

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI N.K. CHOUDHRY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 4950 & 4951/Del/2019
Assessment Year: 2010-11 & 2015-16**

ACIT, Central Circle-25,
New Delhi.

(Appellant)

Versus Pawansut Holdings Ltd.,
208, Mukund House,
Commercial Complex,
Azadpur, New Delhi.

PAN: AAACP6964H

(Respondent)

Appellant by : Sh. S.L. Verma, Ld. Sr. DR

Respondent by : Sh. Vivek Agarwal, Ld. CA

Date of hearing: 18.01.2023

Date of order : 27 .02.2023

ORDER

PER N.K. CHOUDHRY, J.M.

These appeals have been preferred by the Revenue Department against the orders even dated 18.03.2019 impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-29, New Delhi(in short "Ld. Commissioner"), u/s. 250(6) of the Income-tax Act, 1961 (in short 'the Act') for the assessment years 2010-11 and 2015-16.

2. In ITA no. **4950/Del/2019** (AY 2010-11), the Assessee declared an income of Rs.12,70,940/- by filing its return of income on dated 30.09.2011, which was processed u/s. 143(1) of the Act on 30.11.2011. Subsequently, a search and seizure operation u/s. 132 of the Act was carried out in the group cases of Shri Sajan Kumar Jain, Shri Pradeep Kumar Jindal on 18.11.2015. While examining the seized documents of the searched person, the Assessing Officer came across with certain documents belonging to the Assessee, the person other than the searched person. The AO, therefore, after recording satisfaction to this effect that the action u/s. 153C of the act is attracted, handed over the said seized documents to the Assessing Officer of the instant Assessee.

Subsequently the Assessing Officer of the instant case also recorded his satisfaction and by issuing notice u/s. 153A r.w.s. 153C of the Act on 20.06.2017, asked the Assessee to file its return of income within 15 days from the receipt of this notice. In response, the Assessee by filling its return of income u/s. 153C of the Act on dated 01.08.2017 declared an income of Rs.12,70,941/-. Subsequently, statutory notices u/s. 143(2) and 142(1) along with questionnaire were also issued on 18.08.2017.

2.1 On perusing the return of income filed by the Assessee, it was observed by the Assessing Officer that the Assessee company is a non-banking Finance Company and engaged in the business of investment and received accommodation entries to the tune of Rs.8,25,00,000/- from front companies of Shri Pradeep Kumar Jindal and therefore show caused the Assessee. The Assessee in response claimed that the Assessee has not received any accommodation entry, however asked the Assessing Officer to provide the seized material.

2.2 The Assessing Officer though examined the reply of the Assessee and claim to the effect that the Assessee has not received any accommodation entry, however, came to the conclusion that from the information gathered by the department that the Assessee company is engaged in providing accommodation entries in lieu of cash to various entities including Sajan Kumar Jain group of companies and family members of Shri Sajan Kumar. Moreover, the same has been admitted by Shri Pradeep Kumar Jindal in his statement recorded u/s. 132(4) of the Act. It is also pertinent to mention here that the Assessee company is controlled, managed and run by Shri Pradeep Kumar Jindal. In view of this, it is established that these are

accommodation entries and have been routed through the front company, i.e., the Assessee company. It is pertinent to mention that this share capital investment has been made in the hands of the Assessee company which is a front company as explained above, therefore, the entire amount of Rs.8,25,00,000/- in the form of share premium and share capital is added in the hands of the Assessee company.

4. In ITA no. **4951/Del/2019 (AY 2015-16)** also the addition of Rs.3,67,10,582/- was made by the Assessing Officer by passing assessment order dated 29.12.2017 u/s. 153C/143(3) of the Act, on the similar footing, as made by the Assessing Officer in the case pertaining to A.Y. 2010-11.

5. The Assessee, being aggrieved with the additions made and assessment orders passed by the AO, by filling first appeals before the Ld. Commissioner, challenged the said additions, who partly allowed the appeals of the Assessee by holding that since the substantive additions with regard to the commission income received through accommodation entries, provided through these companies, has been confirmed by me in the hands of Shri Pradeep Kumar Jindal, therefore, further additions on account of commission in the hands of the appellants are also not required to be made.

6. The Revenue being aggrieved is in appeal before us.

7. Heard the parties and perused the material available on record. The Assessee by filing letter dated 18.01.2023 claimed that the commission income from accommodation entries found in the case of the Assessee, has already been accepted by Shri Pradeep Kumar Jindal as a part of his taxable income in all the years reopened u/s. 153A on account of search conducted at his residence/office on 18.11.2015, subject to reconciliation of multiple additions, rate of commission and its taxability as per law. A confirmatory letters dated 18.01.2023 from Shri Pradeep Kumar Jindal have also been placed on record for kind perusal. The Assessee also claimed that Assessee's own cases, i.e., ITA No. 8427/8517/9834/Del/2019 for the assessment years 2012-13, 2013-14 and 2014-15 respectively, have also been decided by the Hon'ble coordinate Bench of the Tribunal vide order dated 14.12.2022 wherein the appeals of the department have been dismissed by taking into consideration the said facts. However, the Hon'ble Coordinate Bench put up a rider that in the event of any deletion in the hands of Shri Pradeep Kumar Jindal, wherein the substantial additions were made, the Revenue shall have liberty to take further steps against the Assessee herein in accordance with law. Further, the

coordinate Bench also directed the registry to place the written submission made on dated 08.12.2012 by Assessee along with the letter written by Shri Pradeep Kumar Jindal dated 07.12.2022 and the copy of the order in the file of ITA No.8288/Del/2018 (AY 2012-13), ITA Nos. 8289/Del/2018(AY 2013-14) & 8290/Del/2019(AY 2014-15) filed by Shri Pradeep Kumar Jindal. For ready reference, the concluding part of the order passed by the coordinate Bench is reproduced herein below :

“5. By considering the statement made by the Ld. A.R and also the letter of Sh. Pradeep Kumar Jindal filed by the Ld. A.R, wherein Shri. Pradeep Kumar Jindal has accepted that the commission earned on accommodation entries given by the Assessee as a part of his income in respect of the year under consideration and the issue will be adjudicated in the appeals filed by Shri Pradeep Kumar Jindal (in ITA No. 8288/Del/2018 (A.Y 2012-13), ITA No. 8289/Del/2018 (A.Y 2013-14) & ITA No. 8290/Del/2019 (A.Y 2014-15), we inclined to dismiss the appeal filed by the Revenue. Accordingly, the appeals filed by the Revenue are dismissed. However, in the event of any deletion in the hands of Shri Pradeep Kumar Jindal, wherein the substantial addition were made, the Revenue shall have liberty to take further steps against the Assessee herein in accordance with law.

6. Further we direct the registry to place the written submission made by the Ld. AR dated 08/12/2012 along with the letter written

by Shri Pradeep Kumar Jindal dated 07/12/2022 and the copy of this order in the file of ITA No. 8288/Del/2018 (A.Y 2012-13), ITA No. 8289/Del/2018 (A.Y 2013-14) & ITA No. 8290/Del/2019 (A.Y 2014-15) filed by Sh. Pradeep Kumar Jindal.

7. In the result, Appeal in ITA No. 8427/Del/2019, 8517/Del/2019 and 9834/Del/2019 are dismissed.”

6.1 We have given thoughtful consideration to the peculiar facts and circumstances of the case. Considering the facts and circumstances in totality, as the Hon'ble Coordinate Bench in the aforesaid order, relating to the Assessee itself, has already taken into consideration the peculiar facts that the entries on the basis of which addition have been made, already subjected to tax in the case of Shri Pradeep Kumar Jindal, who by letter dated 18.01.2023 accepted the fact that he has already accepted the commission income on the accommodation entries given by M/s. Pawansut Holdings Ltd. as part of his taxable income in respect of assessment years 2010-11 and 2015-16 and his personal appeals for the said assessment years (ITA Nos. 8286/Del/2018 for A.Y. 2010-11 and 8291/Del/2018 for A.Y. 2015-16) are pending in ITAT for its direction on multiple additions, rate and calculation of commission and its taxability as per law.

6.2 By considering the order passed by the Hon'ble Coordinate bench and the confirmatory letters issued by Shri Pradeep Kumar Jindal, we are inclined to dismiss the appeals of the Revenue department but subject to the following directions:

- (i) In the event of deletion of additions in the hands of Shri Pradeep Kumar Jindal, in his own quantum cases/appeals for A.Yrs. 2010-11 & 2015-16, the Revenue would be at liberty to take appropriate steps for revival of these appeals in accordance with law.*
- (ii) The Revenue department is directed to place the copy of this order, as well as letter dated 18.01.2023 filed by the Assessee along with confirmatory letters dated 18.01.2023 issued by Shri Pradeep Kumar Jindal in the assessment records pertaining to Assessment Years: 2010-11 & 2015-16 of the Assessee as well as of Shri Pradeep Kumar Jindal.*
- (iii) The Registry is also directed to place the copy of this order and aforesaid two letters dated 18.01.2023 in Appeal files i.e. ITA Nos. 8286/Del/2018 and 8291/Del/2019 for the A.Yrs. 2010-11 and 2015-15 respectively, filed by Shri Pradeep Kumar Jindal, which are pending for adjudication before the Tribunal.*

7. In the result, both the appeals filed by the Revenue department, stand dismissed in the terms enumerated above.

Order pronounced in the open court on 27/02/2023.

Sd/-

(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

*aks/-

Copy forwarded to:

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

Assistant Registrar
ITAT New Delhi

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