

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA No.5586/DEL/2025
(Assessment Year: 2017-18)**

Florence Nightingale Educational Society,
Sector 16B, Phase II, HAF Pocket A,
Dwarka, Sector 22,
Delhi – 110 075.

vs.

DCIT,
Central Circle 29,

(PAN : AAAAF1097R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Lalit Mohan, CA

Shri Ankit Kumar, Advocate

REVENUE BY : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing : 13.04.2026

Date of Pronouncement : 25.06.2026

ORDER

PER S.RIFAUR RAHMAN,AM:

1. The assessee has filed appeal against the order of the Learned Commissioner of Income-tax (Appeals)-30, New Delhi ["Ld. CIT(A)", for short] dated 30.08.2025 for the Assessment Year 2017-18 raising following grounds of appeal :-

“1. That, on the facts and in the circumstances of the instant case, the impugned assessment order dated 31.12.2019 framed u/s. 143(3) of the Income-tax Act, 1961 ("the Act") for Assessment Year ("AY") 2017-18 by the Ld. Assessing Officer ("AO") / Respondent, and erroneously upheld, in part, by the Ld.

Commissioner 'of Income-tax (Appeals) ["Ld. CIT(A)"] vide order dated 30.08.2025, is ex facie unlawful, void ab initio, and bad in law.

2. That the Ld. AO has erred in issuing notice u/s 143(2) of the Act dated 18.09.2018 for AY 2017-18 without adhering to the binding CBDT Instruction F. No.2251157/2017/ITA-II dated 23.06.2017, thereby rendering the impugned assessment proceedings void ab initio and unlawful vide this Hon'ble Tribunal in Anita Garg v. ITO., ITA No. 40531DeV2024, Shilpi Sardana v. DCIT., ITA No. 1425/De1/2024.

3. That the impugned assessment proceedings are vitiated in law and liable to be quashed as the notice issued u/s 143(2) of the Act dated 18.09.2018 does not specify whether the scrutiny is limited, complete or compulsory manual, contrary to the mandate of binding CBDT Instruction F. No. 225/157/2017IITA-II dated 23.06.2017 vide Hon'ble Supreme Court in Commissioner of Customs v. Indian Oil Corpn. Ltd., [2004] 136 Taxman 491.

4. That, without prejudice, the Ld. CIT(A) has erred in partly affirming the impugned addition made u/s, 68 of the Act vide impugned assessment order of Rs.1,23,00,000/- solely on the basis of a conjectural doubt apropos the financial capacity of the lenders, without bringing any independent adverse material on record.

5. That the impugned addition of Rs.1,23,00,000/- u/s. 68 of the Act is legally untenable inasmuch as it is a settled that addition u/s. 68 of the Act cannot be sustained merely on the premise that the creditor had meagre or no declared income, as laid down by the Hon'ble Delhi High Court in Pr. CIT (Central)-I v. Goodview Trading Pvt. Ltd., ITA No. 3777/2016 and by this Hon 'ble Tribunal in SRS Educational Society v. ITO, ITA No. 9411De1/2020.

6. That the Ld, CIT(A) has further erred in sustaining the impugned addition u/s. 68 of the Act, despite the Appellant having duly discharged the - statutory onus cast thereunder by placing on record bank statements, confirmation, ledgers, and income-tax returns of the creditors, thereby establishing their identity, genuineness of the transactions, and creditworthiness.

7. That the Ld. CIT(A) has erred in partly affirming the impugned addition of Rs.1,23,00,000/- u/s. 68 of the Act, ignoring that the said amount, being unsecured loan, has ,been repaid in subsequent years.

8. That the impugned addition of Rs.1,23,00,060/- u/s 68 of the Act is unsustainable in law, having been made in disregard of the documentary evidence(s) on record discharging the onus on the Appellant and in the absence of any contrary material vide Lalchand Bhagat Ambica Ram v. Commissioner of Income Tax [1959] 37 ITR 288 (Supreme Court).

9. That the Ld. CIT(A) has grossly erred, both on facts and in law, in treating the corpus donations of Rs.45,31,000/- received by the Appellant as voluntary contributions, disregarding the fact that the Appellant had duly furnished complete particulars of the donors including their names, PAN, address et al.

