

7. The Ld. AO erred in initiating penalty proceeding u/s 271F of the Act.”

3. This is the second round of litigation by the assessee before the Tribunal against the final assessment order passed pursuant to directions of ld. DRP u/s. 144C(5) r.w.s. 254 of the Act. Assessee is a non-resident individual working as a film actress. She filed her return of income on 26.06.2016 reporting total income at Rs. 46,20,340. Based on information received on inside portal of the Department about high value credits and debit transaction carried out by assessee, case was reopened u/s. 147 of the Act. Ld. Assessing officer issued the draft assessment order dated 31.03.2022 proposing variation to the return income by making a proposed assessment of total income at Rs. 11,30,48,040/-. Against the said draft assessment order, assessee filed objections before the ld. DRP who vide its order dated 31.12.2022 upheld the additions proposed by the ld. Assessing Officer. Subsequent to the directions, ld. Assessing Officer passed the final assessment order

in conformity with the directions so given by the ld. DRP, vide assessment order dated 23.01.2023. An appeal was moved by the assessee before the Tribunal against the final assessment order. Coordinate Bench set aside the order and directed that the matter be decided by the Assessing Officer and the DRP on the issue of validity of initiating reassessment proceedings by the Assessing Officer. It was directed to the Assessing Officer to reiterate the findings and adjudication on merits of the case made in the final assessment order dated 23.01.2023.

3.1. Pursuant to the said direction of the Tribunal, matter was taken up by the ld. Assessing Officer and fresh directions were given by ld. DRP in respect of validity of initiating reassessment proceedings. Merits of the case were reiterated as originally directed in the initial order by ld. DRP dated 31.12.2022. Fact of the matter is that, based on findings of the investigation wing, it was found that assessee had carried out transaction of Rs.13.10 crores on account of credit of Rs.13,10,10,300/- and debit of Rs.13,10,00,000/- leaving nominal balance of Rs.10,300/- in the saving account bearing number 535SB01010702, newly opened on 25.01.2016 with Corporation Bank. These credit and debit of huge amount did not match with the nature of income of the assessee. Source of investment of Rs.13,10,00,000/- was considered as unexplained by the ld. Assessing Officer because of which case of the assessee was subjected to proceedings u/s. 148 culminating into addition of Rs.10,84,27,700/- u/s. 68 of the Act as unexplained cash credit.

4. Case of the assessee is that in preceding years that is, in 2012, 2013 and 2014, due to financial distress, she had borrowed huge sum

of money from one Mr. Danish Merchant and his associated entities. As security against these borrowings, assessee had submitted title deeds of residential flat at Quantum Park, Mumbai. In order to repay the loan, the flat at Quantum Park, Mumbai was sold to one of the associated entity of Mr. Danish Merchant. Details of loans given by Mr. Danish Merchant to the assessee from his different entities and their subsequent repayment by the assessee is tabulated below:

Name Address and Purpose	31.03.2015	Addition	Repayment	31.03.2016	Subsequent repayment
Ace Links	3,00,21,733	9,00,62,499	0	12,00,84,232	900,00,000
Ace Links	0	58,60,458	0	58,60,458	50,00,000
Ace Links PZNZ Media (Loan)	1,00,00,000	0	0	1,00,00,000	
AHCLPEL Danish Merchant (Loan)	51,34,045	0	0	51,34,045	
Acelight Hospitality Ventures Private Limited	13, 10,00,000	0	13,10,00,000	0	
Danish Merchant	11,00,000	0	0	11,00,000	
TOTAL	17,72,55,778	9,59,22,957	13,10,00,000	14,21,78,735	

4.1. In addition to the above tabulated details, additional sum of Rs.5,37,59,800/- was received from Ace Housing and Constructions Ltd. towards consideration for sale of residential flat at Quantum Park which was used to return back old loans Mr. Danish Merchant group entities. In respect of sale of flat at Quantum Park, it was clarified by the assessee that it was a single unit but for some municipal reasons, the then builder had subdivided the flat into three separate units and sold the said to three different entities that is to assessee, her mother Smt. Neel Prabha Zinta and a company in which assessee is a 99% shareholder that is Dhanvantari Holding Pvt. Ltd. Assessee purchased this flat by taking loans for the same. The flat was sold and the amount realized was used for repaying the loan of Ace Light Hospitality and Ventures Pvt. Ltd. On this sale transaction, assessee earned capital gains which was duly reported in her return for the year under consideration. Details of the said capital gain is tabulated below:

STATEMENT OF CAPITAL GAINS ON SALE OF FLAT # 1003 AT Quantum Park	
Date of Purchase	10/10/2006
Date of Sale	04/02/2016
Consideration for 50C	2,71,15,500
Consideration Received	2,98,27,100
Cost of Purchase	1,33,49,540
Index Cost (1081/519)	2,78,05,111
Long Term Capital Gains offered to tax	20,21,989

4.2. Assessee also furnished details of sale consideration for all the three sub-divisions of the flats in respect of the three parties including herself which is also tabulated below:

Name of Seller	PAN	Sale Consideration (Rs.)
Preity Zinta	AAAPZ2750B	2,98,27,100
Neelprabha zinta	AABPZ1496Q	1,29,54,200
Dhanvatry Holdings Private Limited	AABCD2506N	2,84,78,500
Total		7,12,59,800

4.3. It was submitted that capital gain has been offered by the other two parties also in their respective returns, copies of which are placed on record in the paper book and have paid their applicable taxes.

5. Case of the assessee has been subjected to proceedings u/s. 148 r.w.s. 147 on account of credit and debit of huge amounts which do not match with the nature of income of the assessee. Summary of transactions in the Corporation Bank account, in respect of which ld. Assessing Officer has alleged circuitous transactions is tabulated below:

Particulars	Amount(Rs.)
Cash deposit to open account	500
Ace Housing & Constructions Limited - This money is part of consideration for sale of Quantum Park Flat	4,12,59,800

Ace Links	8,97,50,000
Total Deposit	13,10,10,300
Loan Repaid of Ace Light Hospitality Ventures Private Limited	13,10,00,000
Closing Balance	10,300

5.1. Assessee also furnished explanation for each of the entry in Corporation Bank account and demonstrated with documentary evidence, the source as well as source of source in respect of the unsecured loans and in respect of sale of flats copy of registered sale deeds were furnished which are all placed on record. The said detail is tabulated below in respect of entries in Corporation Bank account.

Date	Particulars	Credit	Debit	Remarks
6-Feb-16	Contra-Cash	500		
6-Feb-16	Ace Housing & constructions Limited	1,73,27,100		
6-Feb-16	Acelight Hospitality Private Limited		1,70,00,000	
6-Feb-16	Ace Housing & constructions Limited	1,59,78,500		
6-Feb-16	Acelight Hospitality Private Limited		1,60,00,000	From Sale of flat
6-Feb-16	Ace Housing & constructions Limited	79,54,200		
6-Feb-16	Acelight Hospitality Private Limited		82,50,000	
8-Feb-16	Ace Links	2,00,00,000		
8-Feb-16	Acelight Hospitality Private Limited		2,00,00,000	From un-secured loans
8-Feb-16	Ace Links	2,15,00,000		
8-Feb-16	Acelight Hospitality Private Limited		2,15,00,000	
8-Feb-16	Ace Links	2,15,00,000		
8-Feb-16	Acelight Hospitality Private Limited		2,15,00,000	
8-Feb-16	Ace Links	2,15,00,000		

8-Feb-16	Acelight Hospitality Private Limited		2,15,00,000	
8-Feb-16	Ace Links	52,50,000		
8-Feb-16	Acelight Hospitality Private Limited		52,50,000	
31-Mar-16	Sub-Total	13,10,10,300	13,10,00,000	
	Closing Balance		10,300	
		13,10,10,300	13,10,10,300	

