

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.206 of 2023**

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Rajnandani Projects Pvt. Ltd., a Company Incorporated Under the Companies Act, 1956 and Having its Place of Business at Room no.6, Ward No. 18, Chandra Deep Complex, Dak Bungalow Road, Bandar Bagicha, in the Town and District of Patna. through its Director, Abhishek Rai

... .. Appellant/s

Versus

1. Principal Commissioner of Income Tax-1, Patna.
2. Additional/Joint Commissioner of Income-Tax, Range-1, Patna.
3. Assistant Commissioner of Income Tax Circle 2, Patna.

... .. Respondent/s

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**Appearance :**

For the Appellant/s	:	Mr. Ajay Kumar Rastogi, Sr. Advocate Ms. Smriti Singh, Advocate Ms. Shilpi Keshri, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Archana Shahi, Sr. Standing Counsel, Income Tax Department Mr. Alok Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**and**  
**HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**CAV JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)**

**Date: 18-12-2025**

1. This Miscellaneous Appeal No. 206 of 2023 is directed against the order, dated 03.11.2022, passed by the Income Tax Appellate Tribunal, Patna Bench, Patna in I.T.A. No. 250(Pat)/2019 for the Assessment Year 2015-16, whereby the Tribunal allowed the appeal preferred by the Revenue and reversed the appellate order, dated 20.09.2019, passed by the Commissioner of Income Tax (Appeals), Patna under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as



“the Act” for brevity).

2. The appellant, M/s Rajnandani Projects Private Limited, a company incorporated under the Companies Act, 1956 and an assessee to income tax vide PAN AAECQ0092C, filed its return declaring total income of Rs. 1,96,95,520/- for the Assessment Year 2015-16 on 28.03.2016. During the course of assessment, the Assessing Officer issued notices under Section 142(1) along with a questionnaire, and thereafter issued notices under Section 133(6) and summons under Section 131 of the Act, calling for confirmation and verification regarding the amount of Rs. 1,91,00,000/-, received by the appellant during the relevant financial year from M/s Champion Group of Companies, whose proprietor is stated to be Amit Kumar Singh, bearing PAN AZPPS7985Q. The Assessing Officer treated the aforesaid amount as unexplained cash credit under Section 68 of the Act and completed the assessment by order dated 31.12.2017 under Section 143(3).

3. The appellant preferred an appeal before the Commissioner of Income Tax (Appeals), who, upon consideration of the submissions made, the documents produced, and the remand report submitted by the Assessing



Officer on 13.09.2019, deleted the addition of Rs. 1,91,00,000/- by order, dated 20.09.2019.

4. Aggrieved by the said order, the Revenue filed an appeal before the Income Tax Appellate Tribunal. The Tribunal, upon examination of the material on record, held that though the identity of the creditor stood established, the appellant failed to prove the genuineness of the transaction and the creditworthiness of the creditor. The Tribunal, accordingly, set aside the order passed by the Commissioner of Income Tax (Appeals) and restored the addition made by the Assessing Officer.

5. Challenging the order passed by the Tribunal, the appellant has preferred the present Miscellaneous Appeal under Section 260A of the Act.

6. The appellant is a private limited company, engaged in the business of civil construction. For the Assessment Year 2015-16, the appellant filed its return of income on 28.03.2016, declaring total income of Rs. 1,96,95,520/-. The case was selected for scrutiny and notices under Section 142(1) of the Act, along with a questionnaire were issued by the Assessing Officer. During the assessment proceedings, the Assessing Officer noticed that the appellant



had received a sum of Rs. 1,91,00,000/- through banking channels from M/s Champion Group of Companies during the relevant previous year.

7. In order to verify the nature of the said receipts, the Assessing Officer issued notices under Section 133(6) and summons under Section 131 of the Act. The appellant initially described the receipts as loan and thereafter submitted that the amount was received as advance against sale of sand to be supplied to M/s Champion Group of Companies, whose proprietor is Amit Kumar Singh, bearing PAN No. AZPPS7985Q. The appellant furnished before the Assessing Officer a copy of the ledger account of the said party, confirmation, address and PAN details, copies of income tax returns of Amit Kumar Singh for Assessment Years 2015-16 and 2016-17, and bank statements showing the transfer of funds through banking channels.

8. The Assessing Officer was not satisfied with the explanation furnished by the appellant. He observed that the appellant had changed its stand regarding the nature of the transaction and that the creditworthiness of the creditor and genuineness of the transaction were not established. The Assessing Officer, by order dated 31.12.2017 passed under



Section 143(3), treated the entire amount of Rs. 1,91,00,000/- as unexplained cash credit within the meaning of Section 68 of the Act and made an addition to the total income of the appellant.

9. The appellant preferred an appeal before the Commissioner of Income Tax (Appeals), Patna. In the course of appellate proceedings, the Commissioner of Income Tax (Appeals) called for a remand report from the Assessing Officer. The Assessing Officer submitted his remand report on 13.09.2019. The Commissioner of Income Tax (Appeals), upon consideration of the assessment order, submissions of the appellant, documents brought on record, including bank statements, confirmations, copies of returns of the creditor, and the remand report, held that the identity of the creditor stood proved, the source of funds was traceable in the banking channels, and the explanation furnished by the appellant was acceptable. The Commissioner of Income Tax (Appeals), by order, dated 20.09.2019, deleted the addition of Rs. 1,91,00,000/- made under Section 68 of the Act.

10. The Revenue preferred an appeal before the Income Tax Appellate Tribunal, Patna Bench, registered as I.T.A. No. 250(Pat)/2019. The Tribunal, upon consideration of



the record, held that the appellant had proved only the identity of the creditor. The Tribunal observed that the genuineness of the transaction and the creditworthiness of the creditor were not established, *inter alia*, noting that the creditor had not filed return of income for the relevant year when the transaction occurred. The Tribunal set aside the decision of the Commissioner of Income Tax (Appeals) and restored the addition of Rs. 1,91,00,000/- made by the Assessing Officer by order, dated 03.11.2022.

11. Being aggrieved by the order of the Tribunal, the appellant has preferred the present Miscellaneous Appeal under Section 260A of the Income Tax Act.

12. The following substantial questions of law arise for consideration in this appeal:

*(i) Whether the Income Tax Appellate Tribunal erred in reversing the order dated 20.09.2019 passed by the Commissioner of Income Tax (Appeals) deleting the addition of Rs. 1,91,00,000/- made under Section 68 of the Income Tax Act.*

*(ii) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the appellant failed to establish the*



*genuineness of the transaction and the creditworthiness of the creditor, when the identity of the creditor, the bank statements, the ledger account, and the confirmations were placed on record.*

*(iii) Whether the Tribunal committed an error in law in drawing an adverse inference on the ground that the creditor had not filed the return of income for the relevant assessment year, when the appellant had furnished copies of the returns of the creditor for other assessment years along with PAN, address and bank details.*

*(iv) Whether the Tribunal erred in applying an incorrect legal standard by requiring the appellant to establish the source of the source of the funds received from the creditor.*

*(v) Whether the findings of the Tribunal, in reversing the well-reasoned order of the Commissioner of Income Tax (Appeals), are perverse and contrary to the material available on record.*

*(vi) Whether, in the facts of the case, the Tribunal failed to consider settled judicial precedents relating to the scope and application of Section 68 of the Income Tax Act.*

13. Learned counsel for the appellant submitted that



the appellant had duly discharged the initial onus under Section 68 of the Income Tax Act by placing on record the confirmation of the creditor, the ledger account of M/s Champion Group of Companies, the PAN and address of the proprietor - Amit Kumar Singh, copies of income tax returns of the creditor for the relevant period, and the bank statements reflecting transfer of the sum of Rs. 1,91,00,000/- through established banking channels. It was urged that the explanation furnished before the Assessing Officer was further examined in the course of remand proceedings, and the Commissioner of Income Tax (Appeals), upon consideration of the remand report dated 13.09.2019, accepted the explanation and deleted the addition.

14. Learned counsel for the appellants submits that reliance was placed on the decision in the case of ***Commissioner of Income Tax v. Anupam Udyog***, reported in ***(1983) 142 ITR 133 (Patna)***, wherein the Hon'ble Patna High Court examined the explanation furnished by the assessee in the facts of that case with reference to the material available on record and declined to sustain the addition under Section 68 of the Act, where the transaction stood supported by documentary evidence and there was no material brought by



the Department to disbelieve the same. It was contended that the said decision emphasises that an addition under Section 68 of the Act cannot be sustained merely on suspicion or conjecture and that the explanation offered by the assessee must be tested on the basis of the evidence available on record.

15. It was further submitted that the Commissioner of Income Tax (Appeals) had rightly relied on the decision in *ACIT v. Bahri Bros* reported in (1985) 154 ITR 244, which was made to support the submission that the explanation furnished by the assessee under Section 68 of the Act cannot be rejected without the Assessing Officer bringing cogent material on record to disbelieve the same. It was argued that in the said decision, the High Court considered a situation where the assessee had produced primary documentary evidence in support of the credit entry and held that mere doubts or suspicion are not sufficient to sustain an addition. On that basis, learned counsel submitted that once primary documents are placed on record, the onus shifts to the Department to demonstrate, on the basis of evidence, why the explanation should not be accepted.

16. It was contended by the Learned Counsel for the



Appellant that the Tribunal erred in reversing the order of the Commissioner of Income Tax (Appeals) by placing undue emphasis on the fact that the creditor had not filed the return of income for the assessment year corresponding to the transaction. It was argued that filing of return by the creditor for a particular year cannot be a determinative factor for the purpose of Section 68 of the Act when the identity and the banking trail of the transaction stand established. It was further urged that the Tribunal failed to consider that the Commissioner of Income Tax (Appeals) had examined all relevant documents, including the remand report, and had recorded a reasoned finding that the explanation furnished was satisfactory.

17. It was thus submitted by the Learned Counsel for the Appellant that the order passed by the Tribunal suffers from an erroneous application of law and overlooks settled principles laid down by this Court. According to the appellant, the findings of the Tribunal are not supported by the material on record and fail to appreciate the evidences, properly considered by the Commissioner of Income Tax (Appeals). The appellant accordingly prayed that the impugned order be set aside and the order of the Commissioner of Income Tax



(Appeals) be restored.

18. Learned Sr. Advocate, appearing on behalf of the Respondents supported the order passed by the Income Tax Appellate Tribunal and submitted that the appellant had failed to discharge the statutory burden cast upon it under Section 68 of the Income Tax Act. It was submitted that the explanation furnished by the appellant was not consistent and that the appellant had initially described the amount received from M/s Champion Group of Companies as loan and subsequently claimed it to be an advance against sale of sand. According to the Respondents, such inconsistency itself indicated that the appellant had not produced a satisfactory and credible explanation regarding the nature and source of the credit.

19. It was further submitted that though the appellant had produced the PAN of the creditor and certain documents relating to bank transactions, the creditor did not file the return of income for the relevant assessment year, in which the alleged business transaction took place. It was urged that the filing of return for some other year cannot establish the financial capacity of the creditor for the year in which the credit was recorded in the appellant's books. The



Respondents contended that the Tribunal had rightly held that the appellant had proved only the identity of the creditor and failed to establish the genuineness of the transaction and the creditworthiness of the party.

20. The Respondents relied on the decision of the Hon'ble Supreme Court in *Kale Khan Mohammad Hanif v. Commissioner of Income Tax* reported in (1963) 50 ITR 1, wherein it was held that the burden lies upon the assessee to prove the source of cash credits and that, in the absence of satisfactory explanation, the Income Tax Officer is entitled to treat the sum as income of the assessee. The Respondents submitted that the principle laid down in the said decision applies squarely to the present case, as the appellant having failed to furnish cogent material regarding the source of funds of the creditor.

21. Reliance was placed on the judgment of the Hon'ble Supreme Court in the case of *Principal Commissioner of Income Tax v. NRA Iron and Steel Pvt. Ltd.*, reported in (2019) 15 SCC 529, wherein it was held that mere production of certain documents such as PAN, confirmation or bank statements is not sufficient to discharge the burden under Section 68 unless the assessee establishes



the creditworthiness of the creditor and the genuineness of the transaction. In that decision, it was further held that the surrounding circumstances, conduct of the parties and human probabilities are relevant in testing the explanation furnished. The Respondents submitted that these principles fully justify the view taken by the Tribunal in the present case.

22. The Learned Counsel for the Respondents also placed reliance on the judgment of the Hon'ble Supreme Court in *Vijay Kumar Talwar v. Commissioner of Income Tax* reported in *(2011) 1 SCC 673*, wherein it was held that where the Tribunal records a finding of fact based on appreciation of material on record, the High Court ought not to interfere unless such finding is perverse or gives rise to a substantial question of law. It was urged that the Tribunal has, upon detailed consideration of the material before it, recorded findings regarding the absence of creditworthiness and genuineness and that such factual findings do not warrant interference in an appeal under Section 260A of the Act.

23. It was, therefore, submitted that the Tribunal has assigned cogent reasons for reversing the findings of the Commissioner of Income Tax (Appeals) and that the explanation furnished by the appellant was not satisfactory. It



was contended that no substantial question of law arises from the order passed by the Tribunal and the present appeal deserves to be dismissed.

24. Having heard the submissions advanced on behalf of the appellant and the Respondents, and upon perusal of the assessment order, dated 31.12.2017, the appellate order, dated 20.09.2019, passed by the Commissioner of Income Tax (Appeals), the order, dated 03.11.2022, passed by the Income Tax Appellate Tribunal, as well as the documents placed on record by the parties, this Court now determining the present appeal point-wise.

25. The first point that arises for consideration is whether the Income Tax Appellate Tribunal was justified in reversing the order passed by the Commissioner of Income Tax (Appeals), who had deleted the addition of Rs. 1,91,00,000/- made under Section 68 of the Income Tax Act after examining the documentary evidence produced by the appellant and the remand report submitted by the Assessing Officer.

26. The second point for determination is whether, in the facts of the present case, the appellant can be said to have discharged the initial burden cast upon it under Section



68 of the Income Tax Act by furnishing particulars relating to the identity of the creditor, the mode of receipt of the amount through banking channels, and the explanation regarding the nature of the transaction, as reflected in the records.

27. The third point that arises for consideration is whether the Income Tax Appellate Tribunal was correct in law in holding that the appellant failed to establish the genuineness of the transaction and the creditworthiness of the creditor, particularly in light of the documents produced before the Assessing Officer and considered by the Commissioner of Income Tax (Appeals).

28. The fourth point for determination is whether non-filing of the return of income by the creditor for the assessment year corresponding to the transaction, by itself, constitutes sufficient ground to discard the explanation furnished by the appellant under Section 68 of the Act, notwithstanding the existence of bank statements and other supporting material on record.

29. The fifth point that arises is whether the approach adopted by the Income Tax Appellate Tribunal amounts to requiring the appellant to establish the source of the source of the funds, and if so, whether such an approach is



legally sustainable within the scope of Section 68 of the Income Tax Act.

30. The final point for consideration is whether the findings recorded by the Income Tax Appellate Tribunal can be said to be purely findings of fact not giving rise to any substantial question of law, or whether the manner in which the Tribunal appreciated the evidence and applied the legal principles gives rise to questions warranting interference by this Court under Section 260A of the Act.

31. As the present appeal arises from the order dated 03.11.2022 passed by the Income Tax Appellate Tribunal reversing the appellate order dated 20.09.2019 of the Commissioner of Income Tax (Appeals), the scope of interference by this Court under Section 260A of the Income Tax Act is confined to substantial questions of law. Therefore, the first task of this Court is to examine whether the findings recorded by the Tribunal suffer from legal infirmity or misapplication of settled principles governing Section 68 of the Act.

32. Section 68 of the Act provides that where any sum is found credited in the books of an assessee and the explanation offered regarding the nature and source of such



credit is not satisfactory, the sum may be treated as income of the assessee. The provision casts an initial burden upon the assessee to explain the credit. The extent and manner of discharge of such burden has been the subject of judicial interpretation, and the settled position is that the assessee is required to establish the identity of the creditor, the genuineness of the transaction, and the creditworthiness of the creditor.

33. In the present case, it is not in dispute that the appellant produced before the Assessing Officer and the appellate authority documents relating to the identity of the creditor, including PAN and address, as well as bank statements reflecting transfer of the amount through banking channels. It is also evident from the record that these documents were examined not only by the Assessing Officer but also during remand proceedings called for by the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals), after considering the remand report dated 13.09.2019 and the materials placed on record, recorded a categorical finding that the explanation furnished by the appellant was acceptable and that the addition under Section 68 was not sustainable.



34. The Tribunal, while reversing the said order, accepted that the identity of the creditor stood established. However, it held that the appellant failed to establish the genuineness of the transaction and the creditworthiness of the creditor. The reasoning of the Tribunal shows that substantial emphasis was placed on the fact that the creditor had not filed return of income for the assessment year corresponding to the transaction, and that the explanation furnished by the appellant regarding the nature of the receipt had undergone a change during the assessment proceedings.

35. The question that arises is whether such reasoning, by itself, was sufficient to dislodge the findings recorded by the Commissioner of Income Tax (Appeals), who had examined the same set of documents along with the remand report of the Assessing Officer. The appellate authority is a fact-finding authority, and its conclusions are required to be tested on the basis of perversity, non-consideration of material evidence, or application of incorrect legal principles.

36. The record shows that the Commissioner of Income Tax (Appeals) did not accept the appellant's explanation mechanically. The appellate authority examined



the bank statements, ledger accounts, confirmations, and the remand report submitted by the Assessing Officer. The remand report itself did not bring any adverse material to show that the bank transactions were fictitious or that the funds originated from the appellant itself. The deletion of the addition was thus based on appreciation of evidence available on record.

37. The Tribunal, on the other hand, did not record any finding that the documents relied upon by the appellant were false or fabricated. Nor did it point out any specific material to show that the banking transactions were sham. The finding of lack of creditworthiness was primarily based on the absence of return of income filed by the creditor for the relevant year. While filing of return is a relevant circumstance, it cannot be the sole determinative factor, particularly when the transaction is routed through banking channels and the identity of the creditor is not in dispute.

38. At this stage, it is necessary to examine whether the approach adopted by the Tribunal amounts to requiring the appellant to establish the source of the source. Once the appellant produced bank statements showing the debit entries in the account of the creditor corresponding to the credit



entries in its own books, and once the identity of the creditor was established, the question whether the funds in the creditor's account originated from some other source becomes a matter requiring investigation by the Revenue. The assessee cannot ordinarily be compelled to explain the origin of funds in the hands of a third party unless the material on record justifies such an enquiry.

39. The Tribunal's reasoning, when read as a whole, indicates that the appellant was effectively expected to demonstrate the financial capacity of the creditor beyond the documentary evidence already placed on record. This approach raises a legal issue as to the extent of the burden under Section 68 and whether the Tribunal applied a standard higher than what the law contemplates.

40. The reliance placed by the Respondents on decisions such as *Kale Khan Mohammad Hanif and NRA Iron and Steel Pvt. Ltd.* (Supra) does lay down that the burden under Section 68 lies on the assessee and that mere production of documents may not be sufficient in all cases. However, those decisions also recognise that each case must be decided on its own facts and that the explanation offered by the assessee must be examined in a reasonable manner. In the



present case, the Commissioner of Income Tax (Appeals) found the explanation to be satisfactory after examining the entire material, whereas the Tribunal reversed that finding without pointing out any concrete defect in the evidence relied upon by the appellate authority.

41. The Respondents have also relied on the decision in *Vijay Kumar Talwar (Supra)* to contend that the findings recorded by the Tribunal are findings of fact. While it is true that this Court does not reappreciate evidence under Section 260A, it is equally settled that where the Tribunal ignores relevant material, applies an incorrect legal test, or reverses findings without adequate reasons, a substantial question of law does arise.

42. In the present case, the Tribunal did not demonstrate why the appreciation of evidence by the Commissioner of Income Tax (Appeals) was erroneous in law. The Tribunal's order does not indicate consideration of the remand report in its proper perspective, nor does it address why the banking trail accepted by the appellate authority was insufficient to establish genuineness.

43. Therefore, the manner, in which the Tribunal has applied the principles governing Section 68 of the Act, and the



reasons assigned for reversing the order of the Commissioner of Income Tax (Appeals), has been examined by this Court.

44. Upon consideration of the material available on record, the findings recorded by the Commissioner of Income Tax (Appeals), and the reasoning adopted by the Income Tax Appellate Tribunal, this Court is of the considered view that the Tribunal was not justified in reversing the order passed by the Commissioner of Income Tax (Appeals) without demonstrating any perversity, misreading of evidence, or application of an incorrect legal standard by the appellate authority.

45. The Commissioner of Income Tax (Appeals) had examined the explanation furnished by the appellant in the light of the documentary evidence placed on record as well as the remand report submitted by the Assessing Officer. The deletion of the addition under Section 68 of the Income Tax Act was based on appreciation of material that was already part of the assessment record. The Tribunal, while exercising appellate jurisdiction, was required to examine whether the findings of the Commissioner of Income Tax (Appeals) suffered from any legal infirmity or were unsupported by evidence.



46. The Tribunal has accepted the identity of the creditor and has not recorded any finding that the documentary evidence relied upon by the appellant was false or fabricated. The reversal of the appellate order is founded primarily on the assessment of creditworthiness and genuineness, without addressing in a satisfactory manner the reasoning adopted by the Commissioner of Income Tax (Appeals) or the contents of the remand report. Such an approach does not reflect proper judicial consideration of the appellate findings.

47. This Court is, therefore, of the view that the Tribunal applied an incorrect legal approach in reassessing the evidence and in effectively placing an enhanced burden upon the appellant beyond what is contemplated under Section 68 of the Act. The manner, in which the Tribunal has interfered with the order of the Commissioner of Income Tax (Appeals), gives rise to substantial questions of law and warrants interference under Section 260A of the Income Tax Act.

48. Accordingly, the substantial questions of law framed in this appeal are answered in favour of the appellant.

49. For the reasons stated hereinabove, the present Miscellaneous Appeal is allowed.



50. The order, dated 03.11.2022, passed by the Income Tax Appellate Tribunal, Patna Bench, Patna in I.T.A. No. 250(Pat)/2019 for the Assessment Year 2015-16, is set aside.

51. The order, dated 20.09.2019, passed by the Commissioner of Income Tax (Appeals), Patna, deleting the addition of Rs. 1,91,00,000 made under Section 68 of the Income Tax Act, is restored.

52. However, there shall be no order as to costs.

**(Bibek Chaudhuri, J)**

**Dr. Anshuman, J:** I agree.

**(Dr. Anshuman, J)**

skm/-

AFR/NAFR	NAFR
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