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

BEFORE SHRI MAHAVIR SIINGH, VICE PRESIDENT
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No. 7336/DEL/2019
Assessment Year: 2015-16

INCOME TAX OFFICER, WARD 8(2), Delhi	Vs.	M/S ELLORA INFRATECH PVT. LTD., D-22/5, OKHLA INDUSTRIAL AREA, PHASE-II, NEW DELHI – 110 020 (PAN: AACCE6491J)
(APPELLANT)		**(RESPONDENT)**

Asessee by	Smt. Prem Lata Bansal, Sr. Adv. & Shri Shivang Bansal, Adv.
Department by	Sh. Balkishan Gopal, Sr. DR

Date of hearing:	14.08.2026
Date of Pronouncement:	13.11.2026

ORDER

PER MAHAVIR SINGH, VICE PRESIDENT :

This appeal by the Revenue is emanating from the order of the Ld. Commissioner of Income Tax (Appeals)-34, Delhi in Appeal No. 31/18-19 dated 18.6.2019, arising out of the assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred the Act) relating to assessment year 2015-16.

2. The Revenue has raised the following grounds in its appeal :-

1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 2,00,00,000/- made by the AO on account of unexplained cash credit u/s. 68 of the Act.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 32,94,247/- made by the AO on account of unexplained interest expenses.

3. The brief facts of the case are that the assessee company is engaged in the business of building construction for residential purposes. Return declaring loss of Rs. 15,87,695/- was filed on 30.9.2015. The case was selected for scrutiny. AO has completed the assessment u/s. 143(3) vide order dated 27.12.2017 after making addition of Rs. 2 crore on account of loan received from M/s Mekastar Finlease Ltd. and interest payment ot M/s RKT Finvest Ltd. at Rs. 32,94,247/-. Total income assessee at Rs. 2,32,94,247/-. Against the assessment, assessee appealed before the Ld. CIT(A). In appeal, Ld. CIT(A) after admitting the additional evidences under Rule 46A(1)(d) called the remand report from the AO and allowed the appeal of the assessee by deleting the addition of Rs. 2 crore made by the AO on account of unexplained cash credit u/s. 68 of the Act and also deleted the addition of Rs. 32,94,247/- made on account of unexplained interest expenses. Aggrieved, Revenue is in appeal before us.

4. The Ld. DR relied the order of the AO.

5. On the contrary, ld. AR relied upon the order of the Ld. CIT(A).

6. We have heard both the parties and perused the material on record. As regards ground no. 1 is concerned, we note that the Assessee has received loan of Rs.2 crore from M/s Mekastar Finlease Ltd. an NBFC duly registered with RBI. The AO issued the notice u/s 133(6) to M/s Mekastar Finlease Ltd. but no information was filed by the company. The AO has asked the assessee to produce the Director of the company but assessee failed to produce the same. The company M/s Mekastar Finlease Ltd. belonged to Mr. Surender Kumar Jain and Sh. Virender Kumar Jain, therefore AO has not accepted any of the evidence furnished by the assessee on the basis of the finding given by the investigation wing during

the search undertaken on their premises on 19.04.2010. During the search incriminating documents found from the premises of Sh. Surender Kumar Jain and Sh. Virender Kumar Jain which established that they are engaged in the business of providing accommodation entries. It is noted that in the second appeal in their case the ITAT in ITA No. 6991 to 6997/DEL/2014 and ITA No. 6998 to 7004/DEL/2014 vide its order dated 03.02.2016 set aside the order to the file of the AO to assess Jain Bros, in the light of certain judicial pronouncements all of which pertain to assessing entry operators on the basis of their commission income. Serious Fraud Investigation Office SFIO has also carried out the investigation in the case of Jain Bros, on the basis of the search carried out on 19.04.2010 for AY 2009-10 and arrested Sh. Surender Kumar Jain and Sh. Virender Kumar Jain in connection with its probe in a Rs. 8000 Crore money laundering and black money racket. All these proceedings are related to the search proceedings which was undertaken in the case of Jain Bros, on 19.04.2010. These proceedings have no connection with the loan taken by the assessee during the year from M/s Mekastar Finlease Ltd. and AO has not mentioned in the order any incriminating document found during the search or after the search for the year under consideration which may prove that assessee has received accommodation entry from M/s Mekastar Finlease Ltd. in which Sh. Virender Kumar Jain or his wife is Director. The AO has issued the notice u/s 133(6) to M/s Mekastar Finlease Ltd. which was not returned unserved, it proves that the lender company exists although it has not filed the reply in response to notice issued by AO. We observed that the AO did not find any discrepancy in the account books maintained by the assessee and no addition could be made on the basis of the search finding in the subsequent year unless discrepancy continued in the post search period. It is settled law in the case of CIT vs. Anand Kumar

Deepak Kumar (2007) 294 ITR 497 (DHC) that "the assumption of the Assessing Officer may have perhaps been valid if the Assessing Officer had found some discrepancy in the books of accounts or if the search had been conducted after the accounting year and the books of accounts had brought out some discrepancies". Merely because there were some discrepancies in the pre-searched period, it could not lead to any presumption that the discrepancies would have continued in the post search period particularly when there was factually no evidence at all as found by both the authorities below to support such a view.

7. Further, in the appellate proceedings, assessee has furnished additional evidences in support of loan taken from M/s Mekastar Finlease Ltd. i.e. copy of return M/s Mekastar Finlease Ltd. for AY 2015-16, 2016-17, 2017-18, copy of confirmation of loan including interest by M/s Mekastar Finlease Ltd., copy of loan agreement between appellant and M/s Mekastar Finlease Ltd., copy of bank statement of M/s Mekastar Finlease Ltd., copy of ledger account, copy of Form No. 16A for AY 2016-17 and 2017-18, and copy of relevant part of bank statement showing repayment of loan alongwith interest and list of NBFC as on 26.10.2018 showing M/s Mekastar Finlease Ltd. as NBFC. Since appellant has furnished additional evidences, remand report is called for from the AO in which it is submitted by the AO that assessee should have submitted the same before the passing of the assessment order. The AO has not offered any comments on the merit, upon the additional evidences furnished by the assessee. Further, the assessee has filed the copy of return of M/s Mekastar Finlease Ltd. for AY 2015-16 and in which it has shown income of Rs. 59,19,689/- and 2016-17 it was Rs.52,19,435/-. The assessee has also filed the confirmation of loan and date of repayment of loan alongwith the bank interest. Copy of loan agreement and copy of bank statement reflecting the payment received from M/s Mekastar Finlease

Ltd. and repayment of loan. The assessee has also filed the copy of ledger account from 01.04.2014 to 31.03.2019 and Form No. 16A reflecting the TDS deducted on the interest payment in subsequent year. However, the AO has not considered any of the documents furnished by the assessee in support of its contention. The assessee has received the loan from M/s Mekastar Finlease Ltd. in the AY 2015-16, whereas search has been undertaken in the case of Jain Bros, in the financial year 2010-11. No incriminating document related to assessee and the company from which assessee has taken the loan found during the search. Further AO has given finding on the basis of the presumption that Jain Bros, are still in providing accommodation entries without bringing any evidence on record and the company which is an NBFC was floated for this purpose. NBFC got its recognition from RBI after fulfilling certain conditions and they are involved in providing loans and accepting deposits. In view of above, the assessee has established the identity, creditworthiness and genuineness of the transaction of the loan taken from M/s Mekastart Finlease Ltd., thus AO is not justified disbelieving the same. Since in the case of the assessee, it has furnished all the evidences in support of obtaining loan from M/s Mekastar Finlease Ltd. and AO has not brought anything on record which may prove that party is not in existence and discrepancy which found during the search continued in post search period also. The lender company is an NBFC registered with RBI and copy of loan agreement, confirmation, bank statement and copy of the return proves the creditworthiness and genuineness of the transaction. The facts are identical in the case of the assessee as referred in above decisions of the ITAT. Considering the above facts and in view of the settled position of law as referred above, we hold that that the addition made by the AO at Rs.2 Crore was correctly deleted by the ld. CIT(A), which does not need

any interference on our part, thus, we affirm the same and reject the ground no. 1 raised by the Revenue.

8. As far as ground no. 2 is concerned, we note that assessee has claimed interest payment of Rs. 37,13,013/- in the profits and loss account. The assessee has paid interest to M/s RKG Finvest Ltd. which is managed and controlled by Jain Bros. AO noted that company have regular pattern of bad debts written off and it has security premium of Rs. 490 crores and negative reserve and surplus. Thus, the AO has not considered the transaction genuine and held that interest payment to M/s RKG Finvest Ltd. was made in lieu of cash of same amount and added interest payment of Rs. 32,94,247/- in the taxable income of the assessee. In the appellate proceedings, the assessee has submitted that M/s RKG Finvest Ltd. is an NBFC duly registered by RBI on 22nd Sept., 1999. It is noted that the assessee has furnished the details of interest on loan alongwith TDS return showing that tax was duly deducted on payment of interest and assessee has also paid interest through account payee cheque after deduction of TDS u/s 194A of the Act. The assessee has received loan of Rs. 2 Crore in FY 2012-13 and interest of Rs. 17,68,767/- paid to M/s RKG Finvest Ltd. on the loan amount after deducting TDS which was allowed by the AO. The AO has made the addition on the basis of the search carried out in the case of Jain Bros, on 19.04,2010. It was the contention of the assessee that AO ignored the material fact that loan from RKG Finvest Ltd. was raised in FY 2012-13 and no document relating to said transaction could have been found during the search and no discrepancy was found out by the AO in the account books of the assessee. Writing off bad debts in the P&L A/c by the lender company is no basis for disallowance of interest in the hands of the assessee. We further note that the AO disallowed the interest payment only on the basis of that assessee has paid interest to the

concern in which S.K. Jain and his wife is a Director. The AO has not taken into account that the loan was taken in the earlier year i.e. FY 2012-13 which was accepted by the AO and no addition was made by treating that as unexplained credit. The assessee furnished the evidences to prove that M/s RKG Finvest Ltd. is an NBFC and assessee has made the payment of interest after deducting TDS. Since assessee has furnished the necessary proof of payment of interest through banking channel and AO has not brought anything adverse on record to prove that contention of the assesse's is not correct or there is any discrepancy in the documents furnished by the assessee. Considering the above facts and circumstances of the case, we hold that that the disallowance of Rs. 32,94,247/- made by the AO was correctly deleted by the ld. CIT(A), which does not need any interference on our part, thus, we affirm the same and reject the ground no. 2 raised by the Revenue.

9. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court 13.11.2026.

Sd/- Sd/-

(MANISH AGARWAL) **(MAHAVIR SINGH)**
ACCOUNTANT MEMBER **VICE PRESIDENT**

Date: 13.11.2026

SR Bhatnaggar

Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals) `
5. DR: ITAT

ASSISTANT REGISTRAR,ITAT DELHI