IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM

ITA Nos.1560 to 1563, 2418, 2440/KOL/2026
(Assessment Years: 2019-20 to 2022-23, 2013-14)

Amrit Cement Limited Opposite Horse Shoe Building, Umlaper Village, Elaka Rymbai, Shillong-793200 Meghalaya **(Appellant)**	**Vs.**	**DCIT, Central Circle 4(1), Kolkata** Aaykar Bhawan Poorva, 110 Shanti Pally, Kolkata-700107, West Bengal **(Respondent)**

PAN No. AAGCA9080R

Assessee by	:	S/Shri A.K. Tulsiyan, Rabin Maheshwari , Prateek Tulsiyan& Avinash Singh, ARs
Revenue by	:	Shri Raman Garg, DR

Date of hearing: 21.07.2026
Date of pronouncement: 13.10.2026

O R D E R

Per Rajesh Kumar, AM:

These are appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals)-27, (hereinafter referred to as the "Ld. CIT(A)"] dated 07.04.2026, 08.04.2026, 02.07.2026, 06.07.2026 for the AYs: 2019-20 to 2022-23, 2013-14 respectively.

For A.Y. 2019-20

ITA No 1560/KOL/2026

2. These grounds no. 1 to 3 raised by the assessee are against the confirmation of disallowance of expenditures of ₹ 1,06,46,352/-by ld. CIT(A) as made by the AO on adhoc basis as per under mentioned details:

Sl No	Nature of Expenditure	Total Expenses debited to Profit & Loss account	Amount disallowed in the assessment order
1	**Foreign Traveling**	14,44,152	10,98,204
2	**Guest House expenditure**	38,03,118	37,43,118
3	**Gardening expenditure**	57,791	57,791
4	**Membership Expenses**	11,22,670	2,09,839
5	**Interest Expenses**	80,50,865	55,37,400
		Total	1,06,46,352

3. We have heard the rival contentions and perused the materials on records. We note that all the above expenditure are being regularly incurred by the assessee and have been allowed by the department in the assessment proceedings for earlier assessment years as well as subsequent assessment year years as is apparent from the following chart:

Sl No	AY	Turnover (Rs. In Crore)	Foreign Traveling		Guest House		Gardening		Membership		Interest on unsecured loan	
			Total Expenses	Addition	Total Expenses	Addition	Total Expenses	Addition	Total Expenses	Addition	Total Expenses	Addition
1	**2011-12**	-	5,01,189	-	8,06,795	-	-	-	1,12,190	-		-
2	**2012-13**	-	5,88,875	-	16,32,077	-	44,399	-	1,91,606	-	-	-
3	**2013-14**	29.17	-	-	20,64,266	-	22,290	-	1,93,205	-	7,17,468	-
4	**2014-15**	187.63	-	-	23,23,761	-	45,181	-	-	-	80,76,985	8,02,332
5	**2015-16**	174.90	1,38,247	-	9,43,177	-	5,936	-	56,180	-	79,18,025	8,55,900
6	**2016-17**	322.06	-	-	10,98,548	-	32,495	-	83,130	-	75,70,701	-
7	**2017-18**	323.64	-	-	18,26,165	-	64,679	-	3,79,607	-	77,36,970	-
8	**2018-19**	340.55	-	-	26,05,009	-	84,798	-	5,01,744	-	78,06,755	-
9	**2019-20**	421.49	14,44,152	10,98,204	38,03,118	37,43,118	57,791	57,791	11,22,670	2,09,839	80,50,865	55,37,400
10	**2020-21**	464.31	21,47,001	21,47,001	53,67,588	47,73,689	2,88,569	2,88,569	18,36,671	-	97,29,201	-
11	**2021-22**	483.13	-	-	78,15,576	-	6,85,439	-	42,05,023	32,46,188	1,44,70,496	-
12	**2022-23**	578.52	-	-	83,89,677	-	15,07,661	15,07,661	23,28,768	5,08,255	1,20,14,749	

4. The appeals for assessment years from AY 2011-12 to AY 2018-19 are already before us vide IT(SS)A 54& 55/KOL/2026, ITA 1557 to 1559/KOL/2026, ITA 1564/KOL/2026& ITA 2162/KOL/2026in which no such disallowances have been made. We also note that expenditures were disallowed on adhoc basis in AY 2019-20 to 2022-23 by the Ld. AO without assigning any reason while the same were allowed in other years. Similarly the disallowance was confirmed by the ld. CIT(A) in the appellate order.

5. In our opinion the confirmation of disallowances of the expenses is unfair and cannot be sustained. Even on the principle of consistency, the disallowance is uncalled for. In view of the above facts the disallowance of expenditures

cannot be sustained. The reliance is placed on following decisions:

a) **Hon'ble Bombay High Court in case of Principal Commissioner of Income-tax-8 vs. Quest Investment Advisors (P.) Ltd. [2018] 409 ITR 545 (Bombay)[28-06-2018] has held as under:**

"***7.*** *We note that the impugned order of the Tribunal records the fact that the Revenue Authorities have consistently over the years i.e. for the 10 years years prior to Assessment Years 2007-08 and 2008-09 and for 4 subsequent years, accepted the principle that all expenses which has been incurred are attributable entirely to earning professional income. Therefore, the Revenue allowed the expenses to determine professional income without any amount being allocated to earn capital gain. In the subject assessment year, the Assessing Officer has deviated from these principles without setting out any reasons to deviate from an accepted principle. Moreover, the impugned order of the Tribunal also records that the Revenue was not able to point out any distinguishing features in the present facts, which would warrant a different view in the subject assessment year from that taken in the earlier and subsequent assessment years. So far as the decision of Radhasoami Satsang (supra) is concerned, it is true that there are observations therein that restrict its applicability only to that decision and the Court has made it clear that the decision should not be taken as an authority for general applicability.*

8. *However, subsequently the Apex Court in Bharat Sanchar Nigam Ltd. v. Union of India [2006] 282 ITR 273 has after referring to the decision of Radhasoami Satsang (supra) has observed as under :—*

"20. The decisions cited have uniformly held that res judicata does not apply in matters pertaining to tax for different assessment years because res judicata applies to debar courts from entertaining issues on the same cause of action whereas the cause of action for each assessment year is distinct. The courts will generally adopt an earlier pronouncement of the law or a conclusion of fact unless there is a new ground urged or a material change in the factual position. The reason why courts have held parties to the opinion expressed in a decision in one assessment year to the same opinion in a subsequent year is not because of any principle of res judicata but because of the theory of precedent or the precedential value of the

earlier pronouncement. Where facts and law in a subsequent assessment year are the same, no authority whether quasi-judicial or judicial can generally be permitted to take a different view. This mandate is subject only to the usual gateways of distinguishing the earlier decision of where the earlier decision is per incuriam. However, these are fetters only on a co-ordinate Bench which, failing the possibility of availing of either of these gateways, may yet differ with the view expressed and refer the matter to a Bench of superior strength or in some cases to a Bench of superior jurisdiction." (emphasis supplied)

***9.** The principle accepted by the Revenue for 10 earlier years and 4 subsequent years to the Assessment Years 2007-08 and 2008-09 was that the entire expenditure is to be allowed against business income and no expenditure is to be allocated to capital gains. Once this principle was accepted and consistently applied and followed, the Revenue was bound by it. Unless of course it wanted to change the practice without any change in law or change in facts therein, the basis for the change in practice should have been mentioned either in the assessment order or atleast pointed out to the Tribunal when it passed the impugned order. None of this has happened. In fact, all have proceeded on the basis that there is no change in the principle which has been consistently applied for the earlier assessment years and also for the subsequent assessment years. Therefore, the view of the Tribunal in allowing the respondent's appeal on the principle of consistency cannot in the present facts be faulted with, as it is in accord with the Apex Court decision in Bharat Sanchar Nigam Ltd.'s case (supra).”*

b) The Hon’ble Supreme Court in case of Radhasoami Satsang vs. Commissioner of Income-tax [1992] 193 ITR 321 (SC) has held as under:

***“13.** We are aware of the fact that strictly speaking res judicata does not apply to income-tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would*

not be at all appropriate to allow the position to be changed in a subsequent year.

2. *On these reasoning's in the absence of any material change justifying the revenue to take a different view of the matter—and if there was no change it was in support of the assessee—we do not think the question should have been reopened and contrary to what had been decided by the Commissioner in the earlier proceedings, a different and contradictory stand should have been taken. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirmative, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under sections 11 and 12."*

6. Considering the facts in the light of decisions as discussed above, we are inclined to set aside the order of ld. CIT(A) on this issue and direct the AO to delete the addition of ₹1,06,46,352/-. The ground nos. 1 to 3 is allowed.

7. The appeal of the assessee is allowed.

ITA No 1561/KOL/2026(AY 2020-21)

8. The ground no. 1 raised by the assessee is against the confirmation of disallowance expenditures of ₹ 1,55,98,016/- by ld. CIT(A) as made by the AO on adhoc basis in the assessment order as per under mentioned details:

Sl No	Nature of Expenditure	Total Expenses debited to Profit & Loss account	Amount disallowed in the assessment order
1	**Foreign Traveling**	21,47,001	21,47,001
2	**Guest House expenditure**	53,67,588	47,73,689
3	**Gardening expenditure**	2,88,569	2,88,569
4	**Festival Expenses**	83,88,757	83,88,757
		Total	**1,55,98,016**

9. The issue raised in ground no. 1 is similar to one as decided by us in ITA No. IT (SS)A No. ITA No 1560/KOL/2026 A.Y. 2019-20 wherein we have allowed the appeal of the assessee. Therefore, our decision in the above appeal would, mutatis mutandis, apply to ground no. 1 of this appeal as well. Consequently, we set aside the order of ld. CIT (A) on this issue and direct the AO to delete the addition of ₹.1,55,98,016/.The ground no. 1 is allowed.

10. The appeal of the assessee is allowed.

ITA No 1562/KOL/2026(AY 2021-22)

11. The ground nos. 1 & 2 raised by the assessee are against the confirmation of disallowance expenditures of ₹ 42,03,355/- by ld. CIT(A) as made by the AO on adhoc basis in the assessment order as per under mentioned details:

Sl No	Nature of Expenditure	Total Expenses debited to Profit & Loss account	Amount disallowed in the assessment order
1	**Membership Fees**	42,05,023	32,46,188
2	**Miscellaneous Expenditure**	8,18,40,000	9,57,167
		Total	**42,03,355**

12. The issue raised in ground no. 1 & 2 is similar to one as decided by us in ITA No. IT (SS) A No. ITA No 1560/KOL/2026 A.Y. 2019-20 wherein we have allowed the appeal of the assessee. Therefore, our decision in the above appeal would, mutatis mutandis, apply to ground no. 1& 2 of this appeal as well. Consequently, we set aside the order of ld. CIT (A) on this issue and direct the AO to delete the addition of ₹.42,03,355/-.The ground no. 1& 2 are allowed.

13. The appeal of the assessee is allowed.

ITA No 1563/KOL/2026(AY 2022-23)

14. The ground nos. 1 to 3 raised by the assessee are against the confirmation of disallowance expenditures of ₹ 51,48,801/- by ld. CIT(A) as made by the AO on adhoc basis in the assessment order as per under mentioned details:

Sl No	Nature of Expenditure	Total Expenses debited to Profit & Loss account	Amount disallowed in the assessment order
1	**Garden Expenses**	15,07,661	15,07,661
2	**Membership Expenses**	23,28,768	5,08,255
3	**Other Selling & Distribution Expenses**	1,56,64,424	31,32,885
		Total	**51,48,801**

15. The issue raised in ground no. 1 to 3 is similar to one as decided by us in ITA No. IT(SS)A No. ITA No 1560/KOL/2026 A.Y. 2019-20 wherein we have allowed the appeal of the assessee. Therefore our decision in the above appeal would, mutatis mutandis, apply to ground no. 1 to 3 of this appeal as well. Consequently we set aside the order of ld. CIT (A) on this issue and direct the AO to delete the addition of ₹.42,03,355/-.The ground no. 1 to 3 are allowed.

16. The appeal of the assessee is allowed.

ITA No. 2418/KOL/2026(AY 2013-14)

17. The issue raised in ground no. 1 by the assessee is against the order of ld. CIT(A) upholding the re-opening of assessment u/s 147 read with section 148 of the Act by

ignoring the fact that the re-opening in not in accordance with 1st proviso to section 147 of the Act.

18. The facts in brief are that the assessee filed the return of income u/s 139(1) of the Act on 31.3.2014 declaring nil income. The case of the assessee was selected for scrutiny and assessment was accordingly framed u/s 143(3) of the Act vide order dated 25.3.2015 assessing the total income at ₹ Nil under the normal provisions and ₹ 8,54,08,277/- under MAT. This is the second round of re-opening of assessment. In the first round the re-assessment was framed vide order dated 30.12.2018 passed u/s 143(3)/147/143(3) of the Act. Again the assessment was re-opened by issuing notice u/s 148 of the Act on 14.1.2021 and assessment was accordingly framed u/s 147/147/263/143(3) of the Act vide order dated 04.03.2022.

19. In this case notice u/s 148 of the Act was issued on 14.01.2021(Paper Book Page no 40) i.e. after 4 years from the end of assessment year. On perusal of the recorded reason placed on Page No 41 to 46 of Paper Book, it is evident that the reassessment proceedings were initiated with respect to transaction with M/s Paramount Financial Services Private Limited without considering the fact that same has already been added in the assessment order u/s 143(3) of the Act dated 25.03.2015. As such there was no failure on part of the assessee to disclose fully and truly all material facts necessary for assessment.

20. In the appellate proceedings , the re-opening was upheld by the ld. CIT(A).

21. We have heard the rival contentions and perused the material on records. This is undisputed that the re-opening of assessment was made beyond four years from the end of relevant assessment year and assessment u/s 143(3) of the Act was also framed vide order dated 25.3.2015.As such where the scrutiny assessment was already completed in case of assessee and where there was no failure on part of the assessee to disclose fully and truly all material facts necessary for assessment, the notice u/s 148 of the Act dated 14.01.2021 issued after 4 years from the end of assessment year has to be in consonance with the 1st proviso to section 147 of the Act and not otherwise. In our opinion the re-opening of assessment is in violation of the said proviso which provides that where an assessment is framed u/s 143(3) of the Act, re-opening can only be made if there is failure to disclose fully and truly all material facts qua the escaped income either in the return of income or in the assessment proceedings. But this is not the case at hand. Therefore the re-opening of assessment is nullity and bad in law. The case of the assessee is squarely covered by the decision of coordinate bench in case of M/s Anvil Energy Pvt. Ltd. (Formerly known as Anvil Cables Pvt. Ltd) v DCIT, Central Circle-4(3), Kolkata ITA No.2684/KOL/2025 order dated 27.02.2026 wherein it has been held as under:

"6. We have considered the submissions of the counsels of the respective parties and perused the material available on record. We find that the assessment in this case was framed u/s 143(3) vide order dated 30.03.2016. Thereafter, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 12.03.2020. We further find that notice u/s 143(2) r.w.s 147 was issued on 29.09.2020 after recording the reasons to believe, copy of which is available at page no.47 to 50 of the Paper Book of the assessee, wherein in the reasons recorded, the Assessing Officer has not recorded any satisfaction or finding as to failure of the assessee to disclose any information truly and materially in the return of income filed or during the assessment proceedings u/s 143(3) of the Act. Therefore, the reopening of assessment does not meet the parameters as provided under First proviso to Section 147 of the Act. It is important to mention here that where the assessee had duly disclosed all the material facts necessary for the assessment of the assessee for the year under consideration and the reopening of the assessment after the expiry of four years from the end of the relevant assessment year is barred by limitation being hit by the 1st Proviso to section 147 of the Act, therefore, held the reopening as bad in law. We also find that there is no mention in the said reasons recorded that there is any failure on the part of the assessee to fully disclose the material facts necessary for the assessment. We place reliance on the decision of Hon'ble Apex Court in the case of ACIT vs. CEAT Ltd. in [2023] 146 taxmann.com 108(SC) wherein the Hon'ble Apex court held that no re-opening can be made u/s 147 of the Act after elapse of four years from the end of relevant assessment year where an assessment has been framed u/s 143(3) of the Act if the AO has not recorded in the reasons to believe that there was failure on the part of the assessee to disclose any information fully and truly disclosing all material facts necessary for assessment. Considering the above discussion and keeping in view the judicial precedent, we hold the reopening of assessment is bad in law and the same is hereby quashed, consequently all other proceedings are set aside."

22. In view of the above facts we are inclined to quash the notice issued u/a 148 of the Act as well as consequent assessment framed by the Assessing. The ground no, 1 is allowed.

23. The issue raised in the ground no. 2 is against the order of CIT(A) confirming the addition of ₹ 35,00,000/- as made by the AO despite the fact that no addition was made for the alleged escaped income as per the reasons recorded.

24. After hearing the rival contentions and perusing the material on record, we find that the case was reopened by the AO u/s. 147 of the Act by issuing notice u/s. 148 of the Act on 14.01.2021 after recording reasons to believe. Now, the issue before us whether the additions made by the AO were without jurisdiction for the reason that no addition was made in respect of the item of income referred to in the reasons recorded which according to the AO has escaped assessment. We have considered the facts carefully as placed before us and find that in this case the AO has mentioned in the reasons recorded that assessee is beneficiary of accommodation entry of ₹ 10,25,00,000/-which has resulted into the escapement of income whereas no addition was made in respect of that accommodation entry. However, the AO added Rs.35,00,000/- u/s 68 of the Act in respect of unsecured . Therefore, in our opinion, no other addition could be made in respect of unsecured loan when no addition was made for the escaped income as noted in the reasons recorded. The case of the assessee finds support from the decision of Hon'ble jurisdictional High Court in the case of M/s. Infinity InfoTech Parks Ltd. in GA No. 1736 of 2014 dated 15.11.2022 wherein the Hon'ble Calcutta High Court has held by following the decision of Hon'ble Bombay High Court in the case of CIT Vs. Jet Airways (I) Ltd. [2011] 331 ITR 236 and also Hon'ble Delhi High Court decision in the case of Ranbaxy Laboratories Vs. CIT 336 ITR 136 (Del.) that where the income the escapement of which was the foundation for recording of reasons to believe, is not assessed or reassessed in the order u/s. 147,

then it is not mere opened to the AO to independently assess any other income, which comes to his notice subsequently during the course of re-assessment proceedings. The similar ratio has been laid down by the Coordinate Bench in Ganesh Steel & Alloys in ITA No. 929/KOL/2023 dated 11.06.2024 after following the decision of the Hon'ble Bombay High Court. Therefore, we are inclined to quash the reopening proceeding as well as the consequent order framed by the AO. the ground no. 2 is allowed.

25. Since we have allowed the appeal of the assessee on legal issues , therefore the grounds raised on merits are not being decided at this stage and are left open to be adjudicated if need arises for the same in future.

26. The appeal of the assessee is allowed.

ITA No 2440/KOL/2026(AY 2013-14)

27. The ground no 2 is against the order of ld. CIT(A) confirming the addition of Rs. 25,00,000/- as made by the AO on account of unsecured loan received during the year u/s 68 of the Act.

28. The facts in brief are that the appellant has taken unsecured loan from M/s Venkatesh Realcon Pvt. Ltd during the year. During the assessment proceedings all the details and evidences were furnished before the AO. said loan was taken on 19.07.2012 and was refunded on 31.10.2012 within same financial year Despite that the AO added the same as

unexplained cash credit u/s 68 of the Act. The Ld. CIT(A) also confirmed addition of addition.

29. Since the issue raised in ground no. 2 is similar to ground no. 2. Which has been decided by us in ITA No. 1558/KOL/2026 A.Y., 2015-16, wherein we have allowed the appeal of the assessee. Therefore, our decision above appeal would, mutatis mutandis, apply to ground no. 2 of this appeal as well. Consequently, we set aside the order of ld. CIT(A) on this issue and direct the AO to delete the addition of ₹.25,00,000/-. The ground no. 2 is allowed.

30. Since, we have allowed the appeal of the assessee on merit , therefore the ground raised on legal issue is not being decided at this stage and is left open to be adjudicated if need arises for the same in future.

31. In the result, all the appeals of the assessee are allowed.

Order pronounced on 13.10.2026.

Sd/-	Sd/-
(PRADIP KUMAR CHOUBEY)	(RAJESH KUMAR)
(JUDICIAL MEMBER)	(ACCOUNTANT MEMBER)

Kolkata, Dated: 13.10.2026
Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Dy. Registrar
Income Tax Appellate Tribunal,
Kolkata