

IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
SMT RENU JAUHRI, ACCOUNTANT MEMBER
ITA NO. 4306/MUM/2025 (AY: 2018-19)
(Physical hearing)

Y P Steel Exim Private Limited 5 2N Floor Nanuram Dr. Ambedkar Road, Kalyan West, Kalyan- Dombivali, Maharashtra – 421301. [PAN: AAACY5906A]	Vs	DCIT, Circle -1, Mumbai, Mohan Plaza Kalyan, Kalyan-Dombivali, Maharashtra - 421301.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Dhaval Shah, Advocate & Shri Pravesh Advani, CA
Revenue by	Shri Arun Kanti Datta, CIT - DR
Date of Institution	30.06.2025
Date of hearing	25.09.2025
Date of pronouncement	10.11.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the orders of Id. CIT(A)/NFAC dated 18.06.2025 for AY 2018-19. The assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and in law, the CIT(A) erred in confirming the validity of the impugned assessment order u/s 143(3) which is bad in law and void ab initio as the principles of natural justice were not followed.

1.1. On the facts and circumstances of the case and in law, the CIT(A) erred in not appreciating the fact that the faceless AO erred in not providing a copy of the statement recorded and an opportunity to cross examine the party as a principle of natural justice.

2. On the facts and circumstances of the case and in law, the CIT(A) legally erred in upholding the action of the AO of assessing a sum of Rs.74,38,180

as unexplained cash credit u/s 68 r.w.s. 115BBE and taxing the same @60%.

3. On the facts and in the circumstances of the case and in law, the Honble CIT(A) legally erred in upholding the action of the AO of levying interest u/s 234A of the Act at Rs.58,948 and u/s 234B of the Act at Rs.21,81,076.

4. On the facts and circumstances of the case, the CIT(A) legally erred in upholding the action of the AO of initiation of penalty proceedings u/s 270A of the Act, 1961.

5. The appellant craves leave to add, alter or amend any of the Grounds of Appeal on or before the date of hearing of the appeal."

2. Brief facts of the case are that assessee company filed its return of income for A.Y. 2018-19 declaring income of Rs. 17,30,910/-. The case was selected for compulsory scrutiny on the basis of information that the assessee has availed accommodation entry from Shree Nakoda Vitta (I) Pvt. Ltd. . During the assessment, the assessing officer found that assessee has shown transaction with Shree Nakoda Vitta (I) Pvt. Ltd. The assessee was asked to furnish nature of transaction with said company. The assessee filed its reply dated 25.03.2021 and submitted that they have not entered into transaction with Shree Nakoda Vitta(I) Pvt. Ltd. The assessing officer issues fresh show cause notice dated 05.04.2021 and was confronted with the bank entries in bank of Baroda account of Shree Nakoda Vitta(I) Pvt. Ltd. showing deposit/transaction in June, 2017 aggregating of Rs. 74,38,180/-. The assessing officer as per details available with him issued fresh final show cause notice for giving final opportunity vide notice dated 19.04.2021 as to why an amount of Rs. 74,38,180/- should not be treated as unexplained cash credit under section 68. The assessee furnished the reply dated 21.04.2021.

The assessee submitted that they have taken loan from Shree Nakoda Vitta (I) Pvt. Ltd. and return the same on and around 12.07.2017. The assessee furnished the details of return of said amount. The assessee submitted that they have furnished the bank details. The assessing officer recorded that perusal of bank statement of Bank of Baroda shows that assessee has not made repayment to Shree Nakoda Vitta (I) Pvt. Ltd. and that as per bank statement the payments were made to Mehta Promotions and Mature Holdings Pvt. Ltd. in July, 2017 aggregating of Rs. 45,00,000/- Rs. 10,00,000/- was paid to Kushal Impex and Rs. 20,00,000/- to Vivra Trading. No TDS was made on interest paid to Shree Nakoda Vitta (I) Pvt. Ltd. The assessing officer treated the entire amount as unexplained credit under section 68 and brought the same to tax under section 115BBE in the assessment order dated 23.04.2021.

3. Aggrieved by the additions in the assessment order, the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee filed detail written submission as recorded in para 4 of order of Id. CIT(A). In the submission, the assessee submitted that during the assessment, the assessing officer enquired about the loan taken from Shree Nakoda Vitta (I) Pvt. Ltd. The name of Shree Nakoda Vitta (I) Pvt. Ltd. was not known to the assessee as it was un-relatable as the said amount was received through finance brokers Keval Shah, therefore, the assessee initially denied the receipt of amount from Shree Nakoda Vitta (I) Pvt. Ltd. The amount was in fact received through banking channel in the bank account of assessee. The assessee

subsequently realising that loan was taken to said broker from Shree Nakoda Vitta (I) Pvt. Ltd. on 14.04.2021. The assessing officer in his finding recorded that repayment were made to different parties. The repayment was made on the instruction of broker who received instruction from Shree Nakoda Vitta (I) Pvt. Ltd. The assessee furnished details of receipt of cheque as well as details of repayment. The assessee furnished complete details of repayments. The assessee stated that amount was not outstanding and it was squared up during the financial year itself. As the amount was square off during the year, thus it was not reported in the audit report, it was mistake of auditor not showing such transaction. However, the fact remains that payments were received through cheques and repayments were also made through cheques. The assessing officer passed order merely on the basis of information with him without sharing the basis of such information while making addition of accommodation entry. The amount was received temporarily through a broker Keval Shah and such transaction cannot be treated as accommodation entry. The assessing officer has not shared any information available with him. To support their submission, the assessee also relied upon the decision of Gujarat High Court in PCIT vs Ambe Tradecorp (P) Ltd. (2022) 145 taxmann.com 27 (Guj) wherein it was held that when the assessee has furnished requisite details showing the identity of parties of loan giver and loan was paid in subsequent year, no addition could be made under section 68 on account of such loan. The assessee prayed for deleting the additions.

4. The Id. CIT(A) on considering the submission of assessee and the assessment order upheld the action of assessing officer. The Id. CIT(A) while confirming the action of assessing officer recorded that case was selected for compulsory scrutiny for the reasons that assessee received accommodation entry from Shree Nakoda Vitta (I) Pvt. Ltd. during the F.Y. 2017-18 aggregating of Rs. 86,50,260/-. Initially, the assessee denied transaction however, later on, the assessee explained that loan taken from Shree Nakoda Vitta (I) Pvt. Ltd. through broker and it was returned in July, 2017. The Id. CIT(A) recorded that merely identity of investor is not sufficient to discharge the onus of provision of section 68. The assessing officer made verification of bank statement of Bank of Baroda and other bank account wherein repayment was not visible. No documentary evidence was furnished for the satisfaction of assessing officer and to satisfy him. The assessee failed to discharge onus on three limbs with satisfaction i.e. identity of creditor, creditworthiness and genuineness of transaction. The repayment of squaring of loan is not borne out from the facts and accordingly upheld the addition. Further, aggrieved the assessee has filed present appeal before Tribunal.
5. We have heard the submission of learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Id. Sr. DR) for the revenue. The Id. AR of the assessee submits that assessee availed loan from Shree Nakoda Vitta (I) Pvt. Ltd. through a broker namely Keval Shah. Since transaction was through Keval Shah, the assessee has not realised that credit of loan was from Shree Nakoda Vitta (I) Pvt. Ltd.

However, on realising such mistake, the assessee filed confirmation that assessee-company has availed loan from Shree Nakoda Vitta (I) Pvt. Ltd. The assessee made repayment of such loan in July, 2017, out of which Rs. 25,00,000/- was paid to Mehta Promotions and Mature Holdings Pvt. Ltd., Rs. 10,00,000/- to Kushal Impex and Rs. 20,00,000/- to Vivra Trading. Shree Nakoda Vitta (I) Pvt. Ltd. has again confirmed such fact. Such repayment was to such party directly who were creditors of Shree Nakoda Vitta (I) Pvt. Ltd. at their instance. Shree Nakoda Vitta (I) Pvt. Ltd. has given a fresh confirmation, copy of which is placed on record. The repayment at the instance of Shree Nakoda Vitta (I) Pvt. Ltd. was made through banking channel. Such fact is accepted by assessing officer; the basis of addition is that such repayment was not reflected in the bank statement of Bank of Baroda. The assessee has filed copy of bank statement which clearly shows the repayment to Mehta Promotions and Mature Holdings Pvt. Ltd. of Rs. 25,00,000/- and Rs. 20,00,000/- respectively on 12.07.2017, Rs. 10,00,000/- to Kushal Impex and Rs. 20,00,000/- to Vivra Trading on 26.07.2017. The assessee discharged his primary onus in furnishing details of loan and repayment was made within the short period which is clearly discernible from the bank statement, no addition to be made under section 68. The lower authority has not verified the facts despite bringing all such facts with evidence in their notice. The assessee discharged its primary onus. Once, primary onus is discharged by assessee, the onus is shifted on the assessing officer to prove otherwise. The Id AR of the assessee submits that Hon'ble

Bombay High Court in PCIT vs Bhupendra Champaklal Dalal (2024) 160 taxmann.com 645 (Bombay) held that where assessing officer made addition in respect of cash credit without properly examining ledger account of assessee and major portion of credit was repaid during the year such additions were to be deleted. Similar view was taken by Gujarat High Court in CIT vs Ayachi Chandrasekhar Narsangji (2014) 42 taxmann.com 251 (Guj) and in PCIT vs Ojas Tarmake (P) Ltd. reported in (2023) (156 taxmann.com 75) (Guj) and in PCIT vs Merrygold Gems (P) Ltd. (2024) 164 taxmann.com 27). Similar view was taken by Mumbai Tribunal in Bhadresh Mansukhlal Dodhia vs DCIT (ITA No. 2218/M/2025) dated 22.07.2025 and in ITO vs Bhagwati Prasad Na Rungta (ITA No. 1574/M/2024) dated 22.01.2025.

6. On the other hand, Id. Sr. DR for the revenue supported the order of lower authorities. The Id. Sr. DR for the revenue submits that repayment is made to some other parties. No documentary evidence about repayment was made before lower authorities. The transaction was not reported in audit report furnished in Form 3CED.
7. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that during assessment, the assessee initially denied transaction with Shree Nakoda Vitta (I) Pvt. Ltd. However, on issuing further show cause notice, the assessee accepted the transaction and furnished the requisite details. The assessee also explained that loan was received through Keval Shah, so the assessee immediately not realised about the loan from Shree Nakoda Vitta (I) Pvt. Ltd.

The assessee also explained that loan received from Shree Nakoda Vitta (I) Pvt. Ltd. was immediately repaid at their instances to four different parties. The assessee also furnished their bank account. The assessing officer instead of making any further inquiry treated the entire credit as unexplained credit. No doubt that initially the assessee denied the transaction, however, immediately on realising mistake explained the fact that said loan was arranged through a broker/financer and was repaid on the instance of Shree Nakoda Vitta (I) Pvt. Ltd. We find that despite explaining the fact about repayment of loan, the assessing officer has not made any verification of fact either from Mehta Promotions and Mature Holdings Pvt. Ltd., Kushal Impex and Vivra Trading or from Nakoda Vitta (I) Pvt Ltd. We find that before us, the assessee has filed bank statement showing debit entry in favour of all four such parties. The assessee has also filed confirmation from Shree Nakoda Vitta (I) Pvt. Ltd. that all such four parties were creditors of the assessee. All such fact is not countered by revenue. No doubt that initially the reply furnished by assessee creates doubt about the conduct and transaction with assessee. However, the assessee within reasonable time explained the fact and accepted their mistake that loans were arranged through broker and were repaid at the instance of lender to their creditor. Such fact is duly substantiated by the assessee; the assessing officer has not brought any adverse evidence furnished by assessee. In our view, once the assessee discharged its primary onus, the onus shifts on the assessing officer to prove it otherwise.

8. Hon'ble Jurisdictional High Court in PCIT vs Bhupendra Champaklal Dalal (supra) held that where the assessing officer made addition under section 68 without properly examining the ledger account of the assessee and the fact that major portion of credit was repaid during the year the additions were to be deleted. We also find that Mumbai Tribunal in ITO vs Bhagwati Prasad N Rungta in ITA No. 1574/M/2024 (supra) by following the decision of Bombay High Court in CIT vs Bhupendra Champaklal Dalal, held that when major portion of credit has been repaid and the AO accepted such entry, no addition to be sustained. At the cost of repetition, we may note that when the assessee has given specific detail and the details of creditors of Shree Nakoda Vitta (I) Pvt. Ltd., the assessing officer was required to further investigate the matter to disbelieve the contention of assessee, no such exercise was carried out by assessee. In our view, the assessee has primary discharged his onus, hence, we do not find any justification of addition of entire credit which has been reported to the creditors of lender. In the result, grounds of appeal raised by assessee are allowed.
9. In the result, the appeal of assessee is allowed.

Order was pronounced in the open Court on 10/11/2025.

Sd/-

**RENU JAUHRI
ACCOUNTANT MEMBER**

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 10/11/2025
Biswajit

Copy of the order forwarded to:

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

By Order

Assistant Registrar
ITAT, Mumbai