INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCHES, NEW DELHI

BENCH: G

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA 1379/DEL/2026 (निर्धारण वर्ष/Assessment Year: **2017-18**)		
DECENT FINANCIAL SERVICES PRIVATE LIMITED A-86 DDA SHED, OKHLA INDUSTRIAL AREA PHASE I, DELHI 110020, DELHI-110020, DELHI	**Vs.**	**ACIT CIRCLE 7(1), DELHI** C R BUILDING ITO, I P ESTATE, NEW DELHI, 110002 DELHI-110002, DELHI
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AAACD2899P**
अपीलार्थी द्वारा/Appellant represented by:		**Shri Suchek Anchaliya, CA & Shri Tushar Nagori, CA**
प्रत्यर्थी द्वारा/Respondent represented by:		**Shri Ashok Gautam, CIT (DR) (VC)**

सुनवाई की तारीख / Date of conclusion of hearing:	**30.09.2026**
घोषणा की तारीख / Date of pronouncement:	**26.11.2026**

आदेश / ORDER

PER SHRI ANUBHAV SHARMA, JUDICIAL MEMBER:

This appeal is preferred by the assesse against the order dated 29.12.2025 of the Ld. National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred

as Ld. First Appellate Authority or in short Ld. 'FAA') in DIN & Order No: ITBA/NFAC/S/250/2025-26/1084151775(1) arising out of the assessment order dated 30.12.2019 u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the ACIT, Circle -7(1), Delhi for AY: 2017-18.

2. Heard and perused the records. The appellant is a private limited company engaged in the business of dealing in shares and security and had filed return for AY: 2017-18 declaring loss of Rs.2,20,94,469/- and the case of assesse was selected for scrutiny assessment under CASS and AO examined the issue relating to disallowance u/s 14A r.w.rule 8D and was not satisfied and disallowance and correctness of the claim of the assesse in respect of expenditure and made addition of Rs.1,72,69,312/-. AO further examined the unsecured loans received from 6 parties and and being not satisfied with the genuineness of transaction, creditworthiness of the lenders and identity of the subscriber made an addition u/s 68 of the Act of a sum of Rs.114,44,00,000/- and corresponding interest amount of Rs.14,91,51,520/- was disallowed u/s 37(1) of the Act.

3. In appeal, before the ld. CIT(A) assesse had succeeded with regard to relief to the extent of Rs.1,15,00,000/- in respect of loans received from Everest Growmore Finance Ltd., while addition to the extent of Rs.1,13,29,00,000/- being from Religare Finvest Limited, Ad Advertisement Pvt. Ltd, Toru Buildcon Pvt. Ltd., Subhagaya Buildcon Pvt. Ltd. were confirmed. The disallowance u/s

14A and interest disallowance was also sustained for which assesse is in appeal raising following grounds:

> *"1. On the facts and in the circumstances of the case, the CIT Appeal erred in upholding the disallowance of Rs. 1,72,69,312/- under section 14A r.w. Rule 8D of the Income Tax Rules, 1962 made by the Ld. AO without appreciating the fact that the assessee has offered the exempt income i.e. dividend as taxable business income.*
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> *2. On the facts and in the circumstances of the case, the CIT Appeal erred in upholding the disallowance of Rs.1,72,69,312/- under section 14A r.w. Rule 8D of the Income Tax Rules, 1962 made by the Ld. AO without appreciating the fact that the assessee himself disallowed the expenses amounting to Rs.15,18,858/- in proportionate expenses of salary and other expenses.*
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> *3. On the facts and in the circumstances of the case and in law, the Ld. CIT Appeal erred in confirming the addition of Rs.1,13,29,00,000/- under section 68 r.w.s 115BBE of the Act without appreciating the fact that the appellant had taken the genuine business loan through the banking channel, which the assessee subsequently repaid.*
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> *4. On the facts and in the circumstances of the case and in law, the Ld. CIT Appeal erred in confirming the addition of Rs.1,13,29,00,000/- under section 68 r.w.s 115BBE of the Act without appreciating the fact that the appellant has discharged the onus in proving the identity, genuineness and creditworthiness of the unsecured loans received from the various parties.*
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> *5. On the facts and in the circumstances of the case and in law, the Ld. CIT Appeal erred in confirming the disallowance of Interest expenses under section 37(1) of the Act without appreciating the fact that the assessee had incurred such expenses for business purposes and utilised the borrowed funds for trading purposes.*
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> *6. On the facts and in the circumstances of the case and in law, the Ld. CIT Appeal erred in confirming the disallowance of capitalisation of interest amounting to Rs.14,91,51,520/- without appreciating the fact that the interest expenses incurred directly in relation to the investment made by the appellant.*
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> *7. The appellant craves to add, alter, classify, reclassify, delete or modify any of the above grounds of appeal and requests to consider each of the above grounds without prejudice to one another."*