5.2. On the total examination of above details in the Corporation Bank account, Id. Assessing Officer observed that assessee has done various circular transactions, totalling approximately to Rs. 13.10 crores with the companies/firms of Mr. Danish Merchant Group. He noted that assessee has entered into circular transactions with Ace Housing and Construction Ltd, Ace Light Hospitality Ventures Ltd and Ace Links. Taking into account the time frame of transaction carried out in the said bank account, Id. Assessing Officer took an adverse view by holding that money was routed through different entities of Danish Merchant Group to square off loan amount of assessee with Ace Light Hospitality Ventures Pvt. Ltd. as, mostly similar amount of debit and credit are received in the assessee's account for which no justifiable explanation was placed on record. He also noted that nature and source of transactions were also not explained, hence took the adverse view. While proposing for the addition, he took note of the correct amount of total credit of Rs. 13.10 crores but while taking note of the amount received against sale of flat, he took the amount of Rs. 2,25,72,300/- received from Mr. Danish Merchant Group, which according to the assessee is an incorrect amount since there are three entries which had to be taken to arrive at correct figure of amount towards sale of flat. He

thus, by taking the amount of Rs. 2,25,72,300/- as amount received against sale of flat, gave credit for the same and proceeded to make an addition of the net amount of Rs. 10,84,27,700/- (i.e., 13,10,00,000 - 2,25,72,300) as unaccounted money of the assessee which is paid in return to circular sham transactions through cheque. He thus, treated the same as unexplained cash credit to make an addition u/s. 68 of the Act.

6. We have heard both the parties and perused the material on record. We have also gone through the paper book filed by the assessee containing 218 pages. From the perusal of the draft assessment order passed u/s. 144C dated 31.03.2022 placed in the paper book at page 135, we note that ld. Assessing Officer has issued notice u/s. 133(6) to each of the three entities of the Danish Merchant Group, i.e., Ace Links which is a partnership firm and the other two entities, i.e., Ace Light Hospitality Ventures Pvt. Ltd. and Ace Housing Construction Pvt. Ltd which are closely held companies. All the three entities have replied to the notices issued by ld. Assessing Officer and furnished all the required details and documents which ld. Assessing Officer has duly acknowledged in the draft assessment order. The details furnished by these entities include their income tax return forms, their confirmation for the transaction undertaken with the assessee or the other associate entities and their bank statements. Ld. Assessing Officer, after having verified the transactions with all the three entities of Danish Merchant Group noted that there is mere movement of funds without any actual source or generation and thus, took an adverse view. He issued a show cause notice to the assessee for explaining the entire set of transactions with the associate entities of Danish Merchant Group, to which the assessee replied and expressed that litigation is going on between her

and Mr. Danish Merchant as well as with Ace Link group of entities. However, all the required documentary evidences were placed on record which demonstrated the movement of fund in her bank account through various entities of Danish Merchant Group and explained each of the entries, details of which are already tabulated above.

6.1. From the submissions made by the assessee, we take note of certain facts and the reasoning given to justify the loans which were taken by the assessee and how the same were routed through various affiliate entities of Danish Merchant for which assessee claims that no addition is called for. At the outset, it is noted that originally, assessee had taken loans in the preceding years from the entity Ace Light Hospitality Ventures Pvt. Ltd. Assessee repaid loans by disposal of residential flat by making part payment. In the year under consideration, the net reduction in loan liability of the assessee is Rs. 3,50,77,043/-. Assessee has sold her flat which were subdivided into three different persons for which the total consideration is Rs. 7.13 crores. Out of this total sales, consideration belonging to three different persons including the assessee, Rs.3.63 crores was used to clear the loan of Standard Chartered Bank and the balance Rs. 3.50 crores was used to repay the loan of Ace Light Hospitality Ventures Pvt. Ltd. which belongs Mr. Danish Merchant.

6.2. In respect of the credit transactions appearing in the bank account of Corporation Bank, it is alleged by the Id. Assessing Officer that Rs. 13.10 crores have remained unexplained. In this respect, there is a receipt of Rs. 4,12,59,800/- in this bank account which pertains to sale consideration received on account of sale of residential flat at Quantum Park. In this respect, assessee has duly reported the capital

gain on the sale transaction which has been subjected to tax. For the balance amount of Rs. 8,97,50,000/-, it has been received from Ace Link which is a partnership firm. Assessee explained that Mr. Danish Merchant insisted that the original loan from Ace Light Hospitality Ventures Pvt. Ltd. be repaid in full as it was leading to a violation of provisions of Sections 184 and 185 of the Companies Act, 2013, as these sections of the Companies Act prohibits a company from giving any loans or making investments of certain types. Thus, at the insistence of Mr. Danish Merchant, the loan transactions were routed through a partnership firm on which such stringent provisions do not apply and therefore, the loan standing in the name of Ace Light Hospitality Ventures Pvt. Ltd. was squared off and was moved into the partnership firm with the name Ace Link, as both the entities belonged to Mr. Danish Merchant.

5.3. It is also important to note that nothing has been brought on record to demonstrate that Mr. Danish Merchant and its associate entities are related party with the assessee. The genuineness of the loans taken and repaid have been duly established by the assessee by proving the identity and creditworthiness of the parties as well as the genuineness of transactions for which all the necessary documentary evidences are placed on record. Further, ld. Assessing Officer himself has carried out extensive examination by issuing notices u/s. 133(6) to all the affiliate entities of Mr. Danish Merchant, who have duly complied with by confirming the transaction and proving their creditworthiness as well as genuineness by furnishing corroborative documentary evidences. Fact of this is duly noted by ld. Assessing Officer in his order.

6.4.. Further, it is noted that assessee reported the account with Corporation Bank in her balance sheet for the year under consideration. Also, the outstanding balances of loan with the affiliate entities of Mr. Danish Merchant are appearing in the audited balance sheet of the assessee, after taking into account the net effect of all these routing of loan transactions. There is no discrepancy or deficiency found in this respect which has been duly established by corroborative documentary evidences. Details of loans taken during the year and repaid are also duly reported in the tax audit report of the assessee placed on record. The pattern of movement of funds is identified as under:

- i. Assessee borrowed from Ace Link which is a partnership firm on which stringent provisions of Companies Act do not apply.
- ii. This partnership firm in turn got funds from Ace Housing and Construction Pvt. Ltd. who in turn got funds from Ace Light Hospitality Venture Ltd.

6.5. Thus, if one were to simplify the source of source, one would conclude that the actual lending to assessee was done by Ace Light Hospitality Ventures Ltd. It was already explained by the assessee that a violation of section 184 and 185 of the Companies Act 2013 was committed at the end of the lender company. Ace Light Hospitality Ventures Pvt. Ltd., i.e., by Mr. Danish Merchant who gave loan to the assessee. In order to set right that default, he insisted the assessee to repay the loan and routed it through Ace Links which is a partnership firm. For this, part of the funds were arranged through sale of flat and part by moving it through partnership firm. In the ultimate analysis, it is seen that assessee had borrowed money from Ace Link, i.e., a partnership firm and repaid loan of Ace Light Hospitality Ventures Pvt. Ltd. Assessee has not derived any benefit from these transactions and

these transactions have resulted in merely transferring liability of assessee from the entity Ace Light Hospitality Ventures Pvt. Ltd. to another entity Ace Links which is a partnership firm. We also note that neither the assessee nor the ld. Assessing Officer has disputed the facts as regards the transactions recorded in the bank account.

7. Considering the above detailed discussion and taking into account the factual matrix of the case, we delete the addition made by the ld. Assessing Officer in the hands of the assessee. Accordingly, grounds raised by the assessee in this respect are allowed. Since we have allowed the ground raised by the assessee on the merits of the case, deleting the addition, other legal grounds raised by the assessee challenging the jurisdiction are rendered academic.

8. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 17th November, 2025

Sd/-
(Saktijit Dey)
Vice President

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 17th November, 2025

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai