

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI**

BEFORE

SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

AND

MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA No. 4949/Del/2019

Asstt. Year: 2013-14

ACIT CC-25, New Delhi	Vs.	M/s. Authentic Infosystems Pvt. Ltd., 88, Baldev Park, Parwana Road, Khuraji Khas, Delhi. PAN AAICA7577K
(Appellant)		(Respondent)

Assessee by:	Shri Vivek Agarwal, CA
Department by :	Shri P. Praveen Sidharth, CIT DR
Date of Hearing :	21.03.2023
Date of pronouncement :	28.03.2023

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the Revenue is directed against the order of the Ld. Commissioner of Income Tax (Appeals)-29, New Delhi ("**CIT(A)**") dated 18.03.2019 pertaining to the Assessment Year ("**AY**") 2013-14.

2. The Revenue has raised the following grounds of appeal:-

- "1. *on the facts and in the circumstances of the case the Ld. CIT(A) has erred in deleting the Substantive addition of Rs. 41,90,00/- made on account of cash deposits in bank account source of which was not explained in terms of section 68 of the Act.*
2. *on the facts and in the circumstances of the case the Ld. CIT(A) has erred in deleting the protective addition of Rs. 2,99,00,000/- made on account of cash deposits in bank account which were used to provide accommodation entries.*
3. *on the facts and in the circumstances of the case the Ld. CIT(A) has erred in deleting the protective addition of Rs. 2,46,00,000/- made on account of cash deposits in bank account which were used to provide accommodation entries.*

4. *on the facts and in the circumstances of the case the Ld. CIT(A) has erred in deleting the protective addition of Rs. 38,40,000/- made on account of credit entries in bank account which were used to provide accommodation entries.*
5. *on the facts and in the circumstances of the case the Ld. CIT(A) has erred in deleting the protective addition of Rs. 90,75,000/- made on account of credit entries in bank account which were used to provide accommodation entries of advance against property to Sh. Anand Kumar Jain and Sh. Sajan Kumar Jain.*

3. Briefly stated, it is a search case. Search was conducted under section 132 of the Income Tax Act, 1961 (**the "Act"**) on 18.11.2015 on Shri Sajan Kumar Jain and Shri Pradeep Kumar Jindal group of cases including the assessee. Consequently, notice under section 153A of the Act was issued on 12.06.2017 in response to which the assessee filed return on 05.07.2017 declaring income of Rs. 1,581/-. The assessee is engaged in the business of Marketing & Finance. The Ld. Assessing Officer (**"AO"**) completed the assessment on income of Rs. 7,16,06,580/- under section 153A/143(3) of the Act on 29.12.2017 including therein addition on protective basis of Rs. 2,99,00,000/-; Rs. 2,46,00,000/- and Rs. 38,40,000/- being cash deposited in the bank account of the assessee; addition of Rs. 41,90,000/- being unexplained investment in Gaurav Holdings Pvt. Ltd. under section 69A and addition of Rs. 90,75,000/- being accommodation entry in assessee's bank account against which the assessee company filed appeal before the Ld. CIT(A) who deleted the impugned additions observing, inter alia that the group companies which were managed / controlled by Shri Pradeep Kumar Jindal were the conduits through which the accommodation entries were provided to the beneficiaries. The commission income received through these companies in lieu of giving accommodation entries was taxed in the hands of Shri Pradeep Kumar Jindal and the same was confirmed by him in appeal filed in the case of Shri Pradeep Kumar Jindal. Since the substantive addition with regard to commission income received towards the accommodation entries provided through these companies has been confirmed by him in the hands of Shri Pradeep Kumar Jindal, therefore further addition on account of commission in the hands of the assessee also is not required to be made. Aggrieved, the Revenue is in appeal before

the Tribunal and all the grounds relate thereto.

4. We have heard the Ld. Representative of the parties and perused the records. The Ld. AR submitted that during search at his residence and office on 18.11.2015 Shri Pradeep Kumar Jindal stated that the assessee company is controlled and managed by him for providing accommodation entries. The Ld. AR further submitted that commission income is already added in the income of Shri Pradeep Kumar Jindal on substantive basis which has been confirmed by the Ld. CIT(A). Shri Pradeep Kumar Jindal has agreed for the commission on accommodation entries as part of his taxable income in all years re-opened under section 153A of the Act, subject to reconciliation of multiple additions, rate of commission and its taxability as per law. The Ld. AR also brought to our notice that all the additions made in the case at hand are similar in nature as in the case of M/s. Pawansut Holdings Ltd. (controlled and managed by Shri Pradeep Kumar Jindal). The case of M/s. Pawansut Holdings Ltd. has been decided by the Tribunal on 27.02.2023 in ITA No. 4950 & 4951/Del/2019, a copy of which was placed on record. The Ld. AR submitted that the assessee's case is covered by the decision (supra) to which the Ld. DR agreed. A confirmatory letter dated 20.03.2023 from Shri Pradeep Kumar Jindal was also submitted before us wherein he admitted that the assessee company is controlled and managed by him and that he has accepted that the commission income on accommodation entries given by M/s. Authentic Infosystems Pvt. Ltd. (the assessee) as part of his taxable income for AY 2013-14 and appeal in his personal case is pending in ITAT in ITA No. 8289/Del/2018 for direction on reconciliation of multiple additions, rate of commission and its taxability as per law.

5. In view of the above facts and circumstances of the case, we dismiss the appeal of the Revenue to which the Ld. DR had no objection. However, the dismissal of the appeal of the Revenue shall be subject to the directions that in the event the additions in the hands of Shri Pradeep Kumar Jindal in his own quantum appeal for AY 2013-14 are deleted, the Revenue shall be at liberty to take appropriate steps for revival of this appeal in accordance

with law; the Revenue shall place copy of this order as well as assessee's letter dated 21.03.2023 filed along with confirmatory letter dated 20.03.2023 of Shri Pradeep Kumar Jindal in the assessment record of the assessee as also of Shri Pradeep Kumar Jindal pertaining to AY 2013-14; lastly the Registry shall also place copy of this order and the above mentioned two letters of the assessee and Shri Pradeep Kumar Jindal in appeal file ITA No. 8289/Del/2018 filed by Shri Pradeep Kumar Jindal which is pending for adjudication before the Tribunal.

6. In the result, the appeal of the Revenue is dismissed subject to the directions above.

Order pronounced in the open court on 28th March, 2023.

sd/-

sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**(ASTHA CHANDRA)
JUDICIAL MEMBER**

Dated: 28/03/2023

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	