IN THE INCOME-TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No. 1950/MUM/2026
(A.Y. 2013-14)

ITA No. 1951/MUM/2026
(A.Y. 2014-15)

ITA No. 1952/MUM/2026
(A.Y. 2015-16)

M/s Sarvesh Mercantile Private Limited 2nd Floor, Johri Mansion 259, Kalbadevi Road, Kalbadevi H.O, Mumbai – 400 002, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Central Circle - 2(1), Room No. 804, 8th Floor, Pratishtha Bhavan, Old CGO Annexe., Maharishi Karve Road, Mumbai – 400 020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAICS1651C		
Appellant/अपीलार्थी	..	**Respondent/**प्रतिवादी

Assessee by :	Shri Rakesh Joshi, AR
Revenue by :	Shri Basavaraj Hiremath, CIT-DR a/w Shri Rajgopal Parthasarathi, Sr.DR

Date of Hearing	23.09.2026
Date of Pronouncement	15.10.2026

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The above captioned appeals preferred by the assessee emanate from the order passed by the Learned Commissioner of Income-tax, Appeal, CIT(A)-48, Mumbai [hereinafter referred to as "CIT(A)"]

pertaining to assessment order passed u/s. 143(3) r.w.s. 254 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Years [A.Ys.] 2013-14, 2014-15 and 2015-16. Since the issues are common and also the fact that the appeals were heard together, they are being taken up together for adjudication vide this composite order for the sake of brevity. **We take up the appeal for AY 2013-14 as the 'Lead Case'.** The decision rendered would apply *mutatis mutandis* to other appeal.

2. **ITA No. 1950/MUM/2026(AY 2013-14)**

The grounds of appeal are as under:-

1. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in not accepting the returned loss of Rs. (10,57,574/-), without considering the facts and circumstances of the case.*
2. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in estimating the income of the appellant at Rs.27,57,706/-, being 2 percent on sales of Rs.13,78,85,318/-, by rejecting the books of accounts u/s.145(3) of the Income Tax Act, 1961, without considering the facts and circumstances of the case.*
3. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in making an addition of Rs.2,35,00,000/- u/s.68 of the Income Tax Act, 1961, by considering the unsecured loan taken for certain parties as alleged unexplained cash credit, without considering the facts and circumstances of the case.*

3. **Ground no.1** is general in nature requiring no separate adjudication and is dismissed. Facts in brief as culled from the

impugned orders reveal that the assessee company filed its return of income declaring income at loss of Rs.10,57,574/-. The original assessment proceeding 143(3) r.w.s. 147 of the Act, was completed by assessing total income at Rs.3,03,94,265/- by making addition on account of bogus sales on estimate basis of Rs.68,94,265/- and on account of bogus loan Rs.2,35,00,000/- u/s 68 of the Act, stated to be from companies providing bogus entries and controlled by certain individuals treated as bogus entities i.e. Marine Gems P. Ltd. Rs.1,50,00,000/-(controlled by Pramod Kumar Ranka), Parshwanath Gems Pt. Ltd. Rs. 35,00,000/-,(controlled by Gautam Jain, Karishma Diamond Pvt. Ltd. Rs. 25,00,000/- (controlled by Gautam Jain and Keshariya Diamonds Pvt. Ltd Rs. 25,00,000/- (controlled by Vijay Narendra Kothari),totalling Rs 2,35,00,000/-. The subsequent appeal was dismissed by the ld.CIT(A).

4. Aggrieved with order, the assessee company filed second appeal before the Hon'ble ITAT which vide ITA No. 7163/MUM/2019 dated 27/07/2022 which set aside the issue and remitted certain issues to the file of the Revenue for fresh examination. In respect of the addition made by the AO estimating business income at Rs.68,94,265/- rejecting the books of account, the ITAT observed that,

" the books of accounts of the assessee had been rejected mainly in absence of books of accounts, bills vouchers etc. produced before the Assessing Officer and on the allegation of accommodation entry transactions carried out with M/s. Mirah Décor group entities. Before it, the assessee has submitted that during the year under consideration there was no transaction with M/s. Mirah Group entities. This fact of vital importance, has not been verified by the Assessing Officer in absence of books of accounts and bills and vouchers etc. produced by the assessee. Now before us, in written submission, the assessee has expressed willingness to produce books of accounts, bills, vouchers etc. for verification by the Assessing Officer. In view offacts and circumstances above and in the interest of the substantial justice, we feel it appropriate to restore the issue-in-dispute to the file of assessing officer for deciding afresh. The ground No. one of the appeal is accordingly allowed for
4.1 In respect of the addition made by the AO of Rs.2,35,00,000/- as cash credit u/s. 68 of the Act,the ITAT observed and directed that the Ld. DR could not controvert that there was limited time frame in which the assessee was asked to provide the information and before the assessee could file the said information, the assessment order was passed on 22/12/2017. In our opinion, the assessee fulfils the circumstances under Rule 46A(1)(d) i.e. no sufficient opportunity, therefore additional evidences are eligible for admission. Since in respect of the ground No. 1 of the appeal, we have already restored the issueindispute to the file of the Assessing Officer and therefore, for avoiding multiplicity of simultaneous proceedings, instead of restoring the matter to the file of Ld. CIT(A), we feel it appropriate to restore the issue also to the file ofthe Assessing Officer for deciding afresh after verification of the additional evidences and examination of the parties, which will be produced by the assessee."