10. That the Ld. CITCA) has further erred in holding that the donations cannot be regarded as corpus donations merely in the absence of express written directions from the donors, ignoring that even in absence of explicit donor directions, the identity of donors, separate corpus accounting, and application of funds for trust objects ,clearly establish the corpus nature of such receipts vide CIT v. Bharatiya Sanskrit Vidyapeeth Trust, [2014] 43 taxmann.com 295 (Karnataka High Court).

2. At the time of hearing, we found that assessee has filed additional grounds of appeal but no plea was taken at the time of hearing, therefore, we are dismissing the same.
3. At the time of hearing, ld. AR of the assessee submitted that Ground No.1 is general in nature and Grounds No.2 and 3 are not pressed, hence the same are dismissed as such.

4. With regard to main issue of addition under section 68 of the Income-tax Act, 1961 (for short 'the Act'), we proceed to adjudicate the same as under.
5. Brief facts of the case relating to the above grounds are, assessee trust is registered under section 12A/12AA of the Income-tax Act, 1961 (for short 'the Act'). During assessment proceedings, the Assessing Officer observed from the financial statements submitted by the assessee that assessee has received unsecured loans from five parties during the year and assessee was unable to submit the relevant documents/evidences to prove the genuineness of the transactions and creditworthiness of the parties. After analysing the Balance Sheet of the assessee, he observed that the unsecured loans as on 31.03.2016 were Rs.1,43,71,499/- and it stood at Rs.2,77,67,387 as on 31.03.2017. He observed that there is increase of Rs.1,33,95,888/- in the unsecured loan during the year under consideration. After analysing the submissions of the assessee, he observed that assessee has not submitted any documentary evidences/ confirmations/copy of accounts regarding such brought forward unsecured loans which remained unpaid and being carried forward. The details submitted by the assessee regarding total outstanding unsecured loans do not tally even with audited Balance Sheet filed. Therefore, the claim of the assessee regarding brought forward unsecured loans, in

absence of necessary documentary evidences, cannot be accepted as such. Therefore, entire unsecured loan of Rs.2,77,67,387/- as on 31.03.2017 as per audited Balance Sheet is treated as fresh unsecured loan for which assessee is liable to submit necessary evidences to prove the genuineness and creditworthiness of the parties as per section 68 of the Act. With the above observations and relying on certain case laws, he proceeded to disallow the total outstanding unsecured loans as income of the assessee u/s 68 of the Act.

6. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT(A)-30, New Delhi. After considering the detailed submissions made by the assessee and also additional evidences submitted by the assessee. After considering the additional evidences under Rule 46A of the Income-tax Rules, 1963 (for short 'the Rules'), ld. CIT (A) accepted the submissions of the assessee with regard to opening unsecured loans and accordingly, he gave relief to that extent. With regard to unsecured loan received by the assessee during the year to the extent of Rs.1,31,00,000/-, he observed that assessee has taken unsecured loan from four parties and he found that Ankit Gupta, Laksh Bansal and Pravina Gupta from whom assessee has taken small unsecured loans which matches with income declared by them. Accordingly, he gave relief to the assessee to that extent. With regard to unsecured loan taken

from Neera Mahajan of Rs.88,00,000/- and from Shephali Rastogi of Rs.35,00,000/-, he observed that as per the ITRs submitted by the assessee reveals low income levels that do not support the creditworthiness to advance such significant amounts. Since the assessee has not discharged onus of proving creditworthiness of these criteria u/s 68 of the Act, he proceeded to sustain the additions made by the AO.

7. Aggrieved with the above order, assessee is in appeal before us raising the above grounds.
8. At the time of hearing, ld. AR of the assessee brought to our notice findings of Assessing Officer and ld. CIT (A) and he submitted that two unsecured loans for which ld. CIT (A) has sustained the addition on the basis of creditworthiness. He submitted that the income earning capacity alone does not determine the creditworthiness. It is the ability to make unsecured loans and he submitted that all the loans were received through banking channel and also the same were repaid along with interest. He brought to our notice pages 97 to 215 of the paper book wherein assessee has submitted evidences of loan confirmations, ledger accounts, bank statement and subsequent repayment to the parties were placed on record. In this regard, he relied on the decision of the coordinate Bench in the case of Real Innerspring Technologies Pvt. Ltd. in ITA No.647/Del/2023 order dated 27.03.2025.

9. On the other hand, ld. DR of the Revenue brought to our notice findings of lower authorities and he submitted that ld. CIT (A) has given sufficient relief to the assessee and with regard to loan repayment, he relied on the decision of J.K. Global vs. ITO (2024) 167 taxmann.com 15 (Mum.-ITAT).
10. Considered the rival submissions and material placed on record. We observed that ld. CIT (A) has sustained the addition of unsecured loan u/s 68 of the Act on the basis of earning capacity of the lenders. Various Courts have held that to determine the grievance of the lenders, earning capacity is one of the criteria and ability to arrange and make the payment is relevant. We observed that lenders have made the payment through banking channel and all the lenders have filed the confirmations of the same and assessee has brought to our notice bank statements and ledger account for payment of interest as well as repayment of loan subsequently. The above details clearly shows that the assessee has taken unsecured loans and also paid the relevant interest and returned the relevant loan subsequently.
11. We observed that the coordinate Bench in the case of Real Innerspring Technologies Pvt. Ltd. in ITA No.647/Del/2023 order dated 27.03.2025 held as under :-

“10. Considered the rival submissions and material placed on record. We observed that the AO has initiated reassessment proceedings on the

basis of information received from the Investigation Wing and search proceedings in the case of Shri Verma. It is brought on record that these two companies were found to be controlled by the accommodation entry providers, Shri Verma and Shri Anil Agarwal. Merely because the assessee has taken the unsecured loan from the companies controlled by them, the addition was made rejecting the various supporting documents provided by the assessee relating to transactions.

11. In our considered view, the additions were made only on the basis of alleging that the loan taken by the assessee from the above said two companies are only accommodation entries and assessee's own money was routed through these companies with the help of accommodation entry providers. On careful note, the accommodation entries are taken which will remain in the books of account and they will ultimately written off over the period of time. These loans were normally not repaid. In the given case, it is brought to our notice that the assessee has received the unsecured loan through the banking channel and repaid thru the banking channel as under :-

Name of the Lender	Amount of the Loan	Date on which loan taken	Date of interest payment	Date of repayment of loan
M/s. Citzy Infraheights Pvt. Ltd.	50,00,000	09.07.2015 (Pg 38 of the PB)	30.12.2017 (Pg 40 of the PB)	06.12.2017 30.12.2017 (Pg 39 & 40 of the PB)
M/s. CEA Consultants Pvt. Ltd.	50,00,000	18.03.2016 (Pg 81 of the PB)	27.04.2016 28.03.2017 (Pg 81 of the PB)	17.03.2017 18.03.2017 21.03.2017 (Pg 83 & 84 of the PB)

12. From the above, it is clear that the assessee has repaid the loan even before the assessment was reopened. When the assessee takes the loan and repaid along with the interest clearly shows that the transactions are genuine. By returning the loan, the assessee has only utilised the loan for the purpose of business and repaid the same. Merely because some operator has managed the affairs and all the transactions cannot be labelled as non-genuine. Every transaction has to be evaluated on its merit rather than on the basis of suspicion. Therefore, in this case, the assessee has submitted all the documents in support of the transaction before the AO and he has merely rejected the same on the basis of information available with him as the same on the basis of suspicion. Therefore, we are inclined to allow the grounds raised by the assessee.”

12. Respectfully following the above decision and even in the present case, the assessee has taken unsecured loan and repaid the same along with interest proves the genuineness of the transaction. Accordingly, following the aforesaid order, we are inclined to allow the grounds raised by the assessee.
13. We observed that the decision relied upon by the Id. DR of the Revenue is distinguishable to the facts of the present case for the reason that it was held that subsequent repayment of unsecured loan does not automatically prove the genuineness IF the assessee fails to establish the lenders identity and creditworthiness. In the given case, there is no issue with the identity and with regard to creditworthiness, Various Courts have held that creditworthiness is the ability to arrange funds to lend money not earning capacity. Therefore, case is accordingly distinguishable.
14. In the result, the appeal filed by the assessee is allowed as indicated above.

Order pronounced in the open court on this 25TH day of June, 2026

SD/-

SD/-

**(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER**

**(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 25.06.2026
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI