IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW, 'A' BENCH, LUCKNOW

BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.308/LKW/2025
A.Y. 2021-22

Assistant Commissioner of Income Tax, Central Circle, Bareilly	vs.	Shree Lakshmi Narayan Sugar Industries Private Limited C/o Savneet Singh Ajmani, Mohalla Barakherwa, LRP RO AD, Lakhimpur Kheri-262701, Bareilly, U.P.
		PAN: ABDCS6104L
(Appellant)		(Respondent)

And
C.O. No.47/LKW/2025
(in ITA No. 308/LKW/2025)
A.Y. 2021-22

Shree Lakshmi Narayan Sugar Industries Private Limited C/o Savneet Singh Ajmani, Mohalla Barakherwa, LRP RO AD, Lakhimpur Kheri-262701, Bareilly, U.P.	vs.	Assistant Commissioner of Income Tax, Central Circle, Bareilly
PAN: ABDCS6104L		
(Appellant)		(Respondent)

Assessee by:	Sh. Mahendra Kumar, F.C.A.
Revenue by:	Sh. B. Shriniwas Kumar, CIT DR
Date of hearing:	12.08.2026
Date of pronouncement:	21.10.2026

O R D E R

PER NIKHIL CHOUDHARY, A.M.

This appeal has been filed by the Revenue and Cross Objection has been filed by the assessee, both against the orders of the ld. CIT(A) dated 4.03.2025, wherein the ld. CIT(A) has partly allowed the appeal of the assessee against the order passed by the ld. Assessing Officer under section

143(3) of the Income Tax Act, 1961 for the assessment year 2021-22 on 27.12.2022. The grounds of appeal are as under:-

ITA No.308/LKW/2025

"1. Whether on the facts and in circumstances of the case and in law the Ld. CIT Appeals has erred in deleting the addition of Rs. 9,75,88,452/- made under section 68 of the Income tax Act, 1961 without appreciating the fact that the assessee was not provided with adequate opportunity to represent its case during the assessment proceedings.
2. Whether on the facts and in circumstances of the case and in law the Ld. CIT(Appeals) has erred in admitting the additional evidences under Rule 46A of the Income-tax Rules, 1962.
3. Whether on the facts and in circumstances of the case and in law the Ld. CIT(Appeals) has erred in not providing the Assessing Officer with the counter comments furnished by the assessee on the remand report and also by not providing the supplementary submissions made by the assessee during appellate proceedings.
4. Whether on the facts and in circumstances of the case and in law the Ld. CIT(Appeals) has failed to appreciate the facts of the case as the lenders bank accounts have been used only for one activity, i.e. receiving and transferring funds and the bank accounts do not reflect the creditworthiness of the lenders.
5. Any other ground that may be adduced at the time of hearing."

2. The grounds taken by the assessee in Cross Objection are as under:-

C.O. No.47/LKW/2025

"1. Because the Ld. CIT (A) has erred in dismissing the ground of appeal raised by the appellant on legal validity of the proceedings initiated u/s 148 of the Act and also making assessment without taking proper approval required u/s 148B and allowing extended time as per explanation to section 153 and also in contravention of the instructions and circulars issued by CBDT, New Delhi. The assessment framed u/s 143(3) of the Act dated 27.12.2022 is liable to be quashed.
2. Because the Ld. CIT (A) has erred in confirming addition of Rs. 10,00,000/- made u/s 68 on account of loan taken from Smt. Asha Devi ignoring the peculiar facts, law and circumstances of the case. Addition of Rs. 10,00,000/- on account of loan taken from Smt. Asha Devi is liable to be deleted.
3. Any other ground raised at the time of hearing of appeal in accordance with the law."

3. The facts of the case are, that a return of income was e-filed on 1.03.2022 declaring total income at rupees nil and claiming a business loss of Rs. 1,26,10,901/-. During the course of scrutiny proceedings, the ld.

Assessing Officer noted that the assessee had shown unsecured loan of Rs. 4,57,20,002/- from Directors and Rs. 5,05,94,450/- from the relatives of Directors in its balance-sheet. Accordingly, the assessee was asked to provide the details of loan. In response, the assessee submitted the details of unsecured loans taken, the mode of transaction and the ITR-V of the lenders. However, the ld. Assessing Officer was not satisfied with regard to the creditworthiness of the lenders. He pointed out that no ITR-V had been submitted for two of the lenders namely Asha Agarwal, who had lent the assessee Rs. 29 Lacs and Asha Devi, who had lent the assessee Rs. 10 Lacs. With regard to the remaining lenders, he noted down their total incomes as reflected in their ITRs and the amount they had given to the assessee by way of loan. The ld. Assessing Officer pointed out that the gross national savings rate for the financial year 2020-21 had been estimated at 27.8% by the Government of India and concluded from the same that an individual incurred expenses of approximately 72.2% of his income, to meet household expenses and daily deeds. Taking a cue from such statistics, the ld. Assessing Officer concluded that, apart from Smt Anu Agarwal (who had income of Rs. 9,63,590/- and had lent the assessee Rs. 800,000/-) and Sh. Anant Kumar Vishwakarma (who had total income of Rs. 5,31,160/-) and had lent the assessee Rs. 5 Lacs), no other lender even with four or five years of savings had the financial ability to lend such huge amounts of money. He further noted that apart from the ITR-V, the assessee had not uploaded any other documents to prove the creditworthiness of the remaining lenders. Citing the decision in Oceanic Products Exporting Co. v. Commissioner of Income Tax, (2000) 241 ITR 497 (Ker) and Kale Khan Mohammad Hanif vs. CIT (1963) 50 ITR 1 (SC), he pointed out that the burden was placed on the assessee to prove a credit appearing in its books of account and that the said

burden had to be discharged with positive material. It was only when the assessee was able to establish the identity, creditworthiness of the creditor and the genuineness of the transaction that the onus could shift to the Department. He recalled the decision of the Hon'ble Supreme Court in the case of Sumati Dayal vs. CIT 214 ITR 801 (SC) and pointed out that in the same, the Hon'ble Supreme Court had dwelt on the importance of surrounding circumstances and application of the test of human probabilities to determine the truth. He pointed out that, in view of the failure of the assessee to discharge its onus and the surrounding circumstances human probabilities, he was not satisfied with the creditworthiness of the lenders for loan amount of Rs. 9,85,88,452/-. He, therefore, added the same back to the income of the assessee under section 68 and brought the same to tax under section 115BBE of the Income Tax Act.