5. In compliance to the direction of Hon'ble ITAT, fresh proceedings were initiated by the AO. The assessee company submitted its reply which are perused and considered. In respect of the first addition, the observations of the AO are that,

"During the course of current assessment proceeding, vide notice u/s. 142(1) dated 24.02.2024, the assessee company was requested to furnish details of transactions entered with Mirah Group of companies, copy of ledger accounts of entities belonging to Mirah Group of companies including M/s. Mirah Décor Pvt. Ltd in the books of assessee company for year under consideration along with confirmation of parties concerned,

books of accounts for F.Y. 2012-13 along with copy of vouchers/ purchase invoices and sales invoices relating to said period, particulars of loans taken and submission in order to prove the creditworthiness of the lenders and the genuineness of transactions and details of interest/brokerage given. In response asssessee vide letter 04.03.2024 submitted its response. However, the assessee company failed to prove the genuineness of its business transaction and no evidence such as bill, vouchers, PF and ESIC details, delivery challan, transportation bills, invoices details were produced by the assessee company for verification 6.2 Further, vide notice u/s. 142(1) dated 15.03.2024, the assessee company was requested to produce the books of accounts and all the relevant documents proving the genuineness of the transactions and delivery of goods. In response to notice u/s. 142(1) of the Income Tax Act, 1961 dated 15.03.2024, the assessee company vide letter dated18.03.2024 submitted its response.

6.3 However, the assessee company failed to prove the genuineness of its business transaction and no evidence such as bill, vouchers, PF and ESIC details, delivery challan, transportation bills, invoices details were produced by the assessee company for verification. In view of the above, it is clear that there is no business transaction but just to provide the entries in relation to transactions with M/s. Mirah Decor P. Ltd.

6.4 Later, in view of the above position, a summons u/s. 131 of the Income Tax Act, 1961 was issued and served to the assesse company M/s. Sarvesh Mercantile Private Limited on 21.03.2024 to produce books of accounts for the year ending 31.03.2013 along with all supporting documentary evidences in support of your P&L account and Balance Sheet. On 22.03.2024 the director of the assessee company Shri Kirtikumar Doshi attended the proceedings with computerized print of books of accounts. On going through the same it is noticed that the assessee company failed to produced supporting evidences w.r.t. entries appearing in the books of accounts accept few original purchase and sale bills. However, later the assessee company filed letter online requesting adjournment for one week. However, the same could not be entertained as the matter is getting barred bylimitation of time limit by this month end. Ample opportunity and time has already been accorded to the assessee company in this matter i.e. for production of books of accounts with supporting evidences.

6.5 In this regard, it is pertinent to mention that during the course of original assessment proceedings, the assessee company failed to furnish books of accounts in order to verify the delivery of goods or services as in consequence to Survey proceedings it is found that no real business of trading or services were conducted by the assessee company. Therefore,

assessee company failed to prove the genuineness of the purchase and sale transaction and no copies of bills, vouchers were produced by the assessee company for verification. In the statement recorded during the survey action Shri Kirtikumar Doshi., director of the assessee company had admitted that all transactions entered with Mirah group was without taking delivery of goods. the assessee company himself has admitted that no delivery of goods or services have taken place and the price of the transactions were decided as per the convenience of both parties. It clearly shows that no real business of trading or services were conducted by the assessee company. Based on this the then AO rejected the books of accounts and estimated @5% on the total sales credited to the profit and loss account as business income of the assessee company which worked out to Rs. 68,94,266/-.

6.6 Considering the above facts that assessee company has failed to prove the genuineness of its business transactions and no evidence such as bill, vouchers, PF and ESIC details were produced for verification during the current proceedings. In view of theabove, due to non-production of books of accounts and supporting evidences, I am not satisfied about the correctness and completeness accounts of the assessee company under consideration and hence the books of accounts is rejected as per the provisions of section 145(3) of the Income Tax Act, 1961. Penalty proceedings u/s. 271A of the Income Tax Act, 1961 is initiated separately for failure to keep, maintain or retain books of account, document etc.

6.7 In view of the above position, as per the profit and loss account of the assessee company, it is seen that the assessee company has credited sales of Rs.13,78,85,318/- on which profit is estimated @2% over & above the business profit determined by the assessee company which works out Rs.27,57,706/-. Penalty proceedings u/s. 271(1)(c) of the Income Tax Act, 1961 is initiated separately on this issue for furnishing inaccurate particulars of the income. (Addition Rs.27,57,706/-).”

5.1 In respect of bogus loans, the AO gave a finding that,

“during the course of survey action conducted in the case of the assessee company, Shri Kirtikumar Doshi., director of the assessee company was required to prove the creditworthiness of the said unsecured loans reflecting in its balance sheet alongwith genuineness of the transaction. In this regard, it was stated by Shri Kirtikumar Doshi that loans in its balance sheet were genuine loans which were received in cheque and interest @11% were paid on the same. Sr. No. Name of the party Amount Controlled by 1 Marine Gems P. Ltd. 1,50,00,000/- Pramod Kumar Ranka 2 Parshwanath Gems Pvt. Ltd. 35,00,000/- Gautam Jain 3 Karishma Diamond Pvt. Ltd. 25,00,000/-

Gautam Jain 4 Keshariya Diamonds Pvt. Ltd.25,00,000/- Vijay Narendra Kothari Total 2,35,00,000/-.

8.2 During the course of current assessment proceeding, vide notice u/s. 142(1) dated 24.02.2024, the assessee company was requested to furnish particulars of loans taken and submission in order to prove the creditworthiness of the lender and the genuineness of transactions and details of interest/brokerage given. In response asssessee vide letter 04.03.2024 submitted its response. However, on going through the details submitted it is noticed that Assessee company had submitted account confirmation, bank statement and return of income of only two entities namely Karishma Diamond Pvt. Ltd and Parshwanath Gems Pvt. Ltd. However, in both cases, confirmations were not signed. The onus was on the assessee company which it failed to discharge.

8.3 Further, as per direction of the Hon'ble ITAT, the assessee company failed to produce loan parties for verification on its own. Hence, in order verify the loan parties under consideration summons u/s. 131 of the Income Tax Act, 1961 were issued to M/s Karishma Diamond Private Limited, M/s Parshwanath Gems Private Limited and M/s Marine Gems Private Limited on 11.03.2024. The relevant portion of the same is reproduced as under: In connection with unsecured loan give to M/s. Sarvesh Mercantile Pvt. Ltd (PAN AAICS1651C) you are requested to appear before the undersigned on scheduled date and time along with all supporting corroboratory evidences. You are also requested to furnish the copy of assessment order, if any passed in your case along with Appellate orders. In case of non-compliance, Penal proceeding as per provisions of Income Tax Act, may be taken in your case."

8.4 However, none of the above mentioned entities complied to the summons issued. Hence, once again summons u/s. 131 of the Income Tax Act, 1961 were issued to M/s Karishma Diamond Private Limited, M/s Parshwanath Gems Private Limited and M/s Marine Gems Private Limited on 15.03.2024. The relevant portion of the same is reproduced as under: "In continuation to the summon issued u/s 131 dated 11.03.2024 it was requested to appear before the undersigned on scheduled date and time. However, you have been failed to appear before the undersigned in the pending asst proceedings in the case of M/s Sarvesh Mercantile Pvt. Ltd. In view of the above, you are once again requested to appear before the undersigned on scheduled date and time and furnish all pending details and also produce books of accounts for the year ending with 31.03.2013, 31.03.2014 & 31.03.2015"

8.5 However, none of the above mentioned entities reported to the summons issued. In view of non-compliance by any of the loan parties notice u/s. 142(1) dated 15.03.2024 was issued to the assessee company whereby it is requested to Show Cause as to why the loan received from M/s. Karishma Diamond P. Ltd., M/s. Marine Gems P. Ltd., M/s. Keshariya Diamonds Pvt.

Ltd. and M/s. Parshwanath Gems P. Ltd. amounting to Rs. 2,35,00,000/- during the year under consideration should not be treated as bogus and added back to your income u/s. 68 of the Income Tax Act. You are also given Show Cause as to why penal proceedings should not be initiated as per provisions of Incometax Act, 1961. The assessee company furnished its response on 18.03.2024 The same is perused and considered.

