

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Anubhav Sharma, Judicial Member

ITA No. 185/Del/2020 : Asstt. Year : 2011-12

ITA No. 186/Del/2020 : Asstt. Year : 2012-13

ITA No. 187/Del/2020 : Asstt. Year : 2013-14

ITA No. 188/Del/2020 : Asstt. Year : 2014-15

ITA No. 189/Del/2020 : Asstt. Year : 2015-16

Ram Prakash Bhatia, WZ-77, 2 nd Floor, Sri Nagar, Shakur Basti, New Delhi-110034	Vs	ACIT, Central Circle-05, New Delhi-110055
(APPELLANT)		(RESPONDENT)
PAN No. AERP B1045D		

Assessee by : None

Revenue by : Sh. Gaurav Dudeja, Sr. DR

Date of Hearing: 11.07.2022

Date of Pronouncement: 13.07.2022

ORDER

Per Bench:

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-24, New Delhi dated 03.09.2019.

2. Since, the issues involved in all these appeals are identical, they were heard together and being adjudicated by a common order.

3. In ITA No. 185/Del/2020, following grounds have been raised by the assessee:

- *"The Learned Commissioner of Income Tax Appeal have passed an erroneous and unlawful order and confirmed the additions made on basis of incorrect and false details worked out at the assessment stage and further confirmed the same.*
- *That the assesseees have contested at the time of assessment. That the following account does not belong to the assessee.*

Sr. No.	Name of Concern	Account Number	Nam of Bank	Transaction Amount/ Accommodation Entries	Name of Proprietor	Rate of Comm. Per lacs	Amount of Commission
1	Choudhary and Co.	1552320005555	HDFC	7970056	Pankaj Tripathi	150	11955
2	Choudhary and Co.	15622560000162	HDFC	8565000	Pankaj Tripathi	150	12847
3	Rishabh Foods	431010200010964	Axis	120672834	Tarsem Kumar Jain	150	181009
4	Rishabh Foods	226010200007429	Axis	17798050	Varun Mehta	150	26697
5	Rishabh Foods	1539002100049194	PNB	100289920	Tarsem Kumar Jain	150	150434

- *That the Learned Commissioner of Income Tax Appeal have partly allowed (3) bank accounts and remaining bank accounts were confirmed. Which does not belong to the assessee or its associates, additions made on account these transactions may kindly be deleted the details are given here under.*

Sr. No.	Name of Concern	Account Number	Nam of Bank	Transaction Amount/ Accommodation Entries	Name of Proprietor	Rate of Comm. Per lacs	Amount of Commission
1	Rishabh Foods	431010200010964	Axis	120672834	Mr. Tarsem Kumar Jain	150	181009
2	Rishabh Foods	1539002100049194	PNB	100289920	Tarsem Kumar jain	150	150434

- *Name of the proprietors of the above mentioned accounts are wrongly ascertained at the time of assessment proceeding and even during the Appellate proceeding were not corrected. And therefore additions were confirmed which is against the facts and may kindly be deleted."*

4. A survey u/s 133A of the Income Tax Act, 1961 was carried out on the assessee on 08.08.2014. During the survey, the statement of the assessee has been recorded u/s 131(1A) of the Act wherein the assessee has confessed that he has been operating various proprietary concerns and firms which are used to give accommodation entries to various entities. The total amount of entries given are as under:

Sl. No.	Assessment Year	Amount of accommodation entries given
1.	2011-12	Rs.18,91,66,031
2.	2012-13	Rs.67,52,96,907
3.	2013-14	Rs.1,53,55,00,544
4.	2014-15	Rs.1,55,76,56,238
5.	2015-16	Rs.1,22,22,16,247

5. During the statement, the assessee has submitted the list of proprietary concerns and firms through which the accommodation entries have been given to various concerns which are as under:

Proprietary Concerns:

1. Delhi Traders
2. Jai Bharat Foods
3. Rishabh Foods
4. Mohit Trading
5. Chaudhary & Company (My wife's concern)

6. Chaudhary Traders
7. Ganesh Trading Company
8. Rama Traders
9. Ram Prakash Enterprises
10. Ram Prakash Bhatia
11. Neha Enterprises
12. Prakash Food
13. Shri Bajrang Food
14. Punjab Food
15. Bajrang Corporation
16. Shiva Store
17. Pankaj Market Ltd.

6. The entire *modus operandi* has been explained by the assessee and also examined by the Income Tax Department, the details of which are part of the Assessment Order which are reproduced in this order.