4. The contention of both sides are considered and the record has been perused. As with regard to **ground No. 1 & 2** arising out of challenge of disallowance u/s 14A of the Act, the matter of fact is that the assesse is in business of trading in shares and securities and it has treated the dividend as part of his business and disclosed the same in financial statement in computation of

income and paid tax on it. The entire dividend income was business income and the other income was incidental to investment or otherwise revenue from operation. There is substance in the contention of ld. Counsel for assesse that Section 14A of the Act looks for a disallowance only when the income is excluded from the total income, while in the present case assesse on its own made a disallowance of R.15,18,885/- and without examining the financials of the assesse and without pointing out any computational errors AO has applied the provisions of Rule 8D. We are of considered view that such mechanical invocation of provision of Rule 8D are not sustainable in law and reliance in this regard is placed on the decision in assesse's own case in ITA No. 594/Del/2016 order dated 05.07.2018 wherein the Coordinate Bench has held as follows:

> *"3. Before the ld. CIT (A), again detailed submissions were made and various decisions were relied upon which has been dealt and incorporated in the impugned order from pages 4 to 17. Ld. CIT(A) after taking into consideration the entire submissions and material placed on record noted that assessee had paid total interest of Rs.18.27 crore out of which interest of Rs.12.24 crore have been capitalized to the investment portfolio. The Assessing Officer has worked out the disallowance of interest of Rs.3,32,32,761/- without giving any finding on this aspect. Accordingly, he deleted the disallowance of interest regarding administrative expenses of Rs.48,29,200/- made under Rule 8D(iii). He noted that the details submitted by the assessee during the course of assessment as well as appellate proceedings indicated that total expenditure of Rs.3,34,118/- has been incurred, and therefore, such a huge sum cannot be disallowed. After considering the various nature of expenditure debited, he restricted the disallowance of Rs.1,62,209/- after observing and holding as under:-*
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> > *"4. Accordingly, I am of the considered view that appellant has incurred various indirect expenses for earning the exempt income and such expenses have been debited in the profit and loss account. There may not be a direct head relating to investment expenditure but all indirect expenses debited to profit and loss account indirectly relates to investment activities also. The Assessing Officer may not have given any finding in this regard but the powers of the CIT(Appeal) are co-terminus with that of the Assessing Officer, therefore, I am satisfied that the appellant has incurred various indirect expenses on administration which are indirectly related to investment activities and earning of the exempt income. The appellant has incurred administrative expenditure of Rs. 3,34,118. This expenditure contains the amount of Rs. 9,700 which has been expended on the travelling for the purpose of purchase and the sale of securities. The remaining expenditure of Rs. 3,24,418/- is apportioned equally for the trading and investment activities. The disallowance of Rs. 48,29,200*

> *made by the Assessing Officer is therefore, restricted to Rs. 1,62,209/- under Rule 8D(iii) read with Section 14A of the Act."*
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> *4. After considering the rival submissions and on perusal of the relevant finding given in the impugned order as well as material referred to before us at the time of hearing, we find that before the Assessing Officer the assessee has given a very detailed explanation not only with regard to the nature of interest expenditure debited but also the details of administrative expenses incurred by the assessee and the manner in which the exempt income has been received by the assessee after placing the entire nature of accounts. The Assessing Officer without even examining the said accounts has proceeded to simply apply the formula laid down in Rule 8D without recording his 'satisfaction' which is the mandatory requirement in terms of Section 14A(2) read with Rule 8D(1). Ld. CIT(A) has taken note of entire nature of expenditure debited, the amount of interest capitalized by the assessee and the nature of administrative expenditure debited and then has given a categorical finding that out of the administrative expenditure of Rs.3,34,118/- only Rs.1,62,209/- can at best be treated as expenditure attributable for earning of the exempt income. Moreover the assessee's contention that it had huge surplus funds for making the investment has not been rebutted at any stage. Accordingly, the said finding of the ld. CIT (A) is inconsonance with the conditions laid down in Rule 14A (2) and therefore, attribution of the expenditure by him is not only correct on facts but also in law, therefore, we do not find any infirmity in such order of the ld. CIT (A). Hence the same is hereby affirmed."*

5. The ld. DR was unable to point out any change of circumstances as during the year under consideration assesse paid interest of Rs.29,11,55,491/- on unsecured loans and unsecured loan attributable to investments and capitalized the same with the investment amounting to Rs.21,23,10,033/- and consequentially charged the balance amount in profit and loss account. Thus, disallowance u/s 14A of the Act is not sustainable as actually the exempt income has not affected the profit and loss account. Accordingly, we are inclined to sustain these grounds No. 1 & 2.

Ground No. 3 & 4:

7. These grounds question the addition of Rs.113,29,00,000/- made u/s 16 of the Act which assesse has claimed were genuine business loan and repaid through banking channel and the assesse had discharged the onus of proving

identity, genuineness and creditworthiness of the lenders. In this context, as we go through the impugned assessment order we find that AO examined the issue of receipt of loans from 5 companies and primarily for lack of evidence of the assesse and no response of the said parties to the notice u/s 133(6) of the Act, AO has doubted the transactions, however, at the stage of first appellate proceedings, assesse had filed additional evidences under Rule 46A and which were forwarded the AO for furnishing comments after conduct of enquiry. The AO has furnished the remand report which finds mentioned in the discussion of ld. CIT(A) in para 6.5.1 and ld. CIT(A) observes that AO had conducted inquiries and also issue summons to the lenders and to all the parties complied. AO had issued a letter to assesse to produce parties and assesse had furnished its submission. The ld. CIT(A) has discussed the averments of AO in para 6.5.1 with its sup-paras and the claim of assesse in para 6.5.1 onwards till para 6.5.2.5 as follows:

> ***6.5.1 Admission of Additional Evidences***
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> *The appellant argued and furnished additional evidences. The additional evidences are considered admissible considering the fact that many of the evidences were not confronted by the AO from the assessee. The assessee was not afforded enough opportunity to rebut the evidences relied upon by the appellant. The additional evidences furnished by the assessee are therefore admitted.*
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> *The additional evidences were sent to the AO for furnishing comments and he was also asked to conduct further inquiry. The AO furnished remand report. The issues discussed in the remand report by the AO were sent to the assessee for furnishing its comments. After considering the remand report and the reply of the assessee, the conclusions drawn with respect to the parties are discussed and decided as under:*
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> *The AO conducted inquiries and also issued summons to the lenders. Only two of the parties complied. Considering the facts of the case the AO issued a letter dated 24.04.2023 to the assessee to produce the parties. The assessee finally furnished its submission on 11.05.2023.*

6.5.2 The submission filed by the assessee is discussed by the AO party wise. The conclusions drawn considering the remand report and the reply of the assessee are as under:

6.5.2.1 Everest Growmore Finance Pvt. Ltd.

With respect to Everest Growmore Finance Pvt Ltd, the AO concluded that the assessee in it reply has submitted documents to substantiate the identity, creditworthiness and genuineness of the loan of Rs. 1,15,00,000/-. Further, it is also submitted that the said party is a registered NBFC-ND with Reserved Bank of India and providing corporate loans. Thus, there is no adverse inference from the document submitted.

Considering the reply of the assessee and verification made by the AO the addition made by the AO in the assessment order of Rs. 1,15,00,000/- is not found to be sustainable and the same is deleted.

6.5.2.2 Religare Finvest Ltd.

The AO observed in the remand report that: The assessee in its reply failed to submit the supporting documents like bank statement for relevant period, financials of the said party which can substantiate the said transaction.

It is pertinent to mention here that the said party did not appear before the undersigned in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023.

The facts of the case are considered. From the reply of the appellant, it is observed that despite the clear observations of the AO that the bank statement for relevant period is not submitted the assessee failed to furnish the same in the reply to the remand report. Hence, the genuineness of transaction is not established. The AO also noted that the said party did not appear before the AO in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023. The appellant has not furnished any explanation with respect to the observations of the AO. The assessee has therefore failed to prove the genuineness of transaction to the satisfaction of the AO. In the absence of establishing the genuineness of transaction in the form of bank statement and the failure of the assessee to produce the party before the AO makes the transaction as non – genuine. The other evidences cannot replace the basic documents which are necessary to establish genuineness of transaction.

The assessee has neither furnished any evidence of furnishing the bank account nor explained reasons for not producing the party before the AO when the AO has made specific request to the assessee. The AO conducted field inquiry with the help of the Inspector who reported that the address was not of the assessee. In these facts, the onus to satisfy the AO about existence of the lender and the genuineness of transaction shifted to the assessee. The AO also specified what is the requirement of his satisfaction to the assessee. The AO stated that on inquiry the lender not found on the given address. It is to be noted that the AO has taken address from the details furnished by the assessee. The AO has not chosen the address on the basis of assumption. The claim of the assessee is that the address is changed. However, the lender failed to comply to the summons issued by the AO. In these circumstances, it was very much important to produce the party before the AO. The AO cannot be expected to conduct inquiry at various offices of lender. It is his discretion to make inquiry on any of the address provided by the assessee. If the assessee is not sure about the address and there is change it should have been communicated by the assessee to the AO with specific intimation that one of the address is changed. However, the assessee furnished various addresses and the AO conducted in one of the address where the lender was not found. The lender did not attend in response to

the summons issued u/s 131. In these circumstances, the demand of the AO to produce the party before the AO is found to be justified. It is the primary onus of the assessee to establish the identity and genuineness of transaction. The assessee in this case has failed to establish genuineness of transaction and also failed to produce the party even when it was informed that there is no compliance by the party to the summons issued u/s 131. The assessee has therefore failed to discharge its duty to establish genuineness of transaction. For establishing genuineness of transaction, the bank statement is basic requirement. The assessee failed to furnish the bank statement. The lender in this case is company. The company is artificial juristic person. The authorised person from a company could have been easily produced before the AO if the lender was genuine. However, the assessee failed to produce the authorised person of the lender.

In these facts, the addition made by the AO u/s 68 is found to be justified and upheld in the case of this party.

6.5.2.3 Torus Buildcom Pvt Ltd.

The AO observed that the financials of the company M/s Torus Buildcom Pvt. Ltd is weak which cannot justify to advance loan of Rs.14,85,00,000/- to the assessee company. Therefore, the creditworthiness of the company M/s Torus Buildcom Pvt. Ltd cannot be established.

The AO also reported in the remand report that the said party did not appear before the undersigned in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023.

The facts of the case are considered. From the reply of the appellant it is observed that despite the clear observations of the AO that sufficient evidences to establish creditworthiness are not submitted the assessee failed to furnish the same in the reply to the remand report. Hence, the creditworthiness of the lender is not established. The AO also noted that the said party did not appear before the AO in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023. The appellant has not furnished any explanation with respect to the observations of the AO. The assessee has therefore failed to prove the creditworthiness of the lender to the satisfaction of the AO. In the absence of establishing the creditworthiness of the lender and the failure of the assessee to produce the party before the AO makes the transaction as non – genuine. The other evidences cannot replace the basic documents which are necessary to establish genuineness of transaction.

The assessee has neither furnished any evidence of creditworthiness of the lender nor explained reasons for not producing the party before the AO when the AO has made specific request to the assessee. The AO conducted field inquiry with the help of the Inspector who reported that the address was not of the assessee. In these facts, the onus to satisfy the AO about existence of the lender and the creditworthiness of the lender shifted to the assessee. The AO also specified what is the requirement of his satisfaction to the assessee. The AO stated that on inquiry the lender not found on the given address. It is to be noted that the AO has taken address from the details furnished by the assessee. The AO has not chosen the address on the basis of assumption. The claim of the assessee is that the address is changed. However, the lender failed to comply to the summons issued by the AO. In these circumstances, it was very much important to produce the party before the AO. The AO cannot be expected to conduct inquiry at various offices of lender. It is his discretion to make inquiry on any of the address provided by the assessee. If the assessee is not sure about the address and there is change it should have been communicated by the assessee to the AO with specific intimation that one of the address is changed. However, the assessee furnished various addresses and the AO conducted in one of the address where the lender was not

found. The lender did not attend in response to the summons issued u/s 131. In these circumstances, the demand of the AO to produce the party before the AO is found to be justified. It is the primary onus of the assessee to establish the identity and creditworthiness of the lender. The assessee in this case has failed to establish creditworthiness of the lender and also failed to produce the party even when it was informed that there is no compliance by the party to the summons issued u/s 131. The assessee has therefore failed to discharge its duty to establish genuineness of transaction. For establishing creditworthiness of the lender the assessee was required to establish the source with the lender. The lender has advanced money to the assessee which is manifold of the meagre returned income of the lender (210 times to be precise). In these facts the source of the money is not found to be explained in the hands of the lender. In these circumstances, the creditworthiness need to be established by the assessee by bringing documentary evidence to establish that the source in the hands of the lender is tax paid money. The appellant argued that ITR of the lender is furnished in which income of Rs.70,46.260/- is disclosed which itself being a proof that the company has a creditworthiness. The claim of the appellant is not found to be acceptable on the basis of evidences furnished as there is huge gap between the returned income and the amount of loan advanced to the assessee. The assessee failed to furnish evidence of creditworthiness. The lender in this case is company. The company is artificial juristic person. The authorised person from a company could have been easily produced before the AO if the lender was genuine. However, the assessee failed to produce the authorised person of the lender.

In these facts, the addition made by the AO u/s 68 is found to be justified and upheld in the case of this party.

6.5.2.4 Saubhagya Buildcon Pvt. Ltd.

The AO observed that the assessee has not furnished the confirmation of loan of Rs.3,24,00,000/- with the party M/s Saubhagya Buildcon Pvt. Ltd. which can establish the genuineness of the said transaction.

It is pertinent to mention here that the said party did not appear before the undersigned in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023.

The facts of the case are considered. From the reply of the appellant it is observed that despite the clear observations of the AO that sufficient evidences to establish genuineness of transaction in the form of confirmation are not submitted the assessee failed to furnish the same in the reply to the remand report. Hence, the genuineness of transaction is not established. The AO also noted that the said party did not appear before the AO in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023. The appellant has not furnished any explanation with respect to the observations of the AO. The assessee has therefore failed to prove the genuineness of transaction to the satisfaction of the AO. In the absence of establishing the genuineness of transaction and the failure of the assessee to produce the party before the AO makes the transaction as non – genuine. The other evidences cannot replace the basic documents which are necessary to establish genuineness of transaction.

The assessee has neither furnished any evidence of genuineness of transaction nor explained reasons for not producing the party before the AO when the AO has made specific request to the assessee. The AO conducted field inquiry with the help of the Inspector who reported that the address was not of the assessee. In these facts, the onus to satisfy the AO about existence of the lender and the genuineness of transaction shifted to the assessee. The AO also specified what is the requirement of his satisfaction to the assessee. The AO stated that on inquiry the lender not found on the given address. It is to be noted that the AO has taken address from the

details furnished by the assessee. The AO has not chosen the address on the basis of assumption. The claim of the assessee is that the address is changed. However, the lender failed to comply to the summons issued by the AO. In these circumstances, it was very much important to produce the party before the AO. The AO cannot be expected to conduct inquiry at various offices of lender. It is his discretion to make inquiry on any of the address provided by the assessee. If the assessee is not sure about the address and there is change it should have been communicated by the assessee to the AO with specific intimation that one of the address is changed. However, the assessee furnished various addresses and the AO conducted in one of the address where the lender was not found. The lender did not attend in response to the summons issued u/s 131. In these circumstances, the demand of the AO to produce the party before the AO is found to be justified.

It is the primary onus of the assessee to establish the identity and creditworthiness of the lender. The assessee in this case has failed to establish genuineness of transaction of the lender and also failed to produce the party even when it was informed that there is no compliance by the party to the summons issued u/s 131. The assessee has therefore failed to discharge its duty to establish genuineness of transaction. For establishing genuineness of transaction of the lender the assessee was required to confirmation the lender. The lender in this case is company. The company is artificial juristic person. The authorised person from a company could have been easily produced before the AO if the lender was genuine. However, the assessee failed to produce the authorised person of the lender.

The lender has advanced money to the assessee which is manifold of the meagre returned income of the lender (7 times to be precise). In these facts the source of the money is not found to be explained in the hands of the lender. In these circumstances, the creditworthiness need to be established by the assessee by bringing documentary evidence to establish that the source in the hands of the lender is tax paid money. The appellant argued that ITR of the lender is furnished in which income of Rs.41,32,659/- is disclosed which itself being a proof that the company has a creditworthiness. The claim of the appellant is not found to be acceptable on the basis of evidences furnished as there is huge gap between the returned income and the amount of loan advanced to the assessee. The assessee failed to furnish evidence of creditworthiness.

In these facts, the addition made by the AO u/s 68 is found to be justified and upheld in the case of this party.

6.5.2.5 M/s AD Advertising Pvt. Ltd.

The AO observed that:

During the year under consideration, the assessee has obtained loan amounting to Rs.95,00,00,000/- from the above-mentioned party i.e. Ad Advertisement. On perusal of the financials of the said part, it has been transpired that the said part has no such creditworthiness that it can provide such huge loan of 95Cr. to assessee which can be verified from the below given financial position reflecting in the financial of said party submitted by the assessee:

Particulars	*FY: 2016-17*	*FY: 2015-16*
Revenue from operations	*Rs.12,96,33,505/-*	*Rs.9,36,18,170/-*
Profit after tax	*RS.4,87,931/-*	*Rs.62,699/-*

In view of the above, it is amply clear that the said party does not creditworthiness which can substantiate the above loan.

The AO further noted that the said party did not appear before the undersigned in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023.

The facts of the case are considered. From the reply of the appellant, it is observed that despite the clear observations of the AO that sufficient evidences to establish creditworthiness are not submitted the assessee failed to furnish the same in the reply to the remand report. Hence, the creditworthiness of the lender is not established. The AO also noted that the said party did not appear before the AO in response of the summon issued to the it on 06.04.2023 u/s 131 of the Act and the assessee has also failed to produce the said party as requested to it vide latter dated 24.04.2023. The appellant has not furnished any explanation with respect to the observations of the AO. The assessee has therefore failed to prove the creditworthiness of the lender to the satisfaction of the AO. In the absence of establishing the creditworthiness of the lender and the failure of the assessee to produce the party before the AO makes the transaction as non – genuine. The other evidences cannot replace the basic documents which are necessary to establish genuineness of transaction.

The assessee has neither furnished any evidence of creditworthiness of the lender nor explained reasons for not producing the party before the AO when the AO has made specific request to the assessee. The AO conducted field inquiry with the help of the Inspector who reported that the address was not of the assessee. In these facts, the onus to satisfy the AO about existence of the lender and the creditworthiness of the lender shifted to the assessee. The AO also specified what is the requirement of his satisfaction to the assessee. The AO stated that on inquiry the lender not found on the given address. It is to be noted that the AO has taken address from the details furnished by the assessee. The AO has not chosen the address on the basis of assumption. The claim of the assessee is that the address is changed. However, the lender failed to comply to the summons issued by the AO. In these circumstances, it was very much important to produce the party before the AO. The AO cannot be expected to conduct inquiry at various offices of lender. It is his discretion to make inquiry on any of the address provided by the assessee. If the assessee is not sure about the address and there is change it should have been communicated by the assessee to the AO with specific intimation that one of the address is changed. However, the assessee furnished various addresses and the AO conducted in one of the address where the lender was not found. The lender did not attend in response to the summons issued u/s 131. In these circumstances, the demand of the AO to produce the party before the AO is found to be justified. It is the primary onus of the assessee to establish the identity and creditworthiness of the lender. The assessee in this case has failed to establish creditworthiness of the lender and also failed to produce the party even when it was informed that there is no compliance by the party to the summons issued u/s 131. The assessee has therefore failed to discharge its duty to establish genuineness of transaction. For establishing creditworthiness of the lender the assessee was required to establish the source with the lender. The lender has advanced money to the assessee which is manifold of the meagre profit of the lender (1947 times to be precise). The amount of loan is manifold of the turnover of the lender (7.3 times to be precise). In these facts the source of the money is not found to be explained in the hands of the lender. In these circumstances, the creditworthiness needs to be established by the assessee by bringing documentary evidence to establish that the source in the hands of the lender is tax paid money. The assessee failed to furnish evidence of creditworthiness. The lender in this case is company. The company is artificial juristic person. The authorised person from a company could have been easily produced before the AO if the lender was genuine. However, the assessee failed to produce the authorised person of the lender.

The appellant argued that the fund which has been given by the Ad Advertisement Private Limited to appellant company was duly being adjudicated by the revenue authority. The argument is not acceptable because every assessment is different and the scope of inquiry of each assessment is different. If the inquiry was not conducted in the case of lender, then the

assessee does not get certificate to escape from its responsibility. If the lender is conduit company and the assessee is the beneficiary, then the addition is to be made in the hands of the ultimate beneficiary. Without prejudice to the above, it is well established judicial principle that there is no heroism in perpetuating a wrong. Hence, the reliance placed by the assessee on the order of lender is not found to be acceptable.

In these facts, the addition made by the AO u/s 68 is found to be justified and upheld in the case of this party.

8. Now, before us the ld. representative of both sides we have actually relied the respective cases as coming up from the impugned orders and ld. DR has relied the findings of AO submitting that the financials of the lender companies do not justify giving such loans and repayment is only camouflage. After considering the material on record we find that AO while examining the case of assesse as shown that his findings were influenced not only by the lack of evidences filed by the assesse but that assessment proceedings of one Devera Developers Pvt. Ltd. for AY: 2017-18 have also taken into consideration wherein same lenders companies were found to be non-resident and identity were not established. The reports in said

9. Now, before us ld. Counsel has demonstrated that during the course of remand proceedings enquiries were conducted on incorrect address and after receipt of remand report this aspect was pointed out to the AO and correct address were filed with documentary evidences and the confirmations, loan agreements, financials and returns of the income of the lenders.

9. If we take up the case of each of lenders individually we find that in the case of Saubhagaya Buildcom Pvt. Ltd. there was opening balance of Rs.7.85

crores and this was not an isolated year in which assesse has taken unsecured loans from the entity. The ledger account of the lender Saubhagaya Buildcom Pvt. Ltd. establish that opening balance of Rs.7,85,99,227/- and receipt of Rs.3,24,00,000/- during the year and payment of interest of Rs.412,85,712/- with the closing balance of Rs.40,25,99,227/- and AO has only added on adhoc basis Rs.3,24,00,000/-. To our mind such ad hoc discredit of lender's credibility itself makes the findings perverse. Then, Ld. Counsel on the basis of financials of this lender available at page No.266,273 & 304 of the paper book has shown that it has paid up capital of Rs.90,00,000/-, and borrowings in the form of debentures of Rs.29,00,00,000/- and unsecured borrowings of Rs.100,000,000/- and revenues of operation of Rs.64.85 crores. So to allege its financials are unsupportive is not sustainable.

10. In the case of Religare Finvest Ltd. we find that this is NBFC, listed on stock exchange and provide loan against mortgaged of shares and acts as share broker of assesse. Thus, doubting its activity on the basis of inspectors report certainly not appear to be a prudent way to approach the issue. An addition of Rs.20,00,000/- has been made on account of the credit entries for which assesse has submitted that in fact, assesse had issued a cheque of Rs.20,00,000/- in respect of Religare Finvest Ltd. on 30.09.2016 for discharging a liability but the same was reflected as a debit entry and was ultimately reversed by correct entry on 31.12.2016, thus, this was merely an adjustment entry as reflected and

established in the ledger account of Religare Finvest Ltd. available at page No. 218-220 of the paper book.

11. Coming to Ad Advertisement Pvt. Ltd. from which assesse had received Rs.95,00,00,000/- through banking channel we find that this amount was received in the form of a debt of the nature of optionally convertible debentures of Rs.9,500/- and Rs.1,00,000/- each under an agreement with the lender the amounts were received during the year and the debentures were issued in the succeeding assessment year and in the intervening year assesse had paid interest @ 14.1%. The documents like bank statement and agreement in regard to this transaction have not been doubted and suspicion with regard to transaction had been drawn on the basis of inspectors report and non-appearance of lender. Now, before us ld. Counsel has demonstrated that in lenders own case assessment year for the same assessment year was concluded u/s 143(3) of the Act and copy of which is available at page No. 159-160 of the paper book and during the remand proceedings the AO has not made any adverse remark on the concluded assessment of the lender. The funds as lent in the hands of lender once examined and accepted, the AO cannot question the receipt of those funds by the assesse by way of debit instruments.

12. Ld. Counsel has demonstrated on the basis of financials available at page No. 50-51 of the paper book that Ad Advertisement Pvt. Ltd. had a revenue of Rs.25.86 crores and intercorporate loans of Rs.146 crores.

13. In case of Torus Buildcom Pvt. Ltd from which assesse had received short term unsecured loan of Rs.14,85,00,000/-, loans were received through normal banking channel and has repaid in full in the next year in two trenches of Rs. 7 crores and Rs.7.85 crores by way of bank transfer. The corresponding evidences in the form of ledger, bank statement, return of income and financial statements have not been disputed. On page No. 313 of the paper book assessee has provided financials of the company which shows that this company had a revenue of Rs.233,38,08,913/-.

14. Thus, on the basis of aforesaid discussion and facts we are of the considered view that though before the AO the appellant has failed to file relevant documents but when additional evidences were filed before ld. CIT(A) and the remand report was sought, AO has not made any relevant enquires to show that the evidence with regard to identity and creditworthiness of the lenders, which included one of the NBFC like Religare Finvest Ltd. which is a listed company, were not reliable and on a very general discussion rejected the genuineness of transaction. We are of considered view that genuineness of transaction required to be established by the assesse is not to prove the same beyond reasonable doubt and on scales of probability evidences have to be examined. Since it is not a case of credit entries arising out of allotment of shares of premium, the law with regard to issue of examining the source of source does not much help the department. Assessee has borrowed funds for use

of its business of trading in shares, the return of income declared loss out of these business transaction have not been doubted so to doubt the loans on basis of inspectors report, which is a weak piece of evidence, is not justified.

15. As a wholesome effect of discussion we are inclined to allow ground No. 3 & 4 in favour of the assesse.

Ground No. 5 & 6

16. As with regard to ground No. 5 & 6 by which assesse has challenged the disallowance of interest expenditure u/s 37(1) of the Act, we are of considered view that same is only a consequential to ground 3 & 4 whereby we have accepted the genuineness of impugned transaction, we thus sustain these grounds.

17. As a consequence of aforesaid discussion since we have sustained the ground raised, the appeal of assesse is allowed, the impugned addition and disallowance so made by AO and confirmed by the ld. CIT(A) stand deleted.

Order pronounced in the open court on 26.11.2026

Sd/-	**Sd/-**
MANISH AGARWAL	**ANUBHAV SHARMA**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Delhi
Dated: 26.11.2026
Rohit, Sr.PS

Copy to:

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2	**ACIT CIRCLE 7(1), DELHI,** **C R BUILDING ITO, I P ESTATE, NEW DELHI, 110002,** **DELHI-110002, DELHI**
3	THE PCIT / CIT,
4	THE D.R., ITAT, DELHI BENCH
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