4. Aggrieved with the said assessment order, the assessee filed an appeal before the ld. CIT(A). Before the ld. CIT(A), the assessee questioned the validity of the assessment, holding that since it was search case, it could not have been taken up under section 148 of the Act, that extended time could only have been allowed as per explanation of section 153 of the Act and that the order could not have been passed without taking approval from the Range head, as per the provisions of section 148B of the Act. The additions were also questioned on their merits and it was submitted, that the ld. Assessing Officer had made the additions on the basis of presumptions and surmises without bringing any adverse material on record and without cross verifying the materials placed on record. It was submitted that the assessee was not liable to prove the source of the source and furthermore it had omitted to consider the fact that the assessment year in question was

year of inception / incorporation / existence of the assessee and therefore, the law of impossibility, applied while computing deeming income under section 68. Furthermore, the ld. Assessing Officer had relied upon the case laws which were not applicable to the facts of the case. Elaborating on the legal grounds, it was submitted that the case of the assessee was a search case and therefore, the provisions of section 148 r.w.s. 149 amended by Finance Act, 2021 ought to have been applied to issue notice under section 148. Hence the decision of the ld. Assessing Officer to straightaway issue a notice under section 143(2) on 29.06.2022, to initiate the assessment proceedings was not sustainable. Furthermore, it was pointed out that in clause (xii) of Explanation 1 of Section 153, the period commencing from the date on which a search was initiated and ending on the date on which the books of account or other documents or money, bullion jewellery or any other article or thing seized was handed over to the ld. Assessing Officer of the assessee, was to be excluded, provided the said period was not exceeding 180 days. Thus, there was sufficient time with the ld. Assessing Officer and the ld. Assessing Officer had passed the order without providing ample opportunity to the assessee which rendered the order bad in law and liable to be quashed. The assessee also submitted that since the case of the assessee was selected on the basis of the Board's search guidelines, the ld. Assessing Officer was required to obtain the prior approval of the Range head before passing the order of the assessment and since in this particular case, no approval had been taken by the ld. Assessing Officer under the said provision therefore, the assessment order was void.

5. Arguing on the merits of the case, the assessee submitted that with regard to the unsecured loans from Directors amounting to Rs.4,76,50,002/,

the assessee had submitted confirmations from the parties, copy of ITRs and copy of bank accounts. Furthermore, while making the additions, the ld. Assessing Officer had failed to consider repayments made by the assessee to the Directors and had added the credit entries only, without considering the repayments out of the same. Similarly, with regard to the unsecured loans received from the relatives of the Directors amounting to Rs. 5,09,38,450/-, it was submitted that the assessee had filed confirmation from party, copy of ITR and copy of bank account before the ld. Assessing Officer in nine out of the 10 cases and only in the case of Smt. Asha Devi, copy of confirmation and copy of bank account had been filed before the ld. Assessing Officer. It was further argued that before making the additions, the ld. Assessing Officer had not considered the repayments made out of the credit balances and accordingly, not only had he ignored the evidences filed, he had also made addition of an incorrect amount. The assessee submitted that it was evident from the submissions made by it before the ld. Assessing Officer that the assessee was having running transactions with the lenders. The same indicated that there was a natural relationship of lender and borrower between the assessee and its lenders and to prove the same, it also filed copies of subsequent years' accounts of these lenders. The assessee submitted that the ld. Assessing Officer had questioned the creditworthiness of the lenders only on the basis of their taxable income, without looking into all the aspects and details. While it was true that the lenders had not advanced the money from their taxable income of the year, it was also true that they had sufficient money in their bank accounts and without investigating the case properly, it could not have been said that the lenders did not have the capacity / creditworthiness to advance the loans to the assessee. The ld. Assessing Officer had not made any enquiries with the

lenders in this regard. It was further submitted that by establishing the identity of the lenders and showing that the transaction had taken place through banking channels, the assessee company had discharged its onus. It was for the ld. Assessing Officer to call these lenders and examine them if he had any doubts. It was pointed out that, since this was the first year of business, with no source of income, the assessee had not paid any interest to the lenders in this year but in subsequent years, the assessee had paid interest to the lenders and also deducted TDS in accordance with law. It was therefore prayed that the assessment order may be quashed and the loans taken by the company may kindly be allowed as genuine. Furthermore, it was alleged that the orders suffered from a technical deficiency in that no SCN had been issued to the assessee before making such a huge addition.

6. The ld. CIT(A) records that the assessee furnished additional evidences during the course of appellate proceedings but the same were objected to on the grounds that sufficient notices were issued to the assessee and there was no occasion to suggest that the ld. Assessing Officer had refused to admit evidences that ought to have been admitted. Hence, the ld. CIT(A) held that while the assessee did not fall under any of the criteria for admission of additional evidences, the additional evidences submitted showed that the assessee had raised certain grounds where it contended that the provisions of the Act and the instructions/circulars issued by the Board had not been followed during the assessment order. In consideration of the legal grounds, the ld. CIT(A) held that, if the time limit for issue of notice under section 143(2) was still available to the ld. Assessing Officer, then there was no requirement for the ld. Assessing Officer to issue a notice under section 148 and the assessment in such assessment year could be

