

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI**

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.37/Mum/2026
(Assessment Year:2020-2021)**

Joynest Premises Private Limited

CTS No.469-A, Near Jain Temple, R. C. Marg,
Chembur (East), Mumbai – 400071.

Maharashtra.

[PAN:AAACZ3360M

..... **Assessee**
Vs

**Assistant Commissioner of Income Tax
Central Circle 2(4), Mumbai**

Room No.802, 8th Floor, Pratishtha Bhavan,
Old CGO Annexe, M. K. Road,
Mumbai – 400071. Maharashtra.

..... **Respondent**

Appearance

For the Assessee/Assessee	:	Shri Madhur Agarwal & Shri Fenil Bhatt
For the Respondent/Revenue	:	Shri Manish Ajudiya

Date

Conclusion of hearing	:	26.03.2026
Pronouncement of order	:	22.05.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the Order, dated 12/12/2025, passed by the Commissioner of Income Tax (Appeals) – 48, Mumbai [hereinafter referred to as the '**CIT(A)**'] whereby Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 22/03/2025, passed under Section 147 read with Section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'], for the Assessment Year 2020-2021.
2. The Assessee has raised following grounds of appeal:

"1. On the facts and in the circumstances of the case and in law, the

Learned Commissioner of Income Tax (Appeals) erred in upholding the validity of the reassessment proceedings initiated under section 147 of the Income-tax Act, 1961, which were based solely on third-party information obtained from the Areion Group, thereby acting on borrowed satisfaction and without any independent application of mind by the Assessing Officer.

2. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) erred in upholding the action of the Assessing Officer in invoking Explanation 2(iv) to section 148 without establishing that the seized material recovered from the Areion Group on 08.12.2021 in fact pertained to or related to the Assessee. The absence of such nexus vitiates the "reason to believe" and renders the reassessment void ab initio.*
 3. *On the facts and circumstances of the case as well as in law, the Learned Commissioner of Income Tax (Appeals) erred in holding that mere reference to objections in the body of the assessment order amounts to sufficient compliance with the directions of the Hon'ble Supreme Court in GKN Driveshafts (India) Ltd. v. ITO (259 ITR 19, SC). The failure of the Assessing Officer to pass a separate and reasoned order disposing of objections renders the reassessment void ab initio.*
 4. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) erred in confirming the addition of ₹1,12,50,000/- under section 69A of the Income-tax Act, 1961, despite the fact that the impugned transaction represented bona fide inter-corporate loan transactions duly routed through banking channels and recorded in the regular books of account.*
 5. *On the facts and in the circumstances of the case as well as in law, the Learned CIT(A) failed to appreciate that the addition was made solely based on third-party statements recorded in the case of the Areion Group, without affording the Assessee the opportunity to cross-examine the deponents in violation of the principles of natural justice.*
 6. *The order under appeal is not only bad in law and invalid, but also against the principles of natural law of equity and justice.*
3. The relevant facts in brief are that the Assessee is a private limited company engaged in the business of real estate development. The Assessee originally filed its return of income for the Assessment Year 2020-21 on 09/02/2021 declaring a loss of INR.28,55,074/-.
- Assessment under Section 143(3) was completed on 28/09/2021 accepting the returned income. Subsequently, a search and seizure action under Section 132 of the Act was conducted on 08/12/2021 on Omkara/Areion Group and its related entities. During this search,

digital evidences were seized from Shri Ram Lal Nath, Director of Areion Fincap Pvt. Ltd. The seized material included a Pen Drive containing a parallel set of books of accounts in Tally software named 'Personal'. Shri Ram Lal Nath, in his statement recorded under Section 132(4) of the Act, admitted that this 'Personal' Tally contained unaccounted transactions and details of accommodation entries. Upon analysis of the seized 'Personal' Tally data, the Assessing Officer observed specific ledger accounts relating to the Assessee company. The data revealed that the Assessee had provided funds to Areion Fincap Pvt Ltd, which were recorded in the 'Personal' Tally as loans taken by Areion Group entities. The Assessing Officer noted that these transactions matched with the audited books of accounts but were flagged in the seized data as accommodation entries involving cash components or journal adjustments without genuine commercial substance. Specifically, the Assessing Officer identified a sum of INR.1,12,50,000/- involving loan transactions which were categorized as accommodation entries based on the modus operandi admitted by the key persons of the Areion Group. Based on this information, the Assessing Officer reopened the assessment under Section 147 of the Act. During the reassessment proceedings, the Assessing Officer show-caused the Assessee regarding the nature of these transactions. The Assessee contested the reopening and the additions, claiming the transactions were genuine and through banking channels. The Assessing Officer rejected these contentions, holding that the banking entries were merely a layer to facilitate the accommodation entries as explained in the sworn statements of the search subjects. Consequently, the Assessing Officer passed the order under Section 147 read with Section 143(3) on 22/03/2025, treating the amount of INR.1,12,50,000/- as unexplained income under Section 69A of the Act.

4. Being aggrieved, the Assessee has preferred appeal before the Learned CIT(A) challenging the validity of the reassessment proceedings as well

as addition of INR.1,12,50,000/- made under Section 69A of the Act on merits. The Learned CIT(A) rejected Assessee's challenge to the validity of reassessment proceedings and upheld addition of INR.1,12,50,000/- made by the Assessing Officer under Section 69A of the Act.

5. Being aggrieved the Assessee has preferred the present appeal before the Tribunal on the grounds reproduced in Paragraph 2 above.
6. We have heard the rival submissions and have perused the material on record. Ground No.1 to 3 raised by the Assessee are rejected against the Order passed by the Learned CIT(A) rejecting Assessee's claim to the validity of reassessment proceedings. Ground No.4 is directed against the order passed by the Learned CIT(A) confirming the addition made by the Assessing Officer under Section 69A of the Act. By way of Ground No.5 and 6 the Assessee has challenged the validity of reassessment proceeding on the ground of violation of principle of natural justice.
7. We would first take up Ground No.4 raised by the Assessee challenging the addition of INR.1,12,50,000/- under Section 69A of the Act on merits. We have heard both the sides and have perused the material on record.
8. We note that during the course of hearing Learned Authorized Representative for the Assessee had, inter-alia, contended that provisions to Section 69A of the Act which not attracted in the facts and circumstances of the present case. In this regard reliance was placed by the Learned Authorized Representative for the Assessee on the Written Submissions, dated 31/07/2025, filed by the Assessee before the Learned CIT(A) relevant extract of which read as under:

"8. Ground 3:

- a) *The Assessee respectfully submits that the Learned Assessing Officer (LAO) has grossly erred, both in law and on facts, in invoking the provisions of Section 69A of the Income-tax Act,*

1961, and consequently making an unwarranted addition of ₹1,12,50,000/- to the Assessee's income.

b) Section 69A of the Income-tax Act, 1961 stipulates the following cumulative conditions:

- The assessee must be found to be the owner of any money, bullion, jewellery, or other valuable articles;*
- Such assets are unrecorded in the assessee's books of account;*
- The assessee does not provide a satisfactory explanation regarding the nature and source of acquisition*

c) In the present case, the Learned Assessing Officer (AO) has erroneously invoked the provisions of Section 69A of the Income-tax Act, 1961, to make an addition of ₹1,12,50,000/-, representing loan transactions between the Assessee and Areion Fincap Private Limited. The AO has incorrectly treated these bona fide financial transactions as 'unexplained money' without appreciating the documentary evidence and banking trail substantiating the same

d) However, the invocation of Section 69A in this case suffers from fundamental legal and factual infirmities, as explained below:

- The assessee has given loan to M/s. Areion Fincorp Private Limited of Rs. 1,12,50,000/- in two tranches of Rs. 72,00,000/- and 40,50,000/- on 18th June 2019 and 20th June 2019 respectively.*
- The transactions were duly recorded in the books of account of both parties, clearly supported by documents and corresponding bank entries.*

Copy of ledger is assessee company Exhibit 7

Bank statement of the assessee company showing the above transaction-Exhibit 8

Copy of Loan Confirmation Exhibit 9

Bank statement of the Areion Fincorp Private Limited showing the above transaction - Exhibit 10

Financials of Areion Fincorp Private Limited - Exhibit 11

ITR acknowledgment of Areion Fincorp Private Limited – Exhibit 12

- It is pertinent to note that the fundamental condition for invoking Section 69A-namely, that the amount is not recorded in the books of account is clearly absent in the present case. The impugned transactions are duly recorded and supported by banking documentation. Therefore, the application of Section 69A in respect of such accounted transactions is legally untenable and devoid of merit.

No "ownership" of unexplained assets

- Section 69A of the Income-tax Act is applicable only in cases where the assessee is found to be in possession of unexplained money, bullion, jewellery, or other valuable articles, and such ownership is not recorded in the books of account. In the present case, the Assessee has neither been found in possession of any such money nor is there any material on record establishing ownership of unexplained assets. Accordingly, the invocation of Section 69A is wholly misconceived and without factual or legal basis.
- The impugned transactions represent clear loan advances extended to and subsequently repaid by Areion Fincap Private Limited. These transactions are duly reflected as receipts and payments in the Assessee's books and are fully supported by banking records. Hence, the Assessee cannot be regarded as the 'owner' of any unexplained funds; rather, the Assessee merely acted in the capacity of a creditor.
- xx xx
- xx xx
- Sections 131 and 133(6) of the Income-tax Act, 1961, confer wide powers upon the Assessing Officer to verify the genuineness of transactions during the course of assessment or reassessment. While Section 131 vests the Officer with powers akin to those of a civil court, including summoning and enforcing the attendance of persons and compelling the production of books and documents. Section 133(6) authorises the AO to call for specific information from third parties. In the present case, despite the availability of these statutory tools, the Assessing Officer failed to issue any notice under Section 133(6) or summon the relevant parties under Section 131, such as Areion

Fincap Private Limited, to verify the nature and authenticity of the loan transactions. The absence of such inquiries renders the assessment process incomplete and contrary to the principles of natural justice. Without issuing such notice, the AO made adverse inferences solely based on assumptions, without affording Areion Fincap Private Limited an opportunity to confirm or explain the transaction.

- xx xx
- *The learned Assessing Officer's reliance on ex-parte statements obtained during search operations on other entities, without affording the Assessee opportunity for confrontation, violates established legal principles and renders the addition legally unsustainable.*
- *Such omission amounts to a clear violation of the principles of natural justice and fundamentally undermines the validity of the addition made under Section 69A."*

9. Per contra Learned Departmental Representative relied upon the findings returned by Assessing Officer and the Order passed by the Learned CIT(A). By placing the reliance upon Paragraph 8.10 of the impugned order passed by the Learned CIT(A), Learned Departmental Representative submitted that the Assessee has recorded false description of the transactions in its books of accounts. Therefore, requirement of the regarding recording of transactions in the books of accounts was not satisfied. Since the addition made by the Assessing Officer were based upon evidences in the form of Personal Tally found during the course of search proceedings which stood corroborated with the entries in the bank statement of the Assessee.
10. In rejoinder, Learned Authorized Representative for the Assessee reiterated that the transactions under consideration were duly recorded in the books of accounts and therefore, clearly in the facts and circumstances of the present case the provisions of Section 69A of the Act were not attracted.
11. We note that the Assessing Officer placed reliance on the statement of Ram Lal Nath in Paragraph 9 of the Assessment Order wherein it has

been admitted that Areion Fincap Pvt. Ltd. was engaged in the cash transactions. The relevant extract of Paragraph 9 of the Assessment Order, reads as under:

"9. It has been explicitly deciphered from the statement of Ram Lal Nath that; -When unsecured loan is taken (through banking channel) in the audited books of accounts; a journal entry is passed in the "Personal Tally" showing payable to the party from whom loan is taken. Subsequently, the cash is paid to the party towards the said transaction in the "Personal Tally" & When there is a repayment entry of unsecured loan (through banking channel) in the audited books of account, a journal entry is passed in the "Personal Tally" showing receivable from the party to whom the loan is repaid. Subsequently, the cash is received from the party towards the said transaction in the "Personal Tally"."

12. On perusal of the above extract of Paragraph 9 of the Assessment Order it becomes clear that Areion Fincap Pvt. Ltd. was involved in:
- (a) taking unsecured loan through banking channel and giving cash loans; and
 - (b) receiving cash loans and repaying unsecured loans through banking channel.

It is admitted position that in the present case both the above legs of transaction were with the Assessee.

In the present case the unsecured loan of INR.72,00,000/- and INR.40,50,000/- was taken by Areion Fincap Pvt. Ltd. from the Assessee on 18/06/2019 and 20/06/2019 through banking channel.

In case the contention of the Assessing Officer is accepted, cash of INR.1,12,50,000/- thus generated by the Areion Fincap Pvt. Ltd. was given as cash loan to Assessee or at the instruction of Assessee.

As per second set of entries the cash of INR.30,00,000/-, INR.50,00,000/- and 32,50,000/- was received by Areion Fincap Pvt. Ltd. on 17/07/2019, 18/07/2019 and 19/07/2019, respectively.

Side by side, unsecured bank loan of INR.1,12,50,000/- was repaid

through banking channel by Areion Fincap Pvt. Ltd. to the Assessee in three tranches (a) INR.30,00,000/- on 17/07/2019, , INR,50,00,000/- on 18/07/2019 and INR.32,50,000/- on 19/07/2019.

13. Thus, in the facts of the present case, the source of cash was the funds transferred through banking channel and recorded in the books of accounts of the Assessee. In this regard, we note that the Learned CIT(A) has also recorded in Paragraph 8.10 of the impugned order as under:

"8.10 Regarding the applicability of Section 69A, the section applies to "money... of which the assessee is found to be the owner." The "Personal Tally" indicates that the appellant was the owner of the funds involved in this accommodation structure. The term "not recorded in the books of account" in Section 69A refers to the true nature of the transaction not being recorded. While the appellant recorded a "loan", the seized evidence indicates it was an accommodation entry. Recording a false description of a transaction does not satisfy the requirement of recording the transaction in the books. Therefore, the Assessing Officer was justified in invoking Section 69A." (Emphasis Supplied)

14. Thus, even according to the Learned CIT(A), the transaction was recorded in the books of accounts under false description incorrectly as 'loan' whereas it was an accommodation entry.

15. Section 69A of the Act reads as under:

*"69A. Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is **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 acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income 51 of the assessee for such financial year"*

On perusal of Section 69A of the Act it is apparent that the same is attracted in a case where in any financial year the Assessee is found to

be the owner of any money, bullion, jewellery or other valuable article that not recorded in the books of account maintained by him for any source of income. In our view, the aforesaid condition is not satisfied in the facts and circumstances of the present case. Admittedly, the transaction of giving unsecured loan aggregating to INR.1,12,50,000/- and repayment thereof has been recorded in the books of accounts. As regards the entries found in 'Personal Tally' is concerned, even of the contention of the Revenue is accepted that the same are not recorded in the books of accounts of the Assessee, we are of the view that the Assessee has not been found to owner of any money not recorded in books of accounts. The source of cash loan was the money in the form of unsecured loan given by the Assessee to Areion Fincap Pvt. Ltd. which has been recorded in the books of accounts of the Assessee.

16. In view of the above, we hold that the provisions of Section 69A of the Act are not attracted in the facts and circumstances of the present case. Accordingly, we delete the addition of INR.1,12,50,000/- made by the Assessing Officer invoking provisions of Section 69A of the Act. Thus, Ground No. 4 raised by the Assessee is allowed.
17. Since we have deleted the addition on merits, the grounds challenging the validity of the re-assessment proceedings are dismissed as having been rendered academic in nature. Accordingly, Ground No. 1, 2, 3, 5 and 6 raised by the Assessee are dismissed.
18. In result, appeal preferred by the Assessee is partly allowed.

Order pronounced on 22.05.2026.

Sd/-
(Vikram Singh Yadav)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 22.05.2026
Milan,LDC

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai