

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

**Before Dr. B. R. R. Kumar, Accountant Member,
Sh. Sudhir Kumar, Judicial Member**

ITA No. 3364/Del/2023 : Asstt. Year: 2012-13

ITA No. 3363/Del/2023 : Asstt. Year: 2013-14

ITA No. 3362/Del/2023 : Asstt. Year: 2014-15

Nakshatra Business Pvt. Ltd., Office No. 27, Kamla BMC Market, Padma Nagar Road, Chikuwadi, Borivali West, Mumbai-400092	Vs	DCIT, Central Circle-27, New Delhi-110055
(APPELLANT)		(RESPONDENT)
PAN No. AABCH4279G		

Assessee by : Sh. Arvind Kumar, Adv.

Revenue by : Sh. M. G. Joseph Gangte, CIT-DR

Date of Hearing: 21.05.2024

Date of Pronouncement: 24.05.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee against the orders of Id. CIT(A)-29, New Delhi dated 26.09.2023.

2. Since, the issue involved in all these appeals are similar, they were heard together and being adjudicated by a common order. In ITA No. 3362/Del/2023, following grounds have been raised by the assessee:

"i. The learned Commissioner of income Tax (Appeal) has erred in not allowing the appellant company's appeal for disapproving the learned Assessing officer's view of rejecting the Books of Accounts and Income of appellant by invoking the provision of section 145 (3) of the income tax Act, 196.

ii. The learned Commissioner of Income Tax (Appeal) has again erred in upholding the action of learned assessing officer of treating all the business activities as accommodation entry without appreciating the submission / documentary evidence provided to prove the genuineness of all the transaction of Income, Expenses, Business Losses, Capital Gain / Loss, purchase, sales, loans and advances and Investments etc submitted by appellant company.

iii. The Learned Commissioner of Income Tax (Appeal) has again erred in upholding the addition made by the learned Dy. Commissioner of Income Tax by estimating addition at the rate of alleged commission income @ 3% for Loans & Advances, Share Application money (Investments) and Purchase and Sales (Trading Activities) made during the year."

3. Heard the arguments of both the parties and perused the material available on record.

4. The undisputed facts as accepted by both the parties are that an addition @ 3% as the commission received on purchase & sale has been added in the hands of the company. The company is conduit entity which was used for facilitating accommodation entries. It was submitted that the said commission was also added to the income of the operator Sh. Praveen Jain for Assessment Years in question on substantive basis and the Co-ordinate Bench of ITAT has confirmed the addition made. Hence, we hold that the addition of the commission made in the assessee company is akin to the taxation of the commission income earned twice, once in the hands of the assessee once in the hands of the operator. Since, the addition has already been confirmed in the hands of operator Sh. Praveen Jain, we hold that the addition made in the hands of the assessee is liable to be deleted.

5. In the result, the appeals of the assessee are allowed.
Order Pronounced in the Open Court on 24/05/2024.

Sd/-

**(Sudhir Kumar)
Judicial Member**

Dated: 24/05/2024

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