completed under the provisions of section 143(3) itself. He further pointed out, that para 2 of the guidelines issued by F. No.225/81/2022/ITA-II dated 11.05.2022 had been substituted retrospectively through guidelines issued under F. No.2025/81/2022/ITA-II dated 3.06.2022 and therefore, the assessee's contention with reference to the guidelines dated 3.06.2022 being non-est and unsustainable in law were incorrect because in this case, the requisition had been done under section 132A during the F.Y. 2021-22 and the assessee had filed its return of income for the assessment year 2021-22 on 1.03.2022. The time limit for issue of notice under section 143(2), was available upto 30.06.2022 and the notice that was issued under section 143(2) was as per the provisions of the Act. Furthermore, the notice had been issued after obtaining due approval of the ld. PCIT, Bareilly. Hence there was nothing wrong in the said initiation of proceedings. The ld. CIT(A) also noted that the assessment order had been passed after taking the prior approval of the Additional CIT (Central), Lucknow range, vide letter F. No. Addl CIT/CR/LKO Approval/CC, BLY/2022-23/285 dated 27.12.2022. Therefore, none of the contentions raised by the assessee during the appellate proceedings had any merit and were accordingly liable to be rejected.

7. The ld. CIT(A) remanded the matter back to the ld. Assessing Officer for considering details of unsecured loans of Rs. 4,76,50,002/- claimed to have been obtained from the Directors of the company and loan of Rs. 5,09,38,450/- from the relatives of the Directors. After examining these additional evidences, the ld. Assessing Officer submitted that the submissions made by the assessee were questionable. He observed that the ITRs had not been furnished, as claimed by the assessee, but only the ITR-V

had been furnished and furthermore, the bank account statements of the lenders had not been furnished before the ld. Assessing Officer during the course of assessment. While he reiterated that the assessee did not meet out the conditions for admission of additional evidences, he proceeded to examine the additional evidences in each case and after examining the same, he came to the conclusion that the lenders did not have the capacity to extend the amounts of loans that they had to the assessee company. The bank account statements of all the lenders had shown that the amounts advanced to the assessee were out of money credited in the bank accounts just before the loan given to the assessee and other than that, the transactions in the bank account were of small amounts. Relying upon various case laws, the ld. Assessing Officer submitted that the assessee had not been able to discharge the onus to show that the cash creditors were men of means, so as to allow the cash credit. From the same, he inferred that it was the money of the assessee which was routed through the bank accounts of lenders for the purposes of giving credits to the assessee and the entries were only accommodation entries as such and could not be considered as genuine transactions. Under the circumstances, he submitted that the unsecured loans amounting to Rs.9,85,88,452/- had rightly been treated as unexplained cash credits under section 68 of the Act.

8. A copy of the said remand report was provided to the assessee for furnishing its comments. In response, the assessee submitted that while making the assessments, the ld. Assessing Officer had not afforded the assessee sufficient opportunity and had made additions arbitrarily only on assumptions and surmises, without cross verifying the facts that had been placed on record. It was submitted that the ld. Assessing Officer had initiated

proceedings for the assessment years 2019-20 and 2020-21, even though the assessee company was not in existence in the relevant year. It was further pointed out that no incriminating material had been found during the requisition proceeding dated 30.01.2022 and therefore, the notice under section 143(2) had been issued on wrong assumption of jurisdiction. It was evident that since the year of requisition was pertaining to A.Y. 2022-23, notices issued for A.Y. 2021-22 and earlier years, where no incriminating material was found or where the assessee company were not in existence amounted to glaring mistakes on legal footings and therefore, the whole proceeding for the A.Y. 2021-22 was liable to be quashed. The assessee further submitted that responses with regard to each of the cash creditors. With regard to the loan of Rs. 10,00,000/- received from Smt. Asha Devi, it was submitted that the loan was received on 1.07.2020 in support of which confirmation from party and her bank account was placed on record and furthermore the said loan was repaid on 5.03.2022, which was evidenced by the ledger copy and the bank account. With regard to receipt of Rs. 26,50,002/- from Durgesh Kumar Vishwakarma, it was submitted that in support of the said loan received on different dates, the confirmation of the party alongwith the bank account had been placed on record, interest on the said loan had been given in subsequent assessment years and TDS had been deducted. His bank accounts had proved that he had the necessary funds and the allegation that cash had been deposited in his bank account to fund the loans was unproved by perusal of the bank statement. With regard to the loan of Rs. 1,93,25,000/- received from Pranshu Agarwal, it was submitted that confirmation from party in bank account had already been placed on record. The loan had been repaid in subsequent years and interest on the said loan had been given and tax had been deducted in subsequent years.

With regard to the loan of Rs. 36,75,000/- received from Rajat Agarwal, it was reiterated that the said loan had been repaid on 21.10.2022 and interest on the said loan had been paid in F.Y. 2021-22 and F.Y. 2022-23, on account of which TDS was deducted. Ledger copies and bank statements had been submitted in support of the same. With regard to loan of Rs. 2,20,00,000/- received from Simarjeet Ajmani, it was submitted that the confirmation from the party alongwith the bank account had already been placed on record, the said loan had since been repaid and interest on the said loan had been given in subsequent years, on which tax had been deducted and deposited in Central Government account. The ledger account and bank statements containing the details had been furnished. With regard to loan of Rs. 1,04,13,450/- from Anant Kumar Agarwal, it was submitted that confirmation alongwith bank account was already on record, the said loan had since been repaid and interest had also been paid on the said loan, on which tax had been deducted. Similarly, in the case of Smt. Asha Agarwal from whom loan of Rs. 29,00,000/- was received, it was submitted that the confirmation and the bank account was already on record. Furthermore, interest on the said loan had been given in subsequent years and the loans had been repaid in support of which copy of ledger had been had been attached. Similarly with regard to Gurpreet Ajmani who had advanced loan of Rs. 1,20,30,000/-, the details of the loans were provided and the ledger was given in support of the same, the details of the repayment were also indicated and it was submitted that the bank statement and confirmation were already on record. Furthermore, interest had been paid on the said loan and tax had been deducted on the same in subsequent years. With regard to Rs. 50,00,000/- received from Gurpreet Singh Ajmani (HUF), it was submitted that a confirmation from the party and the bank account were

already on record, the loan had since been repaid and interest on the said loan had been given in subsequent financial years on which tax had been deducted and deposited. With regard to loan of Rs. 60,45,000/- from Mohit Agarwal, it was submitted that the details of the loan were contained in the confirmation which had already been placed on record alongwith the bank account, the loan had also been repaid to a great extent and the ledger copy was attached to demonstrate the same. Interest on the said loan had been given in F.Y. 2021-22 and tax had been deducted on the same. With regard to loan of Rs. 40,00,000/- received from Smt. Neha Agarwal, the assessee submitted that the loan of Rs. 40,00,000/- had been repaid and in support of the same, the ledger copy was enclosed. The confirmation alongwith bank account was already on record and it was submitted that interest had been paid on the same in subsequent years and tax had been deducted and deposited with the Central Government. The assessee also furnished comments with regard to loans of Rs. 28,00,000/- taken from Sanchit Mittal, Rs. 42,00,000/- taken from Santosh Agarwal and Rs. 25,50,000/- taken from Sonu Vishwakarma and in each of the cases, it was submitted that loans had been backed up by confirmations and copies of bank account and had since been repaid. The ledgers relating to these loans were furnished and it was also submitted that interest had been paid on these loans and tax had been deducted on such interest in subsequent assessment years. It was further submitted that except for the case Smt. Asha Devi, the ITR-V have been submitted in all cases. The assessee submitted that it had taken loan from the aforesaid parties, interest have been paid to such lenders, due compliance of TDS obligations had taken place and most of the loan transactions had been repaid in subsequent years. The supporting documents in respect of all these loans had been placed on record. However,

the ld. Assessing Officer had not bothered to verify the facts or the nature of the transaction and only on assumption had invoked the provisions of section 68 and that too on wrong legal footing.

9. The assessee pointed out that till the assessment year 2022-23, the assessee was only required to prove the genuineness of the transaction i.e. the nature and source of the transactions which the assessee had proved on record. But the ld. Assessing Officer had gone a step ahead to try and verify the source of the source, which was against the intent of the provisions of section 68 as applicable in the A.Y. 2021-22. The assessee pointed out that section 68 had only been amended w.e.f. A.Y. 2023-24 to require the assessee to offer an explanation about the source of the source in respect of loans. It was pointed out that earlier this obligation only existed in matters relating to share capital in the case of a closely held company. It was further submitted that written submissions made by the assessee had been remanded to the ld. Assessing Officer for his comments but the ld. Assessing Officer had not given the assessee an opportunity to present the facts alongwith supporting documents and had submitted the remand report without any such opportunity. It was, therefore, prayed that the matter should again be remanded back to the ld. Assessing Officer to consider the matter and the documents furnished by the assessee. It was further submitted that the ld. Assessing Officer had not made any submissions in the said remand report on the merit of the case and had submitted the same without making any verification. Thus, it was clear that he was neither willing to verify information based on record nor willing to provide opportunity to the assessee. Without prejudice to the fact that the assessee was not required to explain the source of the source until A.Y. 2023-24, the

assessee was enclosing the details of each transaction of loan received by the assessee alongwith the source of the funds in the hand of the lender plus the details of the person from whom the money had been received by the lender, the bank account and the nature of the transaction as Annexure C-2 to the response. Reliance was placed on various case laws that was submitted in the course of the submissions.

10. The ld. CIT(A) considered the submissions made by the assessee that had been sent to the ld. Assessing Officer for remand. He observed that the assessment proceedings in the instant case commenced on 29.06.2022 by issue of notice under section 143(2) of the Act and thereafter the case was centralized with the DCIT, C.C., Bareilly on 16.11.2022. Thereafter, the notice under section 142(1) was issued on 3.12.2022, whereby the assessee was required to furnish the supporting documents to establish the identity, creditworthiness and genuineness of transactions in respect of unsecured loans received during the year. This notice was followed by two subsequent notices on 9.12.2022 and 12.12.2022 and in response, the assessee filed the confirmation and ITR-V of the lenders on 20.12.2022. Thereafter, the assessment order was passed on 27.12.2022. From the same, the ld. CIT(A) concluded that the assessment proceedings were completed in haste due to time barring constraints. He further held that once the assessee had furnished the confirmation of the lenders alongwith their ITR-V, the ld. Assessing Officer was required to make further enquiry in respect of the unsecured loans before invoking the provisions of section 68 of the Act by issuing notices under section 133(6), which had not been done in this case. He recognized the fact that the ld. Assessing Officer was not satisfied with the creditworthiness of the lenders due to the low income declared in the

ITR in comparison to the amount of unsecured loan given, but he noted that in various cases namely CIT vs. Vrindawan Farms (P.) Ltd. in ITA No. 71 of 2015 (Delhi High Court) and Hindon Forge (P.) Ltd. v. DCIT (ITAT Delhi in ITA No. 4738/Del/2016), the courts had held that low income reflected in the return could not be the sole basis for Revenue to doubt the creditworthiness of the lenders. He further noted that subsequent to the assessment order, during the course of appellate proceedings, the assessee had furnished the confirmation from the lenders, the copy of the ITR, the copy of bank statements, the copy of the ledger account and other relevant documents in order to establish the identity, creditworthiness and genuineness of the transactions. He also noted that the assessee had furnished the date wise details of transactions in respect of each creditor and the source of money in their respective accounts and he reproduced details of the same in his appeal order. After considering the documents furnished by the assessee, he analyzed the case of each of the creditors and he observed that in almost every case the loans had been repaid either in the same year or in the subsequent year through banking channels. He concluded that while it was true that the lenders had not advanced the loans from their taxable income, it was also true that they had sufficient money in their bank accounts which was received through banking channels and without investigating the case properly, it could not be said that the lenders did not have the capacity or creditworthiness to advance the loans to the assessee. The assessee company had furnished the identity of the lenders and taken the money from banking channels and thus the assessee company had discharged its onus to establish the loans. It had no power to produce the lenders before the ld. Assessing Officer for examination. It was the duty of the ld. Assessing Officer to call upon the lenders and examine them to

ascertain their real creditworthiness. The ld. CIT(A) also noted that the ld. Assessing Officer had furnished the remand report without providing opportunity to the assessee despite a request made while calling for the remand report, to provide opportunities to the assessees during remand proceedings. In the said remand report, the ld. Assessing Officer had commented that money had been received in those bank accounts from other persons. However, he had not done any verification with regard to them. The ld. CIT(A) held that the assessee's submission that the additions had been made without due verification found force in the various judgments which he quoted in his appeal order mainly;

i. CIT vs. Dwarkadhish Investment (P.) Ltd. (2011) 330 ITR 298 (Delhi)
ii. CIT vs. Orissa Corporation (P.) Ltd. (1986) 159 ITR 78 (SC)
iii. CIT vs. Nemi Chand Kothari (2003) 264 ITR 254 (Gauhati)
iv. DCIT vs. Rohini Builders (2002) 256 ITR 360 (Gujarat)
v. CIT vs. Mod Creations Pvt. Ltd. (2013) 354 ITR 282 (Delhi)
vi. CIT vs. Kamdhenu Steels & Alloys Ltd., & Ors (2014) 361 ITR 220 (Delhi)

11. Considering the facts of the case in the light of the aforesaid case laws and the documentary evidences furnished by the assessee alongwith the fact that the ld. Assessing Officer did not make adequate enquiry on the documentary evidences filed by the assessee company, the ld. CIT(A) held that the documents clearly established that the assessee company had proved the identity of the creditors, their creditworthiness and the genuineness of the transactions in respect of all the lenders except Smt. Asha Devi Agarwal who had given Rs. 10,00,000/- during the year under consideration. He held that merely low income declared in the return of income by the creditors was not a ground to reject the explanation of the

assessee company, because their creditworthiness had been duly established with supporting evidences. Although as per the Act, it was not mandatory on the part of the assessee to prove the source of the source in respect of unsecured loans for the year under consideration, yet the assessee had furnished the documentary evidences to establish the source of the source i.e. of lenders/creditors. In view of the same, he was of the view that the ld. Assessing Officer was not justified in making the addition under section 68 of the Act on account of unsecured loans received during the year except for the loan of Rs. 10,00,000/- received from Smt. Asha Devi, therefore, he confirmed the addition to the extent of Rs. 10,00,000/- and deleted the remaining additions made by the ld. Assessing Officer.

12. The Revenue is aggrieved with the decision of the ld. CIT(A) and has accordingly filed this appeal. Sh. B. Srinivas Kumar, CIT DR (hereinafter referred to as the ld. DR) appearing on behalf of the Revenue submitted that in the given facts and circumstances of the case, the ld. CIT(A) had erred in deleting the addition of Rs. 9,75,88,452/- made under section 68 of the Act, 1961, without appreciating the fact that the assessee had been provided with adequate opportunity to represent its case during the assessment proceedings. It was also contended that the ld. CIT(A) had erred in admitting the additional evidences under Rule 46A of the Income Tax Rules, 1962. The ld. CIT DR further submitted that the ld. CIT(A) was in error in not providing the ld. Assessing Officer with the counter comments furnished by the assessee on the remand report and also not providing the ld. Assessing Officer with the supplementary submissions made by the assessee during the appellate proceedings. He pointed out that the ld. CIT(A) had failed to appreciate the fact that the lender's bank accounts had only been used for

receiving and transferring of funds and that they did not reflect the creditworthiness of the lenders. The ld. CIT DR invited our attention to the paper book furnished by the Department and the written submissions furnished by the Revenue in this regard. He read out from the said written submissions which are reproduced as under:-

> *"[4. During the appellate proceedings, Ld. CIT(A), through letter dated 04.12.2023 called for remand report in terms of Rule 46A of the Income tax Rules, 1962. The remand report was submitted on 16.01.2024, wherein admission of additional evidences was objected to.*
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> *5.1 Ld. CIT(A), disposed off the appeal vide order dated 04.03.2025. While deciding the appeal, grounds raised by the assessee regarding issue of notice under section 143(2) of the Act was dismissed by the Ld. CIT(A). During the appellate proceedings, the assessee has furnished the rejoinder/counter comments on the remand report.*
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> *5.2 Ld. CIT(A) has further held by observing that almost in every case there was repayment of loan either in the same year or in subsequent year. It was also held that the lenders had sufficient fund to advance the loan and without investigating the case properly it cannot be said that the lenders did not have the capacity to lend the money and the assessee has no power to produce the lenders before the AO for examination It was the duty of the AO to ascertain the credit worthiness of the lenders.*
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> *5.3 Ld. CIT(A) has further observed that the remand report was furnished without providing opportunity to the assessee and accordingly, held that the AO did not make adequate inquiry on the documentary evidences filed by the assessee treating all grounds as single ground of appeal. Ld. CIT(A) held that the assessee had furnished complete documentary evidences such as purchase documents, contract notes, demat account statements, brokers note etc. and none of them were doubted by the Assessing Officer.*
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> *5.4 Ld. CIT(A) relying on the submissions made during appellate proceedings, rejoinder/counter comments on the remand report has held that the assessee was not assessment year 2021-22 and deleted the addition of Rs. 9,75,88,452/. The addition of Rs. 10,00,000/- made in respect of unsecured loan taken from Smt. Asha Devi was confirmed.*
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> *6.1 Ld. CIT(A) has observed that the assessee has furnished rejoinder/counter comments on the remand report and also made supplementary written submissions (para 4.3 and 4.4 of the appellate order). However, the copy of rejoinder/counter comments or the supplementary written submissions were not provided to the Assessing Officer.*
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> *6.2 Hon'ble Patna High Court in the case of Bishwanath Prasad Bhagwat Prasad vs Commissioner of Income Tax [1956]291TR48(PATNA) (Exhibit-1) has held that*

"under section 250(4) of the Act, Ld. CIT(A) is competent to make such further enquiry as he thinks fit or cause further enquiries to be made by the Income-tax Officer, under remand. He is further empowered to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment."

6.3 Further, Hon'ble Supreme Court in the case of Jute Corporation Of India Limited [1991] 187 ITR 688 (SC) (Exhibit-2) has also held that "in the absence of any statutory provision, the general principle relating to the amplitude of the powers of the CIT(A) is that such powers are coterminous with that of the initial authority. In the absence of any statutory provision, the appellate authority is vested with all the plenary powers which the subordinate authority may have in the matter.

6.4 With due respect to the order of the Ld. CIT(A), further opportunity should have been provided to the Assessing Officer to examine the counter comments/supplementary submissions made by the assessee during the appellate proceedings. And if not satisfied with the remand report, further inquiry would have been made through the Assessing Officer.

6.5 As regards, deletion of additions of unsecured loans made under section 68 of the Act, the Ld. CIT(A) has held that the assessee was not required to explain the source of source, i.e. the assessee was not required to explain the source of the money of the lenders. However, on examination of the bank accounts of the lenders it is seen that the bank accounts of the lenders receive a certain amount from one entity and immediately remitted to another entity or there have been cash deposits by the loan creditors. The entire bank statements show that the bank account is being used only for one activity, i.e. receiving and transferring funds. The loan creditors have receive money and have immediately transferred money in favour of the assessee therefore is concluded that the bank accounts are being used solely for the purpose of receiving and transferring the money and there hardly remains any significant balance in the account. Thus the basic nature and character of transactions reveal a well-planned and stage managed show of genuineness behind which a clean and simple round tripping of funds is taking place. Further, the bank accounts create a façade documentary evidence clean money in the form of account payee cheques for any ki of accommodation entry.

6.6 The modus adopted as discussed that once an amount through cheque or RTGS was received from one entity, it would immediately be diverted to another entity and the resultant balance was only a paltry sum. The thin cash balance left in the bank accounts pre and post the rotational transactions also established that the loan creditors did not have creditworthiness to give loans to the assessee.

6.7 Therefore, entire gamut requires taking a holistic view of the matter, in the light of surrounding circumstances, preponderance of probabilities and ground realities. Identity, creditworthiness or genuineness of the transaction is not established by merely showing that the transaction was through banking channels or by account payee instrument. It may, as in the present case required entail a deeper scrutiny. It would be incorrect to state that the onus to prove the genuineness of the transaction and creditworthiness of the creditor stands discharged in all cases if payment is

made through banking channels. Whether or not onus is discharged depends upon facts of each case. It depends on whether the two parties are related or known to each; the manner or mode by which the parties approached each other, whether the transaction was entered into through written documentation to protect the investment, whether the lenders profess and was an angel investor, the quantum of money. creditworthiness of the recipient, the object and purpose for which payment/investment was made etc. These facts are basically and primarily in knowledge of the assessee and it is difficult for revenue to prove and establish the negative. Payment by banking channel, etc. cannot in all cases tantamount to satisfactory discharge of onus. The facts of the present case noticed above speak and are obvious. What is unmistakably visible and apparent, cannot be spurred by formal but unreliable pale evidence ignoring the patent and what is plain and writ large.

6.8 On examination of the bank accounts of lenders it is seen that they merely rotated money, which was coming through the bank accounts therefore, did not reflect their creditworthiness. Want of source of fund affects the genuineness of the transaction and unless source is proved, the loan creditors cannot be said to have discharged the duty of proving that the loans shown in the accounts were genuinely advanced by them to the assessee.

Therefore, on a deeper scrutiny of the factual position would show that the investor company did not have a genuine creditworthiness and consequently the transaction has to be held to be not genuine."

13. Accordingly, the ld. CIT DR prayed that in view of the facts brought on record by the Revenue, the order of the ld. CIT(A) was fit to be set aside and the matter should be restored back to the file of the ld. Assessing Officer for re-consideration of the evidences that had been submitted before the ld. CIT(A) in contravention of Rule 46A.

14. On the other hand, Sh. Mahendra Kumar, FCA (hereinafter referred to as the ld. AR) invited our attention to the order of the ld. CIT(A) specifically, page 68 of the same wherein the ld. CIT(A) had examined the timeline of the assessment proceedings and come to the conclusion that the entire assessment proceedings had been conducted in a very rushed manner. These would show, that the assessee was prevented from furnishing all the necessary evidences before the ld. Assessing Officer due to the late stage at which the proceedings were taken up and the constraints of

limitation involved. The assessee had first received notice under section 142(1) on 3.12.2022 and furnished a confirmation and details available with it on 20.12.2022. No further verification had taken place and the submissions of the assessee were rejected because the orders had to be passed to meet the limitation deadline. These facts in themselves showed that there were reasonable grounds to admit the additional evidence offered by the assessee under Rule 46A. These evidences had not only been placed before the ld. CIT(A), they had also been forwarded to the ld. Assessing Officer for his comments. At the time of forwarding, the ld. CIT(A) had also requested the ld. Assessing Officer to provide an opportunity to the assessee before sending the comments. The assessee had also requested the ld. Assessing Officer for an opportunity in this matter. However, the ld. Assessing Officer without providing any such opportunity and without any consideration of the fact that the assessee had not been able to furnish these evidences because of the time constraint, had submitted that the assessee did not meet the conditions under rule 46A because ample opportunities had been provided and also proceeded to examine the additional evidences provided by the assessee to pick out faults in the same so as to show that they did not demonstrate the genuineness of the transactions or the creditworthiness of the parties. Thereafter, it was the bounden duty of the assessee to remove such doubts by pointing out further details, in respect of the loans that could prove their genuineness, in the light of the comments offered by the ld. Assessing Officer. Even though the assessee was not required during the assessment year in question to prove the source of the source, it had undertaken upon itself the task of explaining the source of funds in the hands of the lenders and had submitted such details to the ld. CIT(A), only to demonstrate that the loans in question were genuine and that

the lenders had the capacity to advance such loans. When the ld. Assessing Officer had failed to offer the opportunity to the assessee during the course of remand proceedings, the Department could not thereafter demand that every submission made by the assessee before the ld. CIT(A) in response to such remand report should also be forwarded to the ld. Assessing Officer for his comments. The facts remain that the additions had been made ignoring the evidences placed on record and failing to consider the supporting documentary evidences submitted before the ld. CIT(A) as additional evidences. No effort had been made to cross verify with respect to any of the evidences produced by the assessee and therefore, no addition under section 68 was sustainable in the hands of the assessee merely on the strength of surmises, conjectures and prejudices. The ld. AR therefore, submitted that the CIT's order were worthy of being confirmed and did not merit any interference on the merits except to delete the addition sustained in the hands of Smt. Asha Devi. It was submitted that during the course of appeal proceedings, the assessee had provided the confirmation and the bank account of the party alongwith evidence of the repayment of the said loan therefore, there was no reason to sustain the said addition. It was further submitted that the Revenue was unjustified in alleging violation of Rule 46A by the ld. CIT(A) in not providing the counter comments of the assessee to the ld. Assessing Officer. It was submitted that the document in question was the assessee's rejoinder to the findings in the remand report. Rule 46A mandated an opportunity for the ld. Assessing Officer to rebut the additional evidence, not to endlessly debate the assessee's arguments. If the ld. Assessing Officer were to reply to every rejoinder, the proceedings would enter an infinite loop delaying justice. Without prejudice to the same, it was submitted that in any case, the assessee was not required to prove the source

of the source for a loan in the said assessment year that it had chosen to do so could not be a ground to hold that the same evidence should again require examination by the ld. Assessing Officer. It was submitted that all the allegations of wrong doing that had been made by the ld. Assessing Officer in the course of the order and the remand report, were based upon conjecture and not evidence. All the transactions had taken place through banking channels, it was standard commercial practice for lenders to mobilize funds immediately before advancing a loan and that there was no cash trail that would give cause for suspicion in the case of the assessee. All these submissions were supported by a written submission filed by the ld. AR on the issue and it was prayed that the order of the ld. CIT(A) may be confirmed to the extent of the deletions and in fact the amount confirmed in the hands of Smt. Asha Devi may also be deleted.

15. In addition to providing rebuttal of the Department's argument offered in appeal, the ld. AR also advanced his arguments on the issues raised by him in the cross objection. It was submitted that since the search/requisition had been conducted after 1.04.2021, while framing the assessment order, the provisions of section 147 to section 151 were required to be followed as per the amendment that had taken place by Finance Act, 2021. It was pointed out that by Finance Act, 2024, the procedure of search assessment had again changed and as per sub section 3 inserted in section 152, where a search had been initiated or a requisition had been made or a survey had been conducted after 1.04.2021 but before 1.09.2024, the provisions of section 147 to 151 could apply as they stood immediately before the commencement of the Finance (II) Act, 2024. It was pointed out that as per the master guidelines issued by the Board dated

11.05.2022, notices under section 148 were required to be issued in respect of the assessment years prior to the year of search. The present case was not the requisition year (that was assessment year 2022-23) and therefore, the notice under section 148 was mandatory. However, the ld. Assessing Officer had not issued the notice under section 148 and had instead straightaway proceeded to issue notice under section143(2) which was procedurally incorrect. Furthermore, the said assessment had been finalized without taking the approval of the Additional CIT, Range as per the provisions of section 148B of the Act and therefore, the assessment was *void ab initio*. Accordingly, the ld. AR prayed that the assessment was even legally fit to be quashed as being illegal and void.

16. Rebutting the said arguments of the ld. AR, the ld. CIT DR drew our attention to the order of the ld. CIT(A) where this issue had been discussed on pages 49 and 50. He pointed out that the ld. CIT(A) had observed that in this case, the requisition under section 132A had been made on 30.01.2022, which was falling after 1.04.2021. Thus, the case of the assessee was selected for complete scrutiny as per guidelines issued by the CBDT dated 3.06.2022. The assessee had filed its return of income for the A.Y. 2021-22 on 1.03.2022 and the time limit for issue of notice under section 143(2) was available upto 30.06.2022. Therefore, the notice issued under section 143(2) of the Act had been issued as per the provisions of the Act. Furthermore, this notice had been issued after taking due approval of the PCIT, Bareilly. Finally, the assessment order had been passed after taking the prior approval of the Addl CIT (Central), Lucknow Range. The details of the approval taken to issue the notice and conclude the assessment were given on page 17 of the order of the ld. CIT(A). The ld. CIT DR pointed out that when there was time available

under the Act for issuance of notice under section 143(2) on the basis of the regular return filed by the assessee, there was no need for the Department to invoke the provisions of section 148, because it could not be said that income had escaped assessment. Accordingly, there was no infirmity in directly picking of the case for scrutiny as per the CBDT guidelines and finalizing the same with the approval of the range head. Accordingly, he prayed that there was no merit in the assessee's arguments and accordingly it should be dismissed.