8.6 It is pertinent mentioned here that during the course search and seizure and survey action in the case of Gautam Bhanwarlal Jain and others on 03.10.2013 premises of Karishma Diamond P. Ltd, M/s. Parshwanath Gems P. Ltd, M/s. Marine Gems Pvt. Ltd, M/s Kesharia Diamonds Pvt. Ltd also covered. In the statement recorded on oath u/s. 131(1A) on 06.10.2013, Shri Gautam Bhanwarlal Jain admitted that M/s. Karishma Diamond Pvt. Ltd, M/s. Parshwanath Gems Pvt. Ltd were controlled and operated by him and there is no actual business carried out by these companies. They were paper companies and were being used for the purpose of providing accommodation entry. Further, in the statement recorded on oath U/S. 131(1A) on 06.10.2013 Shri Pramod Kumar Ranka, director of M/s. Marine Gems P. Ltd and Shri Vijay Narendra Kothari, director of M/s. Keshariya Diamonds Pvt. Ltd has also admitted that there is no actual business carried out by these companies. They were paper companies and were being used for the purpose of providing accommodation entry.

8.7 During the course of original assessment proceeding, the then AO held that since the assessee company failed to prove genuineness of transaction and creditworthiness of the lenders and therefore, treated the loan as bogus amounting to Rs.2,35,00,000/- and added back to the income of the assessee company u/s. 68 ofthe Income Tax Act, 1961.

8.8 Since, assessee company has been unable to satisfy the condition which are sine-qua-non for the proper and valid explanation of any loan credit entry in books. The conditions which are not met are the genuineness of the transaction and bonafide creditworthiness of the party. The three conditions with the help of which the assessee company has to establish his burden of proof in proving the impugned loans are (i) identity (ii) creditworthiness (iii) genuineness of the transaction. These conditions have to be satisfied altogether in conjunction. In the instance case, only the identity has been established and the other two conditions viz. bonafide genuineness of transaction and creditworthiness of the lender has not been proved by the assessee company the burden of proof has not been discharged and has not been shifted to the assessing officer.

8.9 Further, the Hon'ble Supreme Court in the case of M/s. Kachwala Gems vs. JCIT (2006) 206 CTR (SC) 585, 288 ITR 10 (SC), held that payment by account payee cheque is not sufficient to establish the genuineness of purchase. Further, it was also held in the case of CIT vs. Prashant (P) (1994)

121 CTR (Cal.) 20, the Hon'ble Calcutta High Court has held that even payment by account payee cheque is not sacrosanct and would not make an otherwise non-genuine transaction genuine.
8.10 In view of the discussion held in above paras, nothing new material/supporting evidences have been brought by the assessee company during the course of current assessment proceedings under consideration. The assessee company failed to prove genuineness of transactions and creditworthiness of the lender. The onus was on the assesse company which it failed to discharge. In view of the above, total loans received from M/s. Karishma Diamond P. Ltd., M/s. Marine Gems P. Ltd., M/s. Keshariya Diamonds Pvt. Ltd. and M/s. Parshwanath Gems Pvt. Ltd. amounting to Rs. 2,35,00,000/- during the year under consideration are treated as bogus and the same is disallowed u/s. 68 of the Income Tax Act, 1961 and the same are added back to the income of the assessee company. Penalty proceedings u/s. 271(1)(c) of the Income Tax Act."

6. In the subsequent appeal before the ld.CIT(A) the assessee contested the above additions. After taking into account the facts of the case and the contentions of the assesse, the ld.CIT(A) concluded as under,

" 7.1 I have carefully considered the assessment order, the grounds of appeal, and the written submissions filed by the appellant. The facts of the case, briefly, are that the assessment u/s 143(3) r.w.s. 254 was completed after the Hon'ble ITAT set aside the matter for fresh verification. The AO made two primary additions: an addition of Rs. 27,57,706/- based on an estimation of profit @ 2% of sales, and an addition of Rs. 2,35,00,000/- under section 68 treating unsecured loans as bogus.
7.2 Ground No. 1: Estimation of Profit @ 2% on Sales The AO rejected the books of accounts under section 145(3) of the Act. The basis for this rejection was the non-production of critical primary evidences such as purchase/sales bills, vouchers, delivery challans, and transportation bills, despite specific requisitions. Further, the AO relied on the statement of the director, Shri Kirtikumar Doshi, recorded during the survey, where he admitted that transactions with the Mirah Group were accommodation entries without actual delivery of goods.
7.3 The appellant argues that it has shown "true profit" and that all transactions are through banking channels. The appellant contends that there is no basis for the 2% estimation and that it duplicates income already

offered. of 7.4 I find the appellant's arguments untenable. The foundation of any book result is the primary evidence that supports it-specifically bills, vouchers, and proof movement of goods (delivery challans/transport receipts). In the absence of these documents, which the appellant failed to produce despite the ITAT remanding the matter specifically for verification, the correctness and completeness of the accounts cannot be satisfied. The appellant's claim that transactions were through banking channels does not validate the commercial reality of the trade. Payment by cheque is not sufficient to establish the genuineness of purchases. 7.5 Furthermore, the admission by the director regarding the nature of transactions with the Mirah Group (accommodation entries) stands as a significant piece of evidence. When books are rejected u/s 145(3), the AO is duty-bound to make a best judgment assessment. An estimation of 2% profit on turnover to account for the commission/leakage involved in obtaining such accommodation bills is a reasonable approach consistent with real-world commercial practices in such grey market operations. The argument regarding duplication is rejected because the "profit" shown in the books is based on non-genuine documents, whereas the AO's estimation is an attempt to determine the real income. Therefore, the rejection of books and the consequent estimation of profit is upheld. Ground No. 1 is dismissed.

7.6 Ground No. 2: Addition u/s 68 (Bogus Loans) The AO added Rs. 2,35,00,000/- u/s 68 representing loans from Marine Gems P. Ltd., Parshwanath Gems Pt. Ltd., Karishma Diamond Pvt. Ltd., and Keshariya Diamonds Pvt. Ltd. The AO observed that these entities did not respond to summons issued u/s 131. They were identified as paper companies controlled by entry operators during search actions.

7.7 The appellant argues that it has discharged its initial onus by submitting loan confirmations, bank statements, and ITRs. It relies on the proposition that once these documents are filed, the onus shifts to the AO. The appellant also argues that it was not given an opportunity to cross-examine the third parties.

7.8 I have considered the rival contentions. The primary requirement of section 68 is the satisfaction of the AO regarding the identity, creditworthiness of the creditor, and the genuineness of the transaction. While the appellant has produced the "paper trail" (confirmations, ITRs, bank entries), this only establishes the identity and a superficial layer of creditworthiness. The test of genuineness goes deeper.

7.9 The fact that the lenders failed to respond to summons issued u/s 131 is a critical failure. In a real-world commercial scenario, a genuine lender who has advanced crores of rupees would readily comply with a summons to confirm the transaction. Their non-compliance validates the AO's finding that these are merely paper companies. As held by the Hon'ble Supreme

Court in CIT vs. Durga Prasad More (82 ITR 540) and Sumati Dayal vs. CIT (214 ITR 801), the taxing authorities must look at the surrounding circumstances and human probabilities. The apparent is not always the real. The creation of documents and routing of funds through banking channels is the standard modus operandi for accommodation entries.

7.10 Regarding the argument of cross-examination and the reliance on case laws like Andaman Timber Industries, it is pertinent to note that the right to cross-examination is not absolute. In this case, the addition is not based solely on the third-party statements but also on the independent failure of the lenders to appear before the AO in the present proceedings. The appellant failed to produce the lenders despite the onus being on the assessee to prove the creditworthiness. The retractions filed by the directors of the lending companies, without any corroborative evidence and after the detection of the scam, are clearly self-serving and cannot be accepted.

7.11 Here, the issue is unsecured loans, where the borrower must explain the credit. The creditworthiness is not proved merely by showing the money came by cheque; the source of the source must be credible, which is absent here as the lenders are proven shell entities. The "rotation" of money through bank accounts does not equal genuine creditworthiness.

7.12 Therefore, the appellant has failed to discharge the onus cast upon it under section 68. The identity may be on paper, but the creditworthiness and genuineness are unsubstantiated due to the non-compliance of the lenders and their established status as entry providers. The addition of Rs. 2,35,00,000/- is confirmed. Ground No. 2 is dismissed."

7. Before us, the ld.AR has not pressed the estimated addition restricted to 2% of bogus purchases. Accordingly, the **ground no.2** contesting the addition is dismissed.

8. In respect of **ground no.3** relating to the addition u/s 68 of the Act, the ld.AR reiterated the same contentions as made before the lower authorites. It was contended that the assessee proved the genuineness of the impugned loans which were taken through banking channels and were also repaid subsequently. All the ingredients for the purposes of

section 68 of the Act were duly satisfied. Cross examination was also not allowed by the AO.

9. The ld.DR on the other hand relied on the orders of the authorities below. It is submitted that the assessee submitted enough evidences before the authorities to prove the genuineness of the transactions which were made through banking chanels. More importantly, the said loans were also repaid. TDS was also made on the interest paid. It was also argued that non production of the lenders before the AO could not be considered enough to treat the loans as non-genuine, ignoring the relevant evidences produced.

10. We have carefully considered the relevant facts of the case. It is noted that before the AO the assessee claimed that all the loans were genuine and interest bearing. However, the director of the company failed to give specific details of the respective directors of lender companies nor could produce them for examination regarding the genuineness and creditworthiness. The AO on his part, issued notices u/s 131 of the Act twice which elicited no response from the lenders.

10.1 As is evident from the contents of the order, impugned loans were received from certain concerns like M/s Karishma Diamonds P. Ltd. amounting and Parshwnath Gems P. Ltd. which were found to be

controlled by one Sri Gautam Jain who during search operation in his sworn statement recorded u/s 131 of the Act admitted that these companies were controlled and operated by him only for the purposes of giving bogus loans to the beneficiaries as per their requirement at certain amount of commission. Shri Jain had admitted that there was no actual business activity being carried out in M/s Karishma Diamond P. Ltd. and M/s Parshwanath Gems. P. Ltd. and these entities were merely paper entities and all the entries in the books of accounts of these companies were totally bogus entries which were given against cash received. Similarly, in respect of Marine Gems Pvt. Ltd., the Investigation Wing of the Department, Mumbai had carried out search and seizure action in the case of Shri Pramod Kumar Ranka, the director and it was established that the said person was in the business of providing accommodation entries and the entities controlled and operated by him were being used for the purpose of providing accommodation entries only. Likewise, one Sri Shri Vijay Narendra Kothari, the director of M/s Keshariya Diamond Pvt. Ltd. during the search was found to be in the business of providing accommodation entries and the entities controlled and operated by him were being used for the purpose of providing accommodation entries only.

10.2 From the above uncontroverted facts, it is evident that the said loans were dubious and not genuine, notwithstanding the facts that transactions were made through banking channels which alone could not give legitimacy to them in the light of the finding of the Investigation report which revealed their true reality as no real activity was conducted in their companies and they were only in the business of providing accommodation entries. Similarly, in the statement given by Shri Kirti Kumar Doshi, Director of the assessee company, it was admitted that that there was no real activity in the company and there was no delivery of purchase or sale of goods reflecting in its P&L A/c. and it was also stated by him that all prices of the goods were decided as per the convenience of the other party with whom the assessee had transacted. Since the lenders of the loan themselves had admitted before the Investigation Wing while recording of their statement that no real business was conducted in their companies and they were only engaged in the business of providing accommodation entries, mere documentation and contention of banking transactions could not make the transaction as genuine. It is worth emphasising here that the AO in the instant case has not merely relied upon the Investigation wing report and the statements of the directors as referred above but he also made effort to independently examine the reality by summoning the directors

of the respective lenders who by not responding to the notices issued twice u/s 131 of the Act foiled such exercise by the AO. Therefore, his action cannot be faulted with. Moreover, as stated above, directors of both the lender companies as also the borrower i.e. the assessee, had admitted that no real business activity was being carried out by them and were engaged in the dubious and illegal activity of providing accommodation entries for the purposes of money laundering to the respective parties. Subsequent denial by way of affidavits could not make the transaction genuine, more so, in the light of non compliance to the summons for no explicable reasons. It is not understandable when their respective affidavits could be submitted before the AO, why not the said directors in person? Therefore, we are of the considered opinion the assessee has failed to discharge the primary onus in the matter.

10.3 We find that the ld.CIT(A) has duly pondered over the entire issue and after taking into account the contentions of the assessee and the relevant details filed has rightly affirmed the order. He noted that the so called evidences produced the “paper trail” (confirmations, ITRs, bank entries), only established the identity and a superficial layer of creditworthiness. The test of genuineness goes deeper. The fact that the lenders failed to respond to summons issued u/s 131 was a critical failure. As held by the Hon'ble Supreme Court in CIT vs. Durga Prasad

More (82 ITR 540) and Sumati Dayal vs. CIT (214 ITR 801), the taxing authorities must look at the surrounding circumstances and human probabilities. The apparent is not always the real. The creation of documents and routing of funds through banking channels is the standard modus operandi for accommodation entries. Regarding the argument of cross-examination and the reliance on case laws like Andaman Timber Industries, he held that the right to cross-examination is not absolute. In this case, the addition is not based solely on the third-party statements but also on the independent failure of the lenders to appear before the AO in the present proceedings. The assessee failed to produce the lenders despite the onus being on the assessee to prove the creditworthiness. The retractions filed by the directors of the lending companies, without any corroborative evidence and after the detection of the scam, are clearly self-serving and could not be accepted. Here, the issue is unsecured loans, where the borrower must explain the credit. The creditworthiness was not proved merely by showing the money came by cheque; the source of the source must be credible, which was absent here as the lenders were proven shell entities. The “rotation” of money through bank accounts does not equal genuine creditworthiness.

10.4 In view of the detailed discussion on the factual matrix of the case, peculiarity of the facts and the circumstances of the case in the

instant appeal, we concur with the authorities below that the assessee failed to discharge the onus cast upon it under section 68 of the Act. The identity may be on paper, but the creditworthiness and genuineness are unsubstantiated due to the non-compliance of the lenders and their established status as entry providers. Accordingly, we find no infirmity in the appellate order which is therefore, upheld dismissing the ground no.3 of the assessee.

11. In the result, appeal of the assessee stands **dismissed.**

12. **ITA No. 1951/MUM/2026(AY 2014-15)**

The grounds of appeal are as under:

1. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in estimating the income of the 1 appellant at Rs.91,59,294/- being 5 percent on sales of Rs. 18,31,85,888/-, by rejecting the books of accounts u/s.145(3) of the Income Tax Act, 1961, without considering the facts and circumstances of the case.*
2. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in making an addition of Rs.1,00,00,000/- u/s.68 of the Income Tax Act, 1961, by considering the unsecured loan taken from M/s Marine Gems Pvt. Ltd, as alleged unexplained cash credit, without considering the facts and circumstances of the case.*
3. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in disallowing the interest of Rs.22,85,828/- u/s 69C of the Income Tax Act, 1961 as alleged bogus interest, without considering the facts and circumstances of the case.*

13. The assessee company filed its return declaring income of Rs. NIL. The assessment proceeding 143(3) of the Act was completed by

adding Rs.36,63,718/- brokerage income in the case of M/s Mirah Dekor P. Ltd and Rs.1,16,78,256/- on account of loan and principal in the case of M/s Marine Gems P. Ltd as well as disallowance of Rs.6,07,472/- interest in the case of M/s Parshwanath Gems. P. Ltd. and M/s Karishma Diamond P. Ltd. The appeal of the assessee company was dismissed. Aggrieved with order of ld. CIT(A), the assessee filed second appeal before the Hon'ble ITAT which vide ITA No. 7163/MUM/2019 dated 27/07/2022 set aside the orders and remitted the issues to the file of the Revenue for fresh examination. In compliance to the direction of ITAT, fresh proceedings were initiated. The AO after discussion, made estimated the addition at the rate of 5% on the sales of Rs.18,31,85,888/- which was worked out to Rs.91,59,294/-.

13.1 The AO based on the findings which have already been discussed in appeal for AY 2013-14 (supra),made the addition of Rs.1,00,00,000/-in respect of M/s. Marine Gems Private Limited Further, he also disallowed the interest paid on loan taken from M/s. Parshwanath Gems Pvt. Ltd of Rs.3,54,000/- and M/s. Karishma Diamond P. Ltd of Rs.2,53,472/-stating that onus was on the assessee company which it failed to discharge. Therefore, above stated bogus unsecured loan received was treated as unexplained cash credit u/s. 68

of the Act. Also interest expenditure of Rs. 16,78,356/- paid to M/s. Marine Gems Pvt. Ltd, Rs.3,54,000/- paid to M/s. Parshwanath Gems Pvt. Ltd and Rs. 2,53,472/- paid to M/s. Karishma Diamond Pvt. Ltd. were added u/s. 69C of the Act. The ld.CIT(A) upheld both the additions made.

14. In **ground no.1**, the assessee has contested the addition of Rs.91,59,294/-.Before us, the ld.AR has contended that the AO was not justified in making the addition and in adopting rate of 5% of the sales, though in the original assessment order, the AO had applied the rate of 2%.The said assessment order was set aside and restored the assessment for fresh order by ITAT. Even in AY 2013-14 ,on similar facts of the case, the AO had applied the estimated addition at the rate of 2% which was contrary to the decision in the instant appeal.

15. We have carefully considered the above facts and find merits in the contentions of the ld.AR. Action of the AO is contrary to his own conclusion drawn by him in the original assessment order as also in appeal for AY 2013-14.The ld.AR did not contest the addition in the appeal for AY 2013-14 and accepted the estimation at the rate of 2%.Considering all such facts, we set aside the appellate order and restrict the addition to 2%. Accordingly, the AO is directed to rework out

the actual quantum of disallowance. The ground is therefore, partly allowed.

16. **Ground nos.2 and 3** are interlinked and are related to the alleged bogus loans and the interest thereon. The ground has already been adjudicated in the appeal for AY 2013-14 against the assessee. Accordingly, the decision rendered therein applies *mutatis mutandis* to the facts of the instant appeal. The appellate order is therefore, upheld and both the grounds are dismissed.

17. In the result, the appeal is **partly allowed.**

18.**ITA No. 1952/MUM/2026(AY 2015-16)**

The grounds are as under:

1. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in estimating the income of the appellant at Rs.81,32,604/-, being 5% on sales of Rs. 16,26,52,072/-, by rejecting the books of accounts u/s.145(3) of the Income Tax Act, 1961, without considering the facts and circumstances of the case.*
2. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in making an addition of Rs.2,06,56,349/- under section 68 of the act, by considering the unsecured loan taken for certain parties as alleged unexplained cash credit, without considering the facts and circumstances of the case.*

19. G**round no.1** pertains to similar addition as made in the preceding appeals wherein the AO made estimated addition at the rate of 5% of sales of Rs. 16,26,52,072/-. The issue has been adjudicated in

para 15 of appeal for AY 2014-15,partly allowing the appeal restricting the addition to 2% instead of 5%.The said decision applies *mutatis mutandis* to the instant ground as well. Considering all such facts, we set aside the appellate order and restrict the addition to 2%.Accordingly,the AO is directed to rework out the actual quantum of disallowance. The ground is therefore, partly allowed.

20. **Ground no.2** pertains to the addition of Rs.2,06,56,349/- under section 68 of the Act. According to the original assessment order during assessment proceedings, it was found that the assessee had shown Short Term loans from Others amounting to Rs. 17,18,44,0934-. and the assessee was required to prove the creditworthiness which genuineness the of the transaction pertaining to the loans appearing in its Balance sheet for alongwith the copy of return of income of the lenders all annexures and schedules and their bank statement highlighting given to the assessee entries of loans. In response to the same, the assessee furnished only loan confirmation copies of M/s. Karishma Pvt. Ltd., Marine Gems Diamond Pvt. Ltd. and Parshwanath Gems Pvt. Ltd. Even after sufficient time and opportunity granted, it failed to prove the creditworthiness and genuineness by the assessee, of the parties from whom loans were received though the onus was on the assessee to prove the creditworthiness genuineness and the of the

transactions opportunity which it has failed to do so even though sufficient time and was granted to it. The three conditions with the help of which the assessee has to establish his burden of proof in proving the impugned loans are (i) identity (ii) creditworthiness (iii) genuineness of the transaction. Hence, the burden of proof had not been discharged and the loans appearing in the Balance sheet of the assessee was added back to the total income of the assessee u/s. 68 of the Act.

21. In the subsequent order u/s 143(3)/254 of the Act consequent to the directions of the ITAT, the AO observed that during the relevant year, the assessee had shown fresh borrowing from Karishma Diamonds Private Limited, Parshwanath Gems Private Limited and Marine Gems Private Limited. Hence, in order verify the loan parties under consideration summons u/s. 131 of the Act were issued twice to them. However, none of the above mentioned entities complied to the summons issued.

21.1 It was stated that one Shri Gautam Bhanwarlal Jain admitted that M/s. Karishma Diamonds Pvt. Ltd, M/s. Parshwanath Gems Pvt. Ltd were controlled and operated by him and there was no actual business carried out by these companies. They were paper companies being used for the purpose of providing accommodation entry. Further, in the statement recorded on oath U/S. 131(1A) on

03.10.2013 Shri Pramod Kumar Ranka, director of M/s. Marine Gems P. Ltd and Shri Vijay Narendra Kothari, director of M/s. Keshariya Diamond Pvt. Ltd also admitted that there was no actual business carried out by these companies. Since, assessee company had been unable to satisfy the condition which are sine-qua-non for the proper and valid explanation of any loan credit entry in books,the conditions laid down in section 68 of the Act were not satisfied. The three conditions with the help of which the assessee company has to establish his burden of proof in proving the impugned loans are (i) identity (ii) creditworthiness (ii) genuineness of the transaction. These conditions have to be satisfied altogether in conjunction. In the instance case, only the identity had been established and the other two conditions viz. bonafide genuineness of transaction and creditworthiness of the lender had not been proved by the assessee, the burden of proof was not discharged and had not been shifted to the assessing officer. In view of the above, the loans received during the year under consideration amounting to Rs. 2,06,56,349/- were treated as bogus and added back to the income of the assessee company u/s. 68 of the Act.

22. In the subsequent appeal, the ld.CIT(A) upheld the addition.

23. Before us, the ld.AR has relied on the arguments as made in respect of appeal for AY 2013-14(supra) while the ld.DR relied on the orders of the authorities below.

24. The ground has already been adjudicated in the appeal for AY 2013-14 against the assessee. Accordingly, the decision rendered therein applies *mutatis mutandis* to the facts of the instant appeal. The appellate order is, therefore, upheld and both the grounds are dismissed.

25. In the result, the appeal is **partly allowed.**

26. To sum, the appeals of the Assessee in ITA No. 1950 /Mum/2026 is **dismissed** while ITA No. 1951 and 1952/Mum/2026 are **partly allowed.**

Order pronounced in the open court on 15/10/2026.

Sd/-	**Sd/-**
(SIDDHARTHA NAUTIYAL)	**(PRABHASH SHANKAR)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Place: मुंबई/Mumbai
दिनांक /Date 15.10.2026
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीअधिकरण