

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

**Before Shri Challa Nagendra Prasad, Judicial Member  
&  
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 651/Del/2023 : Asstt. Year: 2012-13**

Ram Prakash Bhatia, WZ-77, Srinagar, Shakur Basti, New Delhi 110034	Vs	The ACIT, Central Circle-05, New Delhi 110005
(ASSEESSEE)		(RESPONDENT)
<b>PAN No. AERP B 1045 D</b>		

**Assessee by : Sh. Amol Sinha, Adv.  
Revenue by : Sh. P.N Barnwal, CIT-DR**

<b>Date of Hearing: 02.01.2024</b>	<b>Date of Pronouncement: 04.01.2024</b>
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**ORDER**

**Per Dr. B. R. R. Kumar:-**

The present appeal has been filed by the assessee against the order of Id.CIT(A)-24 dated 11.01.2023 for the A.Y. 2012-13.

2. The assessee has raised the following grounds of appeal are as under:-

*1. The Ld. CIT (A) has erred in upholding the addition of Rs.32,40,621/- made by the Ld. Assessing Officer on account of being commission income earned by the assessee at the rate of Rs. 150 per Rs. 1,00,000/-, on credits other than cash credits.*

*2. The Ld. CIT (A); has erred in upholding the addition of Rs. 1,60,10,097/-made by the Ld. Assessing Officer, being cash credit as assessee could not explain source of cash deposit.*

*3. The Ld. CIT (A) has erred in upholding the addition of Rs. 2,20,82,091/-made by the Ld. Assessing Officer, being unexplained cash credit in the bank account of M/s Chaudhary and Co.*

*4. The Ld. CIT (A) has erred in upholding the addition of Rs.7,68,321/- made by the Ld. Assessing Officer on account of being commission income earned by the assessee from transactions on account of M/s Chaudhary and Co.*

*5. The Ld. CIT (A) has erred in not considering that the Ld. Assessing Officer has not given the benefit of contra entries to the extent of 6,95,12,000/-.*

*6. The order of the CIT (A) is confirming the order of the Ld. Assessing Officer is bad in law and contrary to the facts on record.*

3. A survey u/s 133(A) was carried out on Sh. Ram Prakash Bhatia on 08.08.2014. During the course of survey his statement was recorded u/s 131(IA) of Income Tax Act wherein he mentioned that he had been carried out the work of billing and was earning commission income. He stated that he has been doing the work of providing accommodation entries and bogus bills. As per his statement, the assessee categorically admitted that the concerns mentioned by him, registered at premises C-48/3A, 2d floor, Lawrence Road Industrial Area were either his proprietorship concerns or in the proprietorship of his family members but the work is being managed/operated by the assessee only. He further stated that he used to provide bills to various persons against the goods supplied by some other traders. As per the Assessing Officer, the allegations that Sh. Ram Prakash Bhatia is an entry provider have been clearly established by his statement. For the purpose of providing entries he was managing a number of concerns through his family members.

4. The Assessing Officer noticed that the details of the assessee's undisclosed bank account is as under:

Name of entity	Account No.	Total entries	Cash deposited
Punjab Foods	1539002100052152 in PNB	582902757	2088112
Prakash Food	1539002100050233n in PNB	813116375	9472985
Jai Bharat Food	066010200045650 in Axis Bank	528477672	4354000
Shiva Stores	43101000012050 in Axis Bank	251927682	95000
Total		2176424486	16010097

5. The assessee did not submit the details regarding source of cash credit nor submitted any satisfactory explanation regarding the cash credit of Rs. 1,60,10,097/-. The Assessing Officer has noted that there is a total cash deposit of Rs. 1,60,10,097/- in all the four accounts for which the assessee could not explain the source and hence it remained unexplained. Since the assessee could not substantiate the source of cash deposit of Rs. 1,60,10,097/- the same was added to the income of the assessee being unexplained cash credit u/s 68 of Income Tax Act.

6. The Id. CIT(A) held that during the course of assessment proceedings, the assessee did not provide any proceedings. The assessee argued that the assessee has only earned commission income on the entries provided by him whether in cash or by in any other mode. Further, the assessee argued that he has

withdrawn around Rs. 6 Crores in cash from one account and hence the amount of cash credit should not be treated as unaccounted money being part of business of accommodation entry.

7. The Id. CIT(A) held as under:

*As per the records, there are cash deposits in the undisclosed bank accounts of the assessee. These three accounts came to the knowledge of Assessing Officer from information from Investigation Wing and the fourth in the subsequent submissions made by the assessee. The assessee could not offer any satisfactory explanation regarding the source of this money deposited in bank. Even the explanation offered during the course of appellate proceedings is neither sufficient nor satisfactory. The assessee did not submit any documentary evidence explaining the linkages of amounts withdrawn from one bank account and subsequent deposits in other bank account/s. There is apparently no justification for withdrawing from one account and deposition in other bank accounts. It is also not known as to whether the same cash which was withdrawn from one bank account has been deposited in other bank account/s or was handed over to some other party as part of his accommodation entry business. The assessee could not provide the names and addresses of the entities whose cash was apparently deposited in the bank accounts. If this cash deposited pertains to any other concern other than the assessee then their names and addresses should have been made available to the Assessing Officer or subsequently during the appellate proceedings. The assessee at any stage could not provide the source of these cash deposits in his bank accounts. Since the very source of such cash which was deposited in the bank accounts is not known, it would be appropriate to presume that it is assessee's own money deposited by him or through his sources in his bank accounts. In my considered opinion the Assessing Officer did not commit any error in considering the cash deposited in the bank account amounting*

to Rs. 1,60,10,097/- as unexplained cash credit u/s 68 of Income Tax Act and therefore there is no need to interfere with the order of the Assessing Officer. Accordingly, the action of the Assessing Officer considering the cash deposited in the bank account amounting to Rs. 1,60,10,097/- as unexplained cash credit u/s 68 of Income Tax Act and adding the same to the total income of the assessee is upheld.

8. Aggrieved, the assessee filed appeal before the ITAT.

9. We find that the similar issue has been adjudicated by this Tribunal in the assessee's own case for the earlier and subsequent assessment years in ITA Nos. 185 to 189/Del/2020 wherein the Tribunal having treated the assessee as a Entry Operator determined commission @0.15%, hence keeping in view the said order, we direct the AO charge commission @0.15% on the amount of Rs. 160,10,097/-.

10. The appeal of the assessee on this ground is partly allowed.

11. During the course of assessment proceedings, the assessee had admitted that the following bank account No. 9352320000547 of M/s Chaudhary & Co. registered in the name of his wife Smt. Saroj Bhatia was also operated by him for providing accommodation entries:

Account Number	Cash deposit (Rs.)	Total	Total Debit
09352320000547 with HDFC Bank	22082091	534295846	534271324

12. An amount of Rs. 2,20,82,091/- was deposited in cash in the above bank account of M/s. Chaudhary & Co. The same was treated as unexplained cash credit and addition of the same was made in the hands of the assessee on substantive basis and in the name of his wife Smt. Saroj Bhatia on protective basis. The Id. CIT(A) held that, there is apparently no justification for withdrawing from one account and deposition in other bank account. The Id. CIT(A) held that, it is also not known as to whether the same cash which was withdrawn from one bank account has been deposited in other bank account or was handed over to some other party as part of accommodation entry business.

13. In the statement recorded u/s 131(IA) of Income Tax Act during the survey on 08.08.2014 the assessee had specifically mentioned that M/s Chaudhary & Co. is a concern of his wife but all these firms are being operated by the assessee only. Since the assessee has specifically admitted during the survey that the particular proprietorship firm is being operated by him only the credit of the cash deposited in M/s Chaudhary & Co.'s bank account should belong to the assessee. Therefore, it would be appropriate to consider that the cash deposited in this particular bank account of M/s. Chaudhary & Co. actually pertains to the assessee and utilized for giving entries to various people. Since the assessee has been already treated as an Entry Operator, we direct the AO charge commission @0.15% on the amount of Rs. 2,20,82,091/-.

14. The appeal of the assessee on this ground is partly allowed.

15. The assessee is in the business of providing accommodation entries. The Assessing Officer calculated the total commission on the credit entries for these four accounts other than the cash credits and the commission is computed at Rs. 32,40,621/-. The Assessing Officer has added this amount of commission of Rs. 32,40,621/- to the income of the assessee. The Id. CIT(A) held that, the Assessing Officer did not commit any error in computing the commission income on credit entries in the bank and adding a commission income of Rs. 32,40,621/- and therefore there is no need to interfere with the order of the Assessing Officer. Owing through the orders of the earlier years and facts of this case we hold that the Id. CIT(A) has rightly confirmed the addition.

16. The appeal of the assessee on this ground is dismissed.

17. The assessee is in the business of providing accommodation entries. The Assessing Officer calculated the total commission on the credit entries for the account in the name of M/s. Chaudhary & Co. other than the cash credits and the commission is computed at Rs. 7,68,321/-. The Assessing Officer has added this amount of commission of Rs. 7,68,321/- to the income of the assessee. We hold that the Assessing Officer did not commit any error in computing the commission income on credit entries in the bank and adding a commission

income of Rs. 7,68,321/- . The order of the Id. CIT(A) is affirmed.

18. Ground no. 5: Not pressed.

19. In the result, the appeal of the assessee is partly allowed.

Order Pronounced in the Open Court on 04/01/2024.

**Sd/-**  
**(C.N Prasad)**  
**Judicial Member**

**Dated: 04/01/2024**

\*NV, Sr. PS\*

**Sd/-**  
**(Dr. B. R. R. Kumar)**  
**Accountant Member**

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, DELHI**