17. We have duly considered the facts and circumstances of the case and the arguments advanced by both parties. We note that the assessment proceedings began towards the fag end of the limitation period and were completed in a short time frame. Therefore, there is adequate reason to suggest that the assessee did not have the necessary opportunities to present all the material in support of its contentions during the limited time available to it for assessment. That being the case, this was a fit case for admission of additional evidence and the ld. CIT(A) has, in our opinion, rightly admitted the additional evidence. We note that the said additional evidence had been forwarded to the ld. Assessing Officer but the ld. Assessing Officer had contended that the same was not admissible and proceeded to do a cursory examination of the same and send the remand report, without causing a detailed investigation during remand proceedings as were required of him. There is merit in the assessee's case that while sending the additional evidences to the ld. Assessing Officer, the ld. CIT(A) had requested that the assessee be provided an opportunity before sending of the comments and at that stage, had the ld. Assessing Officer not been satisfied with the additional evidences produced, he had the opportunity to

ask the assessee to provide the further clarifications required to satisfy him that the loans stood explained as did the creditworthiness of the lenders. However, this opportunity was not provided and it having not been provided, could not be a ground for the Department to prohibit the assessee to furnish these clarifications to the ld. CIT(A) once a negative remand report had been sent by the ld. Assessing Officer. We are in agreement with the assessee that the ld. CIT(A) cannot be expected to seek the comments of the ld. Assessing Officer on every submission made by the assessee in rebuttal to the remand report, otherwise the proceedings would be stuck in an endless loop. We note that the Department has itself acknowledged Court decisions which hold that the powers of the CIT(A) are coterminous with that of the Assessing Officer. In fact, it is acknowledged that the ld. CIT(A) steps into the shoes of the Assessing Officer. He can do what the AO can do and he can do what the AO did not do. Accordingly, we hold that there was no infirmity on the part of the ld. CIT(A) in entertaining the arguments and facts placed before him by the assessee. While doing so, we note that during the assessment year in question, there was no obligation upon the assessee to explain the source of the funds mobilized by the lenders. To allay any doubts regarding the creditworthiness of its lenders the assessee even undertook to walk that extra mile. We note that the ld. Assessing Officer has not done any meaningful enquiry in the said case. Probably due to the paucity of time, he did not issue any notices to any of the lenders to examine them or their affairs before concluding on the basis of their IT returns, that they did not have the creditworthiness to advance the loans that they had. However, there were no such time constraints imposed upon him in the remand proceedings. Once the matter had been referred back to him by the ld. CIT(A), the ld. Assessing Officer could have undertaken that enquiry to

prove this suspicion that the creditworthiness of the lenders was doubtful. However, he did not do so and the ld. Assessing Officer having twice failed to conduct the necessary enquiries, could not thereafter raise questions upon the genuineness of transactions reflected in the lenders bank account to question the creditworthiness of the lenders and thereby the loans itself. As the assessee has demonstrated before the ld. CIT(A) and the ld. CIT(A) has pointed out, not only were the loans repaid but they were repaid alongwith interest and tax was deducted at source on such interest, which was subsequently deposited into Central Government account. Thus, there appears to be no material whatsoever in the hands of the ld. Assessing Officer, whereby he can disprove the elaborate documentation produced by the assessee to demonstrate the genuineness of the transaction and the creditworthiness of the lenders. We also reject the plea of the ld. CIT DR to restore the matter back to the file of the ld. Assessing Officer for examination of these matters, noting that the ld. Assessing Officer had two previous opportunities to do the same, which he did not exercise. Assessment proceedings cannot be allowed to become an endless exercise in which the Department first fails to examine the matter in detail despite having been afforded an opportunity to do so, and thereafter seeks to examine the same matter afresh. After considering his detailed order, we cannot find any infirmity in the decision of the ld. CIT(A) to delete the additions made by the ld. Assessing Officer as the case of each one of the creditors has been examined on the facts and it has been concluded that they had the necessary creditworthiness to make the advances of loans to the assessee. He has also found that the transactions to be genuine as evidenced by their movement through banking channels, the payment of interest on the same and the deduction of tax at source on the same. We note the absence of any cash trail

that might suggest otherwise. We, therefore, confirm the action of the ld. CIT(A) in deleting the additions made by the ld. Assessing Officer. However, we note that the ld. CIT(A) has not deleted the addition on account of loans and advances received from Smt. Asha Devi. We observe that the assessee had every opportunity to prove the creditworthiness of the said lender before the ld. CIT(A) and was unable to do so. No fresh material has been brought on record before us that would convince us that the ld. CIT(A) was unjustified in treating the credits received from Smt. Asha Devi to be unexplained in the hands of the assessee on account of the fact that Smt. Asha Devi lacked the creditworthiness to advance the amount of loan that she had. Accordingly, we cannot find any fault in the order of the ld. CIT(A) in sustaining the addition of Rs. 10,00,000/- made on this account and we confirm his actions in this regard.

18. On the legal grounds raised by the assessee in his cross objection, we hold that the assessee has not been able to make out a case of any irregularity in the procedure adopted by the Department while doing assessment of the case of the assessee for the assessment year in question. As has been elaborately brought out by the ld. CIT DR, there was ample time left for the Department to issue a notice under section 143(2) and therefore, the Department did not feel the need to issue notice under section 148 prior to issuing the notice under section 143(2) as an assessable return already existed on its files for assessment. It must be remembered that a notice under section 148 is issued for the purposes of obtaining a return from an assessee whose income has escaped assessment within the meaning of section 147. If there is still time available to issue a notice under section 143(2) and assess the income of an assessee for a particular year, there can

be no requirement to first issue a notice under section 148 obtain another return and then issue a notice under section 143(2), if an assessable return already existed on the files of the Department. Furthermore, it has been pointed out by the CIT DR with reference to the orders of the ld. CIT(A), that the notice under section 143(2) was issued with the approval of the PCIT and the orders that were subsequently passed were passed after obtaining the approval of the ld. Addl CIT Range and hence there is no merit in ground no. 1 of the assessee's cross objection which allege the assessment order to have been passed without following due process of law. Accordingly, it is dismissed.

19. In the result, the Departmental appeal in ITA No.308/LKW/2025 and the assessee's Cross Objection No. 47/LKW/2025 are both held to be dismissed.

Order pronounced on 21.10.2026 in the open Court.

Sd/-	***Sd/-***
[KUL BHARAT]	**[NIKHIL CHOUDHARY]**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

DATED: 21/10/2026
Sh
Copy forwarded to:
1. Appellant –
2. Respondent –
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.