

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "C" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
AND  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 7670/Mum/2025  
Assessment Year : 2023-24

Pebble Street Hospitality Pvt. Ltd., 913/914, C-2, C-Wing, Trade World, Kamala Mills, Tulsi Pipe Road, S.B. Marg, Delisle Road, Mumbai-400013. PAN : AAFCP8224P	vs.	Income Tax Officer, Ward-13(1)(1), Aayakar Bhavan, M.K. Road, Mumbai-400020.
(Appellant)		(Respondent)

For Assessee :	Shri Prakash Jotwani
For Revenue :	Shri R.A. Dhyani, CIT-DR

Date of Hearing :	07-04-2026
Date of Pronouncement :	21-05-2026

**ORDER**

**PER VIKRAM SINGH YADAV, A.M :**

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 07-10-2025, pertaining to Assessment Year (AY) 2023-24, wherein the assessee has taken the following grounds of appeal:

*“1. The Officer at the National Faceless Appeal Centre (hereinafter referred to as the CIT(A) erred in sustaining the addition made by the Officer at the National Faceless Assessment Unit (hereinafter referred to as the Assessing Officer) of Rs 2,71,16,092, under section 68 of the Act*

*on the ground that the loans introduced are sham transactions to introduce unexplained money.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the impugned addition made by the Assessing Officer ought not to have been confirmed by the CIT(A) inasmuch as the three litmus tests to section 68 of the Act, namely, identity of the lender, creditworthiness of the lender and the genuineness of the transaction stands discharged.*

*The appellants further contend that addition made by the Assessing Officer ought not to have been confirmed by the CIT(A) inasmuch there is gross violation of principles of natural justice in making the impugned addition.*

*2. The CIT(A) erred in sustaining the addition made by the Assessing Officer of Rs 7,77,68,199, under section 69 of the Act on the ground that the addition to fixed assets have not been satisfied.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the impugned addition made by the Assessing Officer ought not to have been confirmed by the CIT(A) inasmuch as the provisions of section 69 do not get triggered.”*

2. Briefly, the facts of the case are that the assessee has filed its original return of income on 31-10-2023, declaring NIL income and subsequently, the return was revised on 31-12-2023 maintaining the original declared income at NIL. Thereafter, the case of the assessee was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS) due to two primary reasons i.e., substantial business purchases without TDS u/s. 194Q and turnover reported in ITR being substantially lower than reported in GSTR 9C return. Notices u/s. 143(2) and 142(1) of the Act were issued calling for necessary information and documentation. In response, the assessee filed its submissions which were considered, but not found fully acceptable and thereafter, after issuance of show cause dt. 20-02-2025, the assessment proceedings were completed u/s. 143(3) r.w.s. 144B of the Act, dt. 11-03-2025, wherein an amounting of Rs. 2,71,16,092/- being the unsecured loans taken by the assessee was brought to tax as unexplained credit u/s. 68 of the Act, a sum of Rs. 7,77,68,199/- as unexplained investment u/s. 69 of the Act and an amount of Rs 4,98,09,197/-, being 8% of the total receipts of Rs 62,26,14,963/- was

treated as undisclosed business receipts and an addition of Rs. 1,68,66,162/- (Rs 4,98,09,197- 3,29,43,035/- already declared) was brought to tax as undisclosed business receipts, after rejection of book results u/s. 145(3) of the Act.

3. The assessee thereafter carried the matter in appeal before the Ld.CIT(A). The Ld.CIT(A) has deleted the addition of Rs. 4,98,09,197/- and the remaining additions have been sustained by him and against the same, the assessee is in appeal before us.

4. During the course of hearing, the Ld.AR submitted that regarding addition of Rs. 2,71,16,092/-, briefly the fact of the case are that during the course of assessment proceedings, the AO observed that the assessee has obtained unsecured loans of Rs. 2,71,16,092/- from four persons and inspite of submissions of loan ledger confirmations, bank statements, etc, the AO observed that the assessee has not submitted sufficient documentary evidences and the unsecured loans of Rs. 2,71,16,092/- were brought to tax u/s. 68 of the Act. Further, during the appellate proceedings, it was submitted that the assessee has availed unsecured loans from four persons, who are shareholders/directors in the assessee-company and in terms of documentary evidence, HDFC bank statements, loan ledger confirmation, loan declaration and confirmations were submitted. It was also submitted that all these transactions have been done by the assessee through banking channels and the same have been duly recorded in the Books of Account, confirmed by the respective lenders and disclosed in the returns. Therefore, the assessee has discharged the necessary onus in terms of identity, creditworthiness and genuineness of the transactions as mandated u/s. 68 of the Act. Hence, the addition so made be directed to be deleted. The Ld.CIT(A) considered the submissions, but not found the same acceptable. As per the Ld.CIT(A), section 68 of the Act deems any sum credited in the