7. The Revenue authorities issued notice u/s 148 which has been duly complied by the assessee. The assessee has disclosed commission of 0.15% i.e. @ Rs.150 per one lakh of accommodation entry provided. The revenue authorities have accepted the percentage of commission and determined the commission @ 0.15% on all the credits appearing in the bank accounts through which the entries have been routed multiple times. For the sake of ready reference, the Assessment Order containing the statement of the assessee, the entities involved and the *modus operandi* is reproduced below:



INCOME-TAX DEPARTMENT

D.No. 1654

Name & Address of the Assessee	Sh. Ram Prakash Bhatia, WZ-77, Sri Nagar, Shakur Basti, New Delhi-110034
PAN/GIR No.	AWFPP6397L/ AERPBI045D
Assessment Year	2011-12
Previous Year	2010-11
Circle	Central Circle-5, New Delhi
Status	Individual
Whether resident/resident but not ordinarily resident/ Non resident	Resident
Date (s) of hearing	As per note sheet
Date of Order	31.12.2018
Section & Sub-section under which the assessment is made	147 r.w.s. 143(3) of the Income-tax Act, 1961

ORDER UNDER SECTION 147/143(3) OF THE INCOME-TAX ACT, 1961

A survey operation u/s 133A of the Income Tax Act, 1961 (herein after referred to as "Act") was carried out on Sh. Ram Prakash Bhatia, the assessee on 08.08.2014 by the Investigation Wing. During the survey proceedings, he admitted his involvement in business of providing bogus billing and accommodation entries. Further, during preparation of survey report, it was found that the assessee was involved in huge transactions with different firms/companies in the assessment year 2011-12, relevant to FY: 2010-11. Further on perusal of the ITD database, it was noted that the assessee had filed return for AY: 2011-12 on 31.03.2012 declaring an income of Rs. 1,59,800/- and same was processed u/s 143(1) of the Act on 25.06.2012 at returned income. The assessee, in his ITR, had left the total sale/turnover column blank and there was no scrutiny assessment u/s 143(3) in this case. But information from Rohtak Investigation Wing was received based on the statement of Sh. Hari Ram Gupta, wherein he had admitted that he had made transactions with M/s Prakash Foods, proprietor of which was Sh. Ram Prakash Bhatia, in FY: 2010-11 and 2011-12. This led to conclusion of

Sh. Ram Prakash Bhatia



-1-

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R. Bhatia

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escapement of income and tax thereon under the provisions of the Act. Keeping this in view, the case was selected for assessment proceedings u/s 147 of the Act after taking prior approval from the relevant competent authorities after recording reasons for satisfaction for believing of escapement of tax. Accordingly, notice u/s 148 was issued on 31.03.2018 to the assessee and duly served upon the assessee by post. Subsequent notices u/s 142(1) and other notices were issued during the course of assessment proceedings. In compliance of the above mentioned notices, Sh. Ram Prakash Bhatia and Mr. BM Syal, CA appeared from time to time and filed reply and details which are placed on records. The assessee derives income from business and income from other sources.

2. The following notices were issued to the assessee during the proceedings. The response of the assessee has been as under:

S.No.	Notice u/s (dated)	Due Date for Compliance	Response of the Assessee
1.	148 Dated - 31/03/2018 along with questionnaire	08/04/2018	Non Compliance
2.	271F dated 14.08.2018	23/08/2018	Non Compliance
3.	Order u/s 271F passed on 28.08.2018	--	
4.	Show cause notice for completion of assessment proceedings u/s 144 dated 25.09.2018	05.10.2018	Non Compliance
5.	142(1) Dated - 10/10/2018 along with questionnaire	17/10/2018	Non Compliance
6.	271(1) (b) Dated - 25/10/2018	30/10/2018	Compliance made on 14.11.2018 submitting the ITR for FY: 2013-14
7.	143(2) Dated - 03/12/2018	07/12/2018	Compliance

3. In compliance to the notice u/s 148, as stated above in the table, the assessee filed its return of income u/s 148 of Act on 02.11.2018 vide acknowledgment no. 372396480021118 declaring income at Rs. 4,16,302/-

Background of the case

4. A survey u/s 133A was carried out on Mr. Ram Prakash Bhatia on 08.08.2014. During survey operation his statement was recorded u/s 131(1A) of the Income Tax Act,

Sh. Ram Prakash Bhatia



-2-

A.Y. 2011-12

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161 wherein he was asked to furnish the details of source of income of himself and of his family members. In response to the same, he stated that he had been carrying out the work of billing from which he used to earn commission income. He also had rental income and he also stated about the different concerns being managed by him. He, in his statement clarified that he has been doing the work of providing accommodation entries and bogus bills. Relevant pages of his statement are reproduced as below:

All these cases had been initially centralized with CIT(Central)-I, New Delhi by CCIT(Central), Delhi vide order no F.No CCIT(C)/2014-15/Centralization/3279 dated 23-09-2014 and assigned to DCIT/ACIT, Central Circle-5, Delhi.

5. MODUS OPERANDI DETECTED

As alleged, Shri Ram Prakash Bhatia is working as an accommodation entry operator who has floated different proprietorship concerns. The above fact was also discovered during the course of Survey action when Shri Ram Prakash Bhatia was examined u/s 131(1A) of the IT Act, 1961 on 08.08.2014. The copy of complete statement is enclosed as Annexure 1 to this report. During his statement, he was asked to furnish the detail of source of income of himself and of his family members. In response of the same he stated that he carries out the work of billing from which he used to earn commission income. He also had the rental income. Also, on being asked, he also stated about the various concern managed by him. The relevant portion of his statement is reproduced below:-

प्र.3. कृपया अपनी व परिवार के सदस्यों की आय के सभी स्रोतों की जानकारी दें।
उत्तर- मैं बिलिंग का कार्य करता हूँ। इसमें मुझे कमीशन मिलता है और इसके अलावा मेरी किराये से भी आमदनी होती है।

प्र.4. कृपया आपके नाम व आपके इते Address पर रजिस्टर्ड सभी फर्मों की जानकारी दें।
उत्तर- नीचे दी गई फर्म इस Address पर रजिस्टर्ड एवं दूसरे Address पर भी रजिस्टर्ड हैं। सभी concern या तो मेरी प्रोपराइटीय हैं। या मेरे परिवार के सदस्यों के नाम पर हैं। परन्तु सभी फर्म मैं ही चलाता हूँ।

1. दिल्ली ट्रेडर्स,
2. जय भारत फूड्स
3. रिश्म फूड्स
4. मोहित ट्रेडिंग
5. चौधरी एण्ड कम्पनी (मेरी बीबी की concern है।)
6. चौधरी ट्रेडर्स
7. गणेश ट्रेडिंग क०
8. रामा ट्रेडर्स
9. रामप्रकाश इन्टरप्राइजेज
10. रामप्रकाश भाटिया
11. मेहा इन्टरप्राइजेज

कुछ फर्म जो मैंने बंद कर दी हैं। वे निम्न हैं-

1. प्रकाश फूड्स
2. श्री बजरंग फूड्स
3. पंजाब फूड्स
4. बजरंग कापोरेशन
5. शिवा स्टोर
6. पंचज मार्ट लिमिटेड

Sh. Ram Prakash Bhatia



-3-

A.Y. 2011-12

R. Bhatia

Further he was asked to explain the work of billing in detail. In reply of this, he explained his complete modus operandi. He stated that he used to approach to the various Mills owners and he used to provide them bills according to their requirements. For this, he used to receive the payments through cheque. Then the amounts were returned back to the Mills owner by withdrawing it in cash from the bank account. The relevant part of his statement is reproduced below:-

प्र.5. प्रश्न 3 के उत्तर में आपने बताया कि आप बिलिंग का काम करते हैं। कृपया विस्तार से बतायें? बिलिंग से आपका क्या तात्पर्य है?

उत्तर-बिलिंग के काम में विभिन्न तरह की इन्ट्री होती हैं। जोकि मैं नीचे विस्तार पूर्वक समझाता हूँ।

1. हमलाप मिल (Mill) वाले के पास जाते हैं जोकि हमसे अलग-अलग Food Grains (अनाज) के Bill लेते हैं। उनकी जरूरत के अनुसार हम बिल काट देते हैं। वो हमें चौक पेमेंट (Payment) करते हैं। उस बैंक से आधारी रकम को हम cash में निकाल कर वापिस कर देते हैं। यह cash (कैश) जरूरी नहीं है कि हम बैंक से निकालें। क्योंकि आजकल कुछ ऐसे entry operator हैं जोकि कैश के बदले में Bank से Cheque या RTGS देते हैं। उनको हम RTGS Operator बोलते हैं। इन RTGS आपरेटर्स के पास Cash होता है। जो उनको Convert करके बैंकिंग चैनल के through उस आदमी को वापस भेजना होता है। जो यह cash देता है। इस cash को हम उनसे लेकर Mill (मिल) वालों को दे देते हैं और मिल (Mills) वालों से आया पैसा RTGS Operators की बताई हुई concern/account में भेज देते हैं। इस तरह की ट्रांसजेक्शन (Transaction) में हमें cash बैंक में जमा करने की जरूरत ही नहीं पड़ती और यह cash बाहर के बाहर settle हो जाता है।

मैं यह भी clarify करना चाहूँगा कि जो Bill हम Mills (मिल) वालों को काटते हैं, उसके बादले में हम Actually कोई फूड ग्रेन (Foodgrains) सप्लाय नहीं करते क्योंकि हमारे पास कोई स्टॉक (Stock) नहीं है। ना ही कोई stock रखने की जगह है।

2. दूसरे प्रकार की entry उन ट्रेडर्स (traders) के लिए है जो cash में sale दिखाना नहीं चाहते। वो अपना सामान हमारे Bill पर भेजते हैं। उनकी पेमेंट (Payment) हमारे अकाउंट में आती है। वह या तो हम cash निकाल कर settle कर देते हैं। यानि कि cash traders को दे देते हैं या किसी RTGS Operators के साथ पहले बताये गये तरीके के अनुसार सैटलमेंट (Settlement) कर देते हैं।

प्र.6. क्या आपका ऊपर दिये गये उत्तर से तात्पर्य है कि आप केलव बैंक के through मिल (Mills) का पैसा RTGS Operators के Beneficiaries (लाभार्थी) को पहचानने का काम करते हैं और RTGS operators का कैश आप मिल (Mills) वालों को पहुँचाते हैं।

उत्तर-जी हाँ। यह ठीक है उसके अलावा मैं मिल (Mills) वालों का प्राप्त पैसा को एवम् Traders (जो कि अपने अकाउंट में sale नहीं दिखाना चाहते) वही sale का पैसा भी RTGS Operators के Beneficiaries को पहुँचाता हूँ और RTGS वाले का कैश मिल (Mills) owner और traders को देता हूँ।

प्र.10. पिछले प्रश्नों के उत्तर में आपने बताया कि आप कैसे RTGS वालों का cash traders या मिल owners को पहुँचाते हैं। कृपया इस चीज पर प्रकाश डालिए कि cash की Actual delivery कैसे होती है।

उत्तर-छोटा cash यानि कम cash में अपने ऑफिस में भगवाकर settle करवा देता हूँ यह cash की delivery token (किसी भी Note का नम्बर) Match करके होती है। बड़ी Amount में token के जरिये



सीधे cash देने वालों से cash लेने वालों के पहुँचवा देता है।

प्र.11. कृपया टोकन प्रक्रिया को विस्तार पूर्वक समझाये।

उत्तर-टोकन प्रक्रिया का इस्तेमाल हम cash के आदान-प्रदान के लिए करते हैं। टोकन एक दो रुपये से लेकर 10 रुपये तक के नोट का नम्बर होता है। किसी जानकार को पैसे देने के लिए हम टोकन का इस्तेमाल नहीं करते परन्तु जब कोई पार्टी किसी अज्ञान व्यक्ति को cash देने के लिए भेजती है तो वह पार्टी उस अज्ञान से एक नोट का नम्बर लेकर टोकन के रूप में मुझे फोन पर नोट करवा देती है या SMS कर देती है। जब कोई व्यक्ति उस नम्बर का नोट हमारे पास आता है तो हम cash उसको दे देते हैं। हम इसी प्रकार जब हमको किसी अज्ञान से cash लेना जाना होता है तो हम टोकन का प्रयोग करते हैं।

प्र.18. आप विभिन्न फर्मों के बैंक अकाउंट RTGS के हेतु अलग-अलग signatories के signature कैसे Manage कर पाते हैं।

उत्तर-सभी signatories या वा मेरे परिवार वाले हैं या मेरे दोस्त हैं जो मेरे पड़ोस में ही रहते हैं। इन सबसे हम रोज सुबह तीन-चार बैंक, साइन करवा लेता हूँ और उनको इन्टीज चुमाने के लिए इस्तेमाल करता हूँ।

On perusal of his statement he categorically admitted that the concerns mentioned by him to be registered at premises C-48/3A, 2nd Floor, Lawrence Road Indl. Area, Delhi were either in his proprietorship or in the proprietorship of his family member and were being managed/operated by him only. He used to provide the bills to the various mills owner against the goods supplied by some other traders. Further, he used to receive the payments in cheque/RTGS and after withdrawing the cash from bank account he used to return the cash either to the traders or mill owners. The allegation that Shri Ram Prakash Bhatia is an entry operator is clearly established by his statement. For the purpose of providing entries, he was managing a number of concerns through his family members.

5. Accordingly, thorough banking enquiries were carried out in the case of assessee. Notices u/s 133(6) were issued to several banks. Responses were received. As per enquiries carried out during the assessment proceedings, it was discovered that assessee was maintaining bank accounts during the relevant AY either in his name or under different proprietorship at different bank accounts, in which there were huge credit entries. The list of such bank accounts is as below: There are huge transactions in these undisclosed bank accounts in FY: 2010-11 which are tabulated as below:

Sr. No.	Name of Concern	Account Number(s)	Name of Bank
1	Bajrang Foods	909020034285635	Axis
2	Bajrang Foods(Ram Prakash)	9352320000564	HDFC
3	Bajrang Foods(Ram Prakash)	1582320004204	HDFC
4	Chaudhary Traders	1539002100053461	PNB
5	Chaudhary Traders(Ram	15622000000908	HDFC

Ram Prakash Bhatia



-5-

A.Y. 2011-12

Ram Prakash Bhatia

	Prakash)		
6	Pankaj Mart Pvt. Ltd.	509352320000581	HDFC
7	Punjab Foods	911020012673851	Axis
8	Ram Prakash Bhatia	1539002100053063	PNB

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5.1 There were a few other concerns as well found during the investigation process, which were later found linked to Sh. Pankaj Bhatia and Smt. Saroj Bhatia, son and wife respectively of the assessee; Sh. Varun Mehta; Sh. Pankaj Tripathi and Sh. Vikas Surana.

5.2 On perusal of the submissions made by the AR of the assessee and bank account statements made available by the banks u/s 133(6) of the Act, the credit entries in the bank accounts were found as under:

Sr. No.	Name of Concern	Account Number(s)	Name of Bank	Transaction Amount/ Accomodation Entries (in Rs.)
1	Bajrang Foods	909020034285635	Axis	27081635
2	Bajrang Foods(Ram Prakash)	9352320000564	HDFC	86611055
3	Bajrang Foods(Ram Prakash)	1582320004204	HDFC	10914683
4	Chaudhary Traders	1539002100053461	PNB	1005000
5	Chaudhary Traders(Ram Prakash)	15622000000908	HDFC	17128500
6	Pankaj Mart Pvt. Ltd.	509352320000581	HDFC	30460184
7	Punjab Foods	911020012673851	Axis	4325814
8	Ram Prakash Bhatia	1539002100053063	PNB	11639160
				18,91,66,031/-

5.3 In all the above bank accounts, it was seen that high value RTGS/Inter-Branch credit entries were followed by transfer out immediately or succeeding day without even maintaining minimum balance. Out of all the transactions, some high valued transaction were selected and found that the assessee had mainly received the money from companies namely as M/s Magnum Steels Ltd., M/s Royal Impex Private Limited, M/s Featherline Impex Pvt. Ltd., M/s Hanuman Agro Industries Pvt. Ltd., M/s Sharda Oil Industries Ltd. during the relevant year under consideration.

5.4 The assessee was asked to explain the source of these credit entries and their purpose thereof by the Investigation Wing in his statement dated 08.08.2014 and also during the course of assessment proceedings. He was asked to explain the genuineness of

Sh. Ram Prakash Bhatia



-6-

A.Y. 2011-12

the transactions, if any made with the above mentioned parties. In compliance thereto, he accepted that these were mainly accommodation entries. He used to provide the bills to various mill owners against the goods supplied by some other traders. Further he used to receive the payments in cheque/RTGS and after withdrawing the cash from the bank accounts, he used to return the cash to the mill owners or traders. For this purpose only, he was operating through different bank accounts. This was done in lieu of commission of Rs. 150/- per 1 lakh rupees. Relevant extract of statement recorded on oath of Sh. Ram Prakash Bhatia dated 08.08.2014 is reproduced as under:

He was asked about the detail of commission earned by him in the said work of providing bills. In response of the same, he stated that he used to earn 1/- per bag. The relevant part of his statement is reproduced as below:-

प्र.7. आपके इस काम की कितनी कमीशन मिलती है?
उत्तर-मुझे मिल (Mills) owners bogus billing की बैग के हिसाब से कमीशन देते हैं। एक Bag (बोरी) का 1 रुपया कमीशन मिलता है उधर RTGS वाले मुझे 1 लाख पर 150 रुपया कमीशन देते हैं। यह कमीशन मुझे cash में मिलती है।

The same has been clarified through the submissions made by the AR of the assessee vide his letter dated 14.11.2018 in which he has accepted the above, relevant portion of the submission dated 14.11.2018 is reproduced here as under:

" It is pertinent to mention here that the Assessee is into business of providing accommodation entries and gets certain amount of commission per lac which is generally Rs. 100-150 per lac of the amount of Transaction"

- 5.5 The above clearly establishes the fact that the assessee was an accommodation entry provider who was indulged in putting color to the unexplained money of the beneficiary companies/concerns into explained ones in lieu of some commission earned. The assessee during the course of assessment proceedings provided the contact details and addresses of some of the above mentioned beneficiary companies or from where the credit entries were made.

6. Addition on account of Commission Received:

After taking the submissions of the assessee, his statements recorded on oath during survey proceedings and during assessment proceedings, enquiries conducted u/s 133(6) and material available on record as per information received from the Investigation wing into consideration, certain additions to the total income of the assessee are being made. It

Sh. Ram Prakash Bhatia



A.Y. 2011-12

R. Bhatia

is clarified that assessee has already shown income from business of food grain trading under the head "Profit/Gain from Business and Profession" in his return of income. The additions made hereby are over and above the income shown by the assessee in his return of income.

6.1 In the accounts maintained by the assessee Sh. Ram Prakash Bhatia under his name or different proprietorship concerns maintained by him, there are total credit entries of Rs. 18,91,66,031/- credited through RTGS/online transfer etc. These amounts are then transferred to other accounts. Assessee in his statement has stated that these amounts were used to provide accommodation entries and some of the amounts included that of actual trading of food grains including Gram and Gwar. However, assessee could not produce documentary evidence to substantiate his claim that actual trading has been done through this account. Therefore, all transactions in this account are being treated as accommodation entries. Modus operandi of providing accommodation entries was explained by Mr Ram Prakash Bhatia in his statement recorded on 08.08.2014 during the course of survey operation and relevant portion has been reproduced earlier in the order. In his statement recorded, Mr. Ram Prakash Bhatia stated that he used to get commission of Rs 150 on providing bogus bill/accommodation entry of Rs 1,00,000. The same rate is being taken for calculating amount of commission on these transactions done in the all the accounts mentioned above. As per this, total commission on RTGS/online transactions is computed as under:

Sr. No	Name of Concern	Account Number(s)	Name of Bank	Transaction Amount/ Accomodation Entries (in Rs.)	Rate of commission (Rs.)(per lac)	Amount of commission (in Rs.)
1	Bajrang Foods	909020034285635	Axis	27081635	150	40622.45
2	Bajrang Foods(Ram Prakash)	9352320000564	HDFC	86611055	150	129916.6
3	Bajrang Foods(Ram Prakash)	1582320004204	HDFC	10914683	150	16372.02
4	Chaudhary Traders	1539002100053461	PNB	1005000	150	1507.5
5	Chaudhary Traders(Ram Prakash)	15622000000908	HDFC	17128500	150	25692.75
6	Pankaj Mart Pvt. Ltd.	509352320000581	HDFC	30460184	150	45690.28
7	Punjab Foods	911020012673851	Axis	4325814	150	6488.721
8	Ram Prakash Bhatia	1539002100053063	PNB	11639160	150	17458.74
				189166031		283749

6.2 Accordingly, this amount of commission of Rs 2,83,749/- is being added to the income of assessee. Since, I am satisfied that assessee has concealed particulars of income.

Sh. Ram Prakash Bhatia



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A.Y. 2011-12

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Accordingly, penalty proceedings u/s 271(1)(c) of the Income-tax Act, 1961 is being initiated separately for concealing particulars of income.

(Addition of Rs. 2,83,749/-)

7. Commission Received in Respect of Other Accounts

7.1 In the information received from the Investigation Wing post survey proceedings, it was found that there were other firms/concerns also which were being operated by Sh. Ram Prakash Bhatia only, although they were under the name of different persons as discussed above in para 5.1. Through the bank accounts maintained under the name of these proprietorship concerns, the same mode was adopted for accommodation entry and providing bogus billing. Detail of these bank accounts through which there were huge transactions in form of accommodation entry for the period under concern is as under:

Sr. No.	Name of Concern	Account Number(s)	Name of Bank	Transaction Amount/ Accomodation Entries (In Rs.)	Name of Proprietor
1	Chaudhary and Co.	1552320005555	HDFC	7970056	Pankaj Tripathi
2	Chaudhary and Co.	15622560000162	HDFC	8565000	Pankaj Tripathi
3	Rishabh Foods	431010200010964	Axis	120672834	Varun Mehta
4	Rishabh Foods	226010200007429	Axis	17798050	Varun Mehta
5	Rishabh Foods	1539002100049194	Pnb	100289920	Varun Mehta
6	Jain trading Co	2872560002972	HDFC	59712849	Vikas Surana
7	Surana Brothers	2872560002989	HDFC	18904959	Vikas Surana
8	Vikas Surana	2871930004764	HDFC	2556750	Vikas Surana

33,64,704/18

7.2 Even though the above concerns/firms are registered under the name of above persons, Sh. Ram Prakash Bhatia, in his statement dated 08.08.2014 accepted that these were operated by him only, These persons were his wife, son, relatives, friends and neighbors only, from which he used to get 3-4 cheques signed on daily basis and further they were used for the purpose of the bogus billing and accommodation entries. Relevant extract of his statement recorded u/s 131(1A) dated 08.08.2014 is reproduced here as under:

Sh. Ram Prakash Bhatia



A.Y. 2011-12

R. Bhatia

५५

प्र.18. आप विभिन्न फर्मों के बैंक अकाउंट RTGS के हेतु अलग-अलग signatories के signature कैसे Manage कर पाते हैं।

उत्तर-सभी signatories या वा मेरे परिवार वाले हैं या मेरे दोस्त हैं जो मेरे पड़ोस में ही रहते हैं। इन सबसे हम रोज सुबह तीन-चार बैंक साइन करवा लेता हूँ और उनको इन्ट्रीज घुमाने के लिए इस्तेमाल करता हूँ।

On perusal of his statement

7.3 From above, it cannot be denied that these bank accounts have been used for the purpose of accommodation entries by Sh. Ram Prakash Bhatia. Still the fact cannot be ruled out that these above persons were adults and capable of taking decisions in respect of their concerns and bank accounts and providing 3-4 cheques to some other person cannot be a coincidence and this must be with their proper involvement and knowledge of the *modus operandi* adopted by the assessee. In view of this, their cases have been reopened for the period under consideration for further enquiries. Further, during the statement of Sh. Ram Prakash Bhatia during assessment proceedings dated 22.11.2018, he declared himself that the proprietorship concerns under the name of his wife and his son were actually being operated by him only. Relevant extract of the statement is reproduced here as under:

प्र. 25 आपके और कुछ कहना है?
30 हों। M/s Delhi Traders मेरी पत्नी श्रीमती सरोज भटिया के नाम पर है, पर इसका सारा काम मैं ही देखा भा। इसी तरह एक और firm, M/s Ganesh Trading Co. व M/s Rama Traders, मेरे बेटे के नाम पर हैं।



R.K.
28-11-18

28/11



Sh. Ram Prakash Bhatia

लेकिन इन दोनों का काम मैं ही देखता था। इन तीनों Firms का काम 2015 में बंद कर चुका है।

साथ ही ये बताना चाहूँगा कि C-48/3A-I, Lawrence Road Industrial Area, Delhi की बिजली का बिल मेरे बेटे Pankaj Bhatia के नाम पर आता है। इस इमान की Property के Papers नहीं हैं।

R. Prakash
28-11-18

28/11
RAVEEN KUMAR
Asst. Commissioner of Income
Tax, Central Circle-05, New Delhi

7.4 This also establishes that all these firms were being operated by him only. Without prejudice to the above, amount of commission earned on the transactions involved through these bank accounts, unless proved to be the income of the persons named above through enquiries conducted during assessment proceedings, are liable to be added back to the income of the assessee Sh. Ram Prakash Bhatia. The same rate is being taken for calculating amount of commission on these transactions done in all the accounts mentioned above. As per this, total commission on RTGS/online transactions through bank accounts under name of different firms is computed as under:

Sr. No.	Name of Concern	Account Number(s)	Name of Bank	Transaction Amount/ Accomodation Entries (in Rs.)	Name of Proprietor	Rate of commission (Rs.)(per lac)	Amount of commission (in Rs.)
1	Chaudhary and Co.	1552320005555	HDFC	7970056	Pankaj Tripathi	150	11955
2	Chaudhary and Co.	15622560000162	HDFC	8565000	Pankaj Tripathi	150	12847
3	Rishabh Foods	431010200010964	Axis	120672834	Varun-Mehta	150	181009
4	Rishabh Foods	226010200007429	Axis	17798050	Varun Mehta	150	26697
5	Rishabh Foods	1539002100049194	Pnb	100289920	Varun Mehta	150	150435
6	Jain trading Co	2872560002972	HDFC	59712849	Vikas Surana	150	89569
7	Surana Brothers	2872560002989	HDFC	18904959	Vikas Surana	150	28357

Sh. Ram Prakash Bhatia



-11-

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R. Prakash

8	Vikas Surana	2871930004764	HDF C	2556750	Vikas Surana	150	3835
				319935362			5,04,704/-

7.4 Accordingly, this amount of commission of Rs 5,04,704/- is being added to the income of assessee. Since, I am satisfied that assessee has concealed particulars of income. Accordingly, penalty proceedings u/s 271(1)(c) of the Income-tax Act, 1961 is being initiated separately for concealing particulars of income.

(Addition of Rs. 5,04,704/-)

8.	With these remarks, computation of total income is as under: -	
	Income as per ITR u/s 139	Rs 4,16,302/-
	Add:	
	Addition as per para 6.2	Rs. 2,83,749/-
	Addition as per para 7.4	Rs. 5,04,704/-
	Assessed Income	Rs. 12,04,755/-
	Rounded off	Rs. 12,04,750/-

11. After scrutinizing the relevant documents and discussing the case with AR of the assessee, income of the assessee is assessed at Rs. 12,04,750/- u/s 147 read with section 143(3) of the IT Act, 1961. Interest is being charged u/s 234B, 234C and 234D accordingly. Tax calculation along with interest is attached separately as per ITNS-150A which is part of this assessment order. Penalty proceedings u/s 271(1)(c) of the IT Act, 1961 is being initiated separately for concealing particulars of income.

(Naveen Kumar)
Asstt. Commissioner of Income-tax
Central Circle-5, New Delhi

Copy to: the assessee

Asstt. Commissioner of Income-tax
Central Circle-5, New Delhi
NAVEEN KUMAR
Asstt. Commissioner of Income Tax
Central Circle-05, New Delhi



Sh. Ram Prakash Bhatia

8. Aggrieved the assessee filed appeal before the Id. CIT(A) who after getting the remand report from the Assessing Officer considered the accommodation entries and also the entries which have been taken twice and remanded the matter to the Assessing Officer to take appropriate remedial action after due verification in case of double addition on account of repeated entries.

9. The main grievance of the assessee before us are that the contra entries have not been considered and certain accounts which do not belong to the assessee have also been considered for calculation of the commission amount.

10. None appeared on behalf of the assessee.

11. The Id. DR has argued that the commission of 0.15% has been determined after taking into consideration, the multiple entries of the same amount routed through different accounts. It was argued that otherwise the normal commission rate determined by the Tribunals and High Courts in a number of cases ranged from 1.5% to 3% on the accommodation entries provided.

12. We have gone through the statement of the assessee recorded u/s 131(1A), the bank accounts operated by him which are in his own name and which are in the name of others. Keeping in view, the entirety of the accommodation entries, we do not hesitate to hold that the commission earned by the assessee by using the bank accounts in the name of other persons also liable to be taxed in the hands of the assessee only as the assessee is the operator and the beneficiary of

these accounts and these accounts standing in the name of other persons have also been undoubtedly used for giving accommodation entries. Thus, the plea of the assessee that the commission cannot be charged pertaining to the accounts doesn't belong to the assessee is hereby dismissed. With regard to multiple routing of the amounts among various accounts, we are of the opinion that the percentage of commission charged @ 0.15% instead of the normal 1.5% takes care of such multiple routing of entries upto 10 times.

13. Keeping in view, the entire facts of the case, we hereby hold that the appeals of the assessee on this ground are liable to be dismissed.

14. In the result, the appeals of the assessee are dismissed.
Order Pronounced in the Open Court on 13/07/2022.

Sd/-

(Anubhav Sharma)
Judicial Member

Dated: 13/07/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR