

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
&  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.1499/Del/2016  
Assessment Year: 2006-07**

Shri Jitender Kumar, 13/34, W.E.A., Karol Bagh, New Delhi. PAN: AAMPJ0062B Appellant	vs	DCIT, Central Circle-29, New Delhi.  Respondent
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Assessee by: Shri Anunav Kumar, Advocate  
Department by: Ms Ashima Neb, Sr. DR

Date of Hearing: 13.08.2019  
Date of Pronouncement: 03.09.2019

**ORDER**

**PER NARASIMHA K. CHARY, JM**

Aggrieved by the order dated 29.01.2016 in Appeal No. 161/2014-15 passed by the Learned Commissioner of Income-tax(Appeals)-30, New Delhi ("CIT(A)") for Assessment Years 2006-07, assessee preferred this appeal.

2. Brief facts of the case are that assessee is an individual and claims to be in the employment of one Mr. Tarun Goyal, who has been in the business of providing accommodation entries through various entities of the group. There was search and seizure operation u/s 132 of the Income-tax Act, 1961 ('the Act') on 15.9.2008 on various premises of Tarun Goyal group of companies. It was noticed that the assessee through his Account No.10137294875 with the State Bank of India, Swasthya Vihar,

Delhi had transferred funds on different dates giving accommodation entries to parties within the so called Tarun Goyal group and to the outside parties and since the assessee would not have been doing so without any returns, ld. AO estimated the commission that would have been received by the assessee at 2.25% and added a sum of Rs.4,35,938/- on that score. Further, on a perusal of the bank statement of the assessee, the transactions involved during the year were between Rs.1 lac to Rs.5 lacs and, therefore, pursuant to the order dated 18.10.2013 passed by the tribunal in TarunGoyal group of cases, ld. AO treated Rs.5 lacs as an unexplained cash credits being the peak credit in the bank account u/s 68 of the Act.

3. Assessee filed appeal challenging the additions. In appeal, ld. CIT(A) upheld the addition, but restricted the rate of commission to 2% and also determined the addition on account of cash deposits at Rs.1,93,75,000/- as against Rs.5 lacs made by the ld. AO. Hence, this appeal by the assessee contending that the ld. AO did not commit any wrong in adding the sum of Rs.5 lacs following the directions of the Tribunal vide para 20 of the order.

4. It is argued before us by the ld. AR that the first appellate authority failed to appreciate that since the bank account was used for the purpose of providing accommodation entries, the modus operandi was to deposit cash and then issue the cheque against the same and, therefore, peak credit has to be determined taking into consideration the maximum amount of cash deposited on a particular date. It is further argued that the bank account of the assessee was being used for the purpose of carrying out the business of providing accommodation entries and there was only commission income which could be said to have been earned.

5. It is brought to our notice by the counsel on either side that in assessee's own case for the earlier Asstt. Years 2004-05 and 2005-06, this Tribunal followed the view taken in ITA No.4636 and 4637/Del/2012 and ITA No.6121/Del/2013 and restored the matter to the file of the AO with certain directions. Copies of the orders dated 27.8.2015 for the Asstt. Year 2004-05 and 11.7.2019 for the Asstt. Year 2005-06 are produced before us and on a perusal of the same, we find that for both the years the Tribunal set aside the impugned orders and remanded the issue to the file of the Id. AO to decide afresh along with other group cases in the light of the directions given by a coordinate bench of this Tribunal in ITA No.4636 and 4637/Del/2012 and ITA Nos. 6121 to 6126/Del/2013. Since the present case also involves the identical set of facts having nexus with the assessment proceedings of Mr. Tarun Goyal, we deem it just and proper to set aside the impugned order and to remand the issue to the file of the Id. AO to decide the same along with other group cases in the light of the directions given by the Tribunal in ITA No.4636/Del/2012 and batch of cases by order dated 18.10.2013. We order so.

5. In the result, appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the Open Court on 3<sup>rd</sup> September, 2019.**

Sd/-

sd/-

**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

**(K.NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Dated: 3<sup>rd</sup> September, 2019  
VJ

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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