books as income unless the assessee explains the nature and source to the satisfaction of the AO, primary onus is on the assessee to prove the identity, creditworthiness and genuineness of the transactions. Mere submission of the bank statements without complete ledgers or confirmations, is insufficient if the AO finds the evidence lacking, especially in cases of substantial loans. It was further held by the Ld.CIT(A) that if the assessee provides a breakup of unsecured loans and bank statements during assessment, but failed to submit full ledger despite multiple opportunities and during the appellate proceedings, additional ledgers were produced, but they did not conclusively establish the creditworthiness of all lenders, particularly non-bank entities. It was accordingly held that the AO rightly treated these as sham transactions to introduce unexplained money, as the evidence was partial and delayed. It was held that the operational constrains are noted, but the onus u/s. 68 of the Act is strict, and partial compliance does not discharge it. Hence, the addition of Rs. 2,71,16,092/- was upheld and against the said findings, the assessee is in appeal before us.

5. It was submitted that these transactions were undertaken by the assessee with its shareholders and directors and our reference was drawn to the particulars of these transactions, wherein details regarding these unsecured transactions have been mentioned by the assessee as part of its written submissions. It was submitted that as can be seen from the table, there were transactions, which have been carried out with same persons in the earlier financial years as well and, therefore, as far as identity of these shareholders/directors are concerned, there cannot be any dispute. Further, in support of the creditworthiness and genuineness of the transactions, the relevant documentary evidences in terms of ledger copies, declarations/confirmations and the bank statements have already been placed on record, which has not been properly appreciated by the

Ld.CIT(A). It was submitted that before the AO, the assessee has submitted the loan ledger confirmations and the bank statements. Further, before the Ld.CIT(A), these documents were again submitted. As far as the creditworthiness of these persons, all are income tax assesseees and have been regular in filing their tax returns and in support, the assessee wishes to place on record a copy of their tax returns as well as their bank statements to demonstrate their creditworthiness and the same may be admitted and where the Bench so decides, the matter may be remitted to the file of the AO for necessary verification. It was submitted that these are genuineness loans transactions which have been taken from the shareholders/directors for the smooth functioning of the business operations and the assessee has not taken borrowing from any un-related parties and these transactions cannot be treated as sham transactions to introduce unexplained money in the books of assessee.

6. Per contra, the Ld.DR is heard, who has relied on the orders passed by the lower authorities. In terms of additional evidences, it was submitted that the same needs necessary verification and where the Bench so decides, the matter may be remanded to the file of the AO for necessary verification.

7. We have heard the rival contentions and pursued the material available on record. Admittedly, the subject loan transactions are with the shareholders/directors of the assessee company with whom the assessee has borrowed funds in earlier financial years as well as demonstrated from its financial statements and information submitted during the course of assessment proceedings which have not been disputed by the Assessing officer. At the same time, where there are fresh loan transactions during the year under consideration, the AO is well within his powers to examine the same and the onus lies on the assessee to discharge the initial onus cast on it. In this regard, we find

that the assessee has submitted copies of its bank statements and loan confirmations from these persons during the course of assessment and appellate proceedings and which have not been found to be sufficient and at the same time, no adverse findings have been recorded regarding the documentation so submitted. There is apparently no independently enquiry or verification as well which has been conducted by the AO to rebut the documentation so submitted. The assessee on its part to demonstrate its bonafide has since been able to arrange for copy of bank statements of the lenders and their individual tax returns to establish the creditworthiness of these lenders. The tax returns are part of the assessment records of respective individuals and the bank statements reflect the transactions and availability of funds at the relevant point in time and thus these documentation were in existence and not something which has been prepared recently and therefore, the authenticity thereof are not under challenge. Further, given that these are personal records of the lenders which in general, they would be hesitant to share with the outside world or with the assessee for that matter and the assessee took some time to convince them in terms of the necessity and importance of making these documents available for the purposes of present proceedings to demonstrate the bonafide and genuineness of these transactions and also due to lack of professional diligence on part of the Counsel of the assessee handling the tax matters, the non-submission of these documents earlier and the delay in obtaining the same is found to be reasonably explained. Given that these documents are germane to the matter under consideration and in absence of any serious objection raised by the Revenue, in the interest of substantial justice, the same are hereby admitted and the matter is remitted to the file of the AO to consider the same and decide the matter afresh in accordance with law after providing reasonable opportunity to the assessee. In the result, ground no. 1 of the assessee's appeal is allowed for statistical purposes.

8. Now, coming to matter relating to the addition of Rs. 7,77,68,199/- u/s. 69 of the Act, briefly the facts of the case are that during the course of assessment proceedings, the AO observed that the assessee has claimed substantial additions to fixed assets and was asked to furnish complete ledger of fixed assets along with specified information in prescribed format and in response, a copy of fixed asset register was submitted by the assessee. Further, on perusal of depreciation schedule, the AO observed that substantial depreciation is claimed by the assessee and the assessee was asked to furnish the necessary calculation as well as basis for claiming the depreciation and allowability thereof for tax purposes. In response, the assessee furnished the detail working of depreciation and the claim thereof in terms of section 32 of the Act. The submissions so filed were considered but not found acceptable to the AO. The AO held that the assessee was asked to furnish complete details of fixed assets, such as copy of invoices, copy of proof of payment and installation records and given that the assessee failed to furnish any documentary evidences, the investment of Rs. 7,77,68,199/- being addition to be fixed assets, remaining unexplained, unverified and undisclosed and source of investment too remained un-explained and hence in absence of sufficient documentary evidences, un-explained investment of Rs. 7,77,68,199/- was brought to tax u/s. 69 of the Act.

9. The assessee thereafter carried the matter in appeal before the Ld.CIT(A) and submitted that the addition u/s. 69 of the Act on account of fixed assets investment is untenable and in support, a detailed working of all fixed assets and addition made during the year including the particulars of assets, purchase date and the date of assets being put to use, sample copies of invoices for major fixed assets purchased made during the year and reconciliation statement and depreciation claimed was submitted. It was further submitted that in view of the substantial volume of fixed assets additions during the year, it was not practically feasible to furnish soft copies of all related invoices and it was requested

to indicate specific transactions or additions for which further documentation is required which the assessee could provide to complete the verification in a focused and timely manner.

10. The submissions so filed were considered, but not found acceptable to the Ld.CIT(A). As per the Ld.CIT(A), section 69 of the Act treats unexplained investment as unexplained investment where the assessee fails to offer satisfactory explanation about the source of investment. The onus is on the assessee to substantiate with documentary evidence like invoices, payment proofs and installation records and a fixed assets register alone is inadequate without underlying vouchers for high value additions. It was held by the ld CIT(A) that in the instant case, the assessee has submitted only the register during the assessment proceedings, citing volume issues for uploading all proofs, even at the time of present hearing, sample invoices were provided, but complete evidence remained lacking, leaving the source unexplained, that tax audit verification is procedural and does not absolve the substantive onus, that the faceless process constraints are acknowledged, but multiple notices were issued, and the addition is justified given the non-compliance. The Ld.CIT(A) accordingly upheld the addition of Rs. 7,77,68,199/- u/s 69 of the Act. Against the said findings, the assessee is in appeal before us.

11. During the course of hearing the Ld.AR reiterated the submissions made before the lower authorities. It was submitted that though before the AO, the assessee has furnished fixed assets register, however, before the Ld.CIT(A), the assessee has furnished not just fixed asset register but along with that, has furnished detailed depreciation reconciliation, unit-wise sample invoices and date/mode of payment as well as a certificate obtained from a Chartered Accountant confirming that the expenditure has been incurred out of internal accruals which he has failed to consider and take into consideration while passing the

impugned order. It was further submitted that given the voluminous nature of purchase transactions, sample invoices were submitted during the appellate proceedings and it was requested that the assessee can submit further invoices where so requested, however, the Ld.CIT(A) has dismissed the appeal on account of non-submission of the complete invoices. It was submitted that given the e-filing mechanism, there were challenges in terms of uploading the voluminous documentation, however, the assessee has no hesitation in producing all the invoices and wishes to place on record all these invoices and the bank statements showing the purchases and sources thereof and the ledger copies which truly demonstrate that all these investments have been made out of the internal accruals and which have since been verified and certified by the Chartered Accountant. It was further submitted that where the book results have been duly accepted, the source of investment out of internal accruals generated out of regular business operations is duly demonstrated and reflected in the books of accounts and it is therefore not a case of unexplained investment and the addition so made and sustained u/s. 69 of the Act be directed to be deleted.

12. Per contra, the Ld.DR is heard, who has relied on the orders passed by the lower authorities which we have already taken note of supra and not being repeated for the sake of brevity.

13. We have heard the rival contentions and perused the material available on record. We find that it is a classic case where the line of investigation/verification by the Assessing officer has no correlation with ultimate charge levied against the assessee whereby the Assessing officer has invoked the deeming provisions of section 69 of the Act and has brought to tax an amount of Rs 7,77,68,199/- to tax in the hands of the assessee. We are also at loss to note that even the Ld CIT(A) has

failed to appreciate the same and has summarily upheld the findings of the Assessing officer.

14. During the course of assessment proceedings, the assessee was asked to substantiate the additions to the fixed assets and claim of depreciation. It is relevant to note the information sought by the Assessing officer which will help us determine the line of investigation so undertaken by the Assessing officer. The assessee was asked to submit copy of its fixed asset register and certain information in prescribed format in terms of name of fixed asset, value of fixed asset, invoice no. and date of purchase, date of first use/installation, date of payment for acquiring the fixed asset, amount of depreciation claimed during the year and rate of depreciation so claimed. The assessee was also asked to submit its explanation regarding claim of depreciation. In response, the assessee submitted copy of its fixed asset register and its explanation in terms of claim of depreciation. The information so submitted by the assessee specially in terms of fixed asset register didn't find favour with the Assessing officer as he was looking at the information as per the prescribed format. Where the Assessing officer was not convinced with the documentation so submitted, necessary course of action would have been to question the claim of depreciation. However, interestingly, no adverse finding was recorded in terms of addition to the fixed assets and claim of depreciation u/s 32 was allowed as so claimed by the assessee. Even the Id CIT(A), acknowledging the fact that sample invoices were submitted and there are challenges in terms of e-filing of voluminous documentation and has insisted on filing of complete documentation, has not recorded any adverse finding regarding claim of depreciation. Therefore, in the said background, though the assessee seeks to file copies of all the invoices, ledger copies, bank statements etc, we don't deem it necessary that the same are required in absence of any challenge to claim of depreciation by the Revenue.

15. Be that may, no question was however raised or the enquiry initiated by the Assessing officer where the assessee was asked to explain the source of investment i.e, source of purchase of fixed assets during the year under consideration. Therefore, where the assessee has not been confronted and asked to explain the source of the investment, no fault lies with the assessee and it cannot be said that the assessee didn't offer the necessary explanation. Even during the appellate proceedings, we find that no such enquiry was initiated by the Id CIT(A) at his end or the assessee has been asked to submit the necessary documentation explaining the source of the investment.

16. It is a settled legal proposition that the deeming provisions have to be read and applied in the context it has been so stated in the statute and nothing more can be added or understood or applied while applying the same. In the instant case, the Assessing officer has invoked the deeming provisions of section 69 of the Act which provides that where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year. Therefore, for the purposes of invocation of the subject deeming provisions, two conditions need to be necessarily satisfied. Firstly, the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and secondly, the assessee either offers no explanation about the nature and source of the investments or the explanation so offered by him is not found satisfactory in the opinion of the Assessing Officer. On

satisfaction of these two conditions, the value of the investments may be deemed to be the income of the assessee of such financial year.

17. In the instant case, it is not the case of the Assessing officer that investments in fixed assets are not recorded in the books of accounts so maintained by the assessee. Further, no explanation has been sought from the assessee explaining the nature and source of the investment. In absence of any explanation being sought at first place, the assessee cannot be expected to know the mind of the Assessing officer and come forward with the explanation. On receipt of the assessment order, where the assessee found that the deeming provisions of section 69 has been invoked, the assessee submitted the necessary explanation before the Id CIT(A) whereby it was submitted that the source of investments in the fixed asset was out of the internal accruals of the assessee company and in support, a certificate from a Chartered Accountant was so furnished. The Id CIT(A) has however failed to appreciate the same and has gone ahead and confirmed the findings of the Assessing officer. We therefore find that the conditions so specified for invoking the deeming provisions are not satisfied at first place and thus, the Assessing officer has clearly erred in invoking the deeming provisions and the findings of the Id CIT(A) where he has summarily upheld the findings of the Assessing officer are set-aside. In the result, ground no. 2 of the assessee's appeal is allowed.

18. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 21-05-2026

Sd/-  
[RAHUL CHAUDHARY]  
JUDICIAL MEMBER

Sd/-  
[VIKRAM SINGH YADAV]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 21-05-2026

*TNMM*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai