

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

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.371 to 374/Del/2022,
A.Y. 2012-13, 2013-14, 2014-15 & 2017-18**

ACIT, Central Circle-26, New Delhi	Vs.	M/s. Zen Tradex Pvt. Ltd. Property No. 194, Shop No. 2, Pocket-26, Sector-24, Rohini, Delhi-110085 PAN: AAACZ3570B
(Appellant)		(Respondent)

**C.O. No. 11 to 14/Del/2023,
(Arising out of ITA No.371 to 374/Del/2022)
A.Y. 2012-13, 2013-14, 2014-15 & 2017-18**

M/s. Zen Tradex Pvt. Ltd. Property No. 194, Shop No. 2, Pocket-26, Sector-24, Rohini, Delhi-110085 PAN: AAACZ3570B	Vs.	ACIT, Central Circle-26, New Delhi
(Appellant)		(Respondent)

Assessee by	Ms. Shilpi Jain, CA
Revenue by	Sh. P.N.Barnwal, CITDR

Date of Hearing	02/09/2024
Date of Pronouncement	13/09/2024

ORDER

PER BENCH

Common grounds and facts arise in the above captioned appeals of the Revenue and Cross Objections (hereinafter, the 'C.O.') of the assessee; therefore, these appeals and C.O. were heard together and are being disposed off by this common order.

2. The above captioned appeals of Assessment Years (hereinafter, the 'AY') 2012-13, 2013-14, 2014-15 & 2017-18 arise against the common order dated 08.12.2021 of the Ld. Commissioner of Income Tax (Appeals)-29, New Delhi [In short "Ld. CIT(A)"]. Against all appeals of the Revenue, the assessee has filed Cross Objections.

3. Grounds taken by the Revenue in appeal of AY 2012-13 and grounds taken in the C.O. of AY 2012-13 are considered as lead year and are thus, extracted here under:

ITA No. 371/Del/2022, AY 2012-13:

- “1. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.5,06,28,300/- made on account of undisclosed sources u/s 68 for unexplained entries in bank account ignoring the fact that assessee has failed to produce any concrete and any additional evidences in support of its contention.
2. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.1,26,571/- made on account of unaccounted commission, ignoring the fact that the assessee has failed to disclose the commission earned from providing accommodation entry.

3. *That the order of the Ld. CIT(A) is perverse, erroneous and is not tenable on facts and in law.*
4. *That the grounds of appeal are without prejudice to each other.*
5. *That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”*

C.O. No. 11/Del/2023, A.Y. 2012-13:

- “1. *On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eye and on facts.*
2. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the order passed by the learned Assessing Officer (AO) under section 143(3) read with section 153C is without jurisdiction.*
3. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the proceedings initiated under Section 153C and the assessment framed under section 153C is bad and liable to be quashed in the absence of any satisfaction being recorded by the AO of the searched person that the incriminating material belonging to the assessee was found during the course of the search.*
4. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the order was passed by the learned Assessing Officer (AO) without disposing off the objections raised by the assessee company against the satisfaction note recorded.*
5. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the explanations and evidences brought on record by the assessee to prove the identity and creditworthiness of the lenders and genuineness of the transactions.*
(ii) *That the abovesaid addition has been confirmed ignoring the fact that the addition has been made by the AO without pointing out any defect in the evidences filed by the assessee.*
6. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in holding that the assessee is involved in*

providing and taking accommodation entries in the form of share application money or unsecured loans.

7. *The respondent craves leave to add amend on alter any of the grounds of cross objection.*

4. The facts of all these cases, in brief, relevant for deciding these appeals and C.O. are that the assessee has filed its original Income Tax Returns (hereinafter, the 'ITR') of these years declaring income as per details below:

S. No.	A.Y.	Income as per original ITR (in Rs.)	Date of filing of original ITR	Income assessed u/s 153C of the Act (unexplained credits + Commission in Rs.)
1.	2012-13	1,19,840/-	01.10.2012	5,08,74,711/- (5,06,28,300/- + 12,657/-)
2.	2013-14	1,44,990/-	20.09.2013	8,65,61,256/- 8,62,00,764/- + 2,15,502/-)
3.	2014-15	1,62,320/-	18.09.2014	4,09,31,244/- 4,06,67,346/- + 1,01,668/-)
4.	2017-18	Nil	09.11.2017	16,95,73,376/- (16,91,50,500/- + 4,22,876/-)

4.1 These original ITRs were processed under section 143(1) of the Income Tax Act, 1961 (hereinafter, the 'Act'). Later on, the Assessing Officer (hereinafter, the 'AO'), based on information received from the AO of the searched person, recorded satisfaction and issued notices, under section 153C of the Act, for the above-mentioned AYs. In response to these notices, the assessee filed ITRs of the relevant years, on 04.12.2018, declaring the same income as shown in original ITRs.

4.2 Shri Anand Kumar Jain and Shri Naresh Kumar Jain along with their business concerns & associates (Anand Kumar Jain & Naresh Kumar Jain Entry Operator Group) were searched, on 17.08.2018, under section 132 of the Act. The assessee is one of the companies promoted, controlled and managed by Shri Anand Kumar Jain and Shri Naresh Kumar Jain, Entry Operators, for providing accommodation entries in the garb of share capital, share premium, loans, etc. The search operations revealed that this Group was engaged in providing accommodation entries, on commission basis, to various beneficiaries. The above captioned assessee is one of the entities/ concerns through which money/transactions have been routed/passed through before providing accommodation entries to the real beneficiaries. The assessee was used as an intermediary through which money/transactions had been routed/passed through for providing accommodation entries to beneficiaries. The AO after holding the assessee as conduit concern of Shri Anand Kumar Jain and Shri Naresh Kumar Jain, Entry Operators, assessed the entire bank credits of Rs.5,06,28,300/-, Rs.8,62,00,764/-, Rs.4,06,67,346/- and Rs.16,91,50,500/-of the assessee as unexplained under section 68 of the Act, in the hands of the assessee on protective basis, in AYs 2012-13, 2013-14, 2014-15 & 2017-18 respectively. The

AO, in para 10 of the assessment orders, has categorically mentioned that the information relating to beneficiaries have already been passed on to the respective AOs of all the beneficiaries for doing needful at their end. Further, the AO worked out commission income @ 0.25% of the above-mentioned bank credits of Rs.5,06,28,300/-, Rs.8,62,00,764/-, Rs.4,06,67,346/- and Rs.16,91,50,500/- in AYs 2012-13, 2013-14, 2014-15 & 2017-18 respectively and taxed the same in the hands of the assessee on substantive basis. Aggrieved, the assessee filed appeals before the Ld. CIT(A) who allowed appeals of the assessee, for AYs 2012-13, 2013-14, 2014-15 & 2017-18 by deleting the entire additions either made on protective basis or substantive basis.

5. The Ld. CIT-DR, placing emphasis on the finding of the AO, prayed for upholding of the finding of the AO.

6. On the other hand, the Ld. Authorized Representative (hereinafter, the 'AR') argued that the entire business of providing accommodation entries was controlled and managed by Shri Anand Kumar Jain and Shri Naresh Kumar Jain through their various concerns including the assessee company. It was further submitted that the credits appearing in the bank accounts of the assessee company in these years were nothing but pass through entries for the purpose laundering of black money of

beneficiaries and that was why the AO did not assess these credits in the hands of the assessee on substantive basis. It was contended that the addition of commission income in the hands of intermediary assessee company was not justified on simple reasoning of the AO that the assessee company was a conduit company of Shri Anand Kumar Jain and Shri Naresh Kumar Jain. Since the actual commission income had already been assessed in the hands of Shri Anand Kumar Jain and Shri Naresh Kumar Jain; therefore, the addition of commission income in the hands of the assessee was claimed to be a case of double taxation. In support of the above contentions, the Ld. AR placed emphasis on the following orders of the Tribunal:

1. Anand Kumar Jain, ITA No. 1318 to 1324/Del/2019, AY 2010-11 to 2016-17
2. Naresh Kumar Jain, ITA No. 1325 to 1331/Del/2019, for AY 2010-11 to 2016-17
3. Holeon Traders Pvt. Ltd., ITA No. 4958 to 4962/Del/2019, for AY 2012-13 to 2016-17
4. Zed Enterprises (P) Ltd., ITA No. 208 to 212/Del/2022 for AY 2012-13 to 2016-17
5. Shivji Garments Pvt. Ltd., ITA No. 9639 to 9642/Del/2019, AY 2013-14 to 2016-17

7. We have heard both the parties at length. We find merit in the submission of the Ld. AR. The Tribunal, in the case of Zed Enterprises (P) Ltd., ITA No. 208 to 212/Del/2022 for AY 2012-13 to 2016-17, has held as under:

“12. We have examined the ratio of the ld. CIT(A). The ld. CIT(A) held that the AO in the assessment order has claimed to have identified the names of beneficiaries and already disseminated the information to the assessing officers of the beneficiaries and hence the credits received by the appellant cannot be treated as unexplained credit in its hands since, the said transactions are mere arrangement of funds/routing of unaccounted income of the beneficiaries to whom the said funds were transferred through the bank of the appellant company in lieu of commission. The ld. CIT(A) has also made note of the beneficiaries of the entries given by the assessee company. For the sake of ready reference, a few entries and the beneficiaries are reproduced below:

.....

.....

13. From the above, the ld. CIT(A) held that the assessee company has received funds from various concerns as mentioned above and thereafter amounts were transferred to the above-mentioned companies/concerns immediately, thus the appellant company is not beneficiary company. The ld. CIT(A) also obtained the remand report from the AO and held that the AO has verified the fund flow statement depicting the source of funds and utilization of the same for payments to beneficiaries submitted by the assessee. The ld. CIT(A) held that it was found which established that the Sh. Anand Jain and Sh. Naresh Kumar Jain were operating bank accounts in the names of various concerns/companies through which accommodation entries were being provided and the appellant company was one of such shell concerns. Further the beneficiaries of such accommodation entries were also identified and information to

their respective AOs was also disseminated as mentioned in the assessment order as well as the remand report.

14. Having observed so, the ld. CIT(A) held that as far as charging of commission is concerned in the case of the assessee , it has been held by the AO in the assessment order that Sh. Anand Jain and Sh. Naresh Jain were entry operators who were managing and controlling various shell concerns including the appellant for providing accommodation entries in lieu of commission and taking that logic there is no question of charging of commission income in the hands of the appellant company arises, since nothing has been earned by the company, being the shell concern.

15. Since, the commission already stands taxed in the hands of the entry operators in their individual capacity, no separate commission can be charged in the hands of the pass through/ companies floated by the entry operators. As the assessee is found to be one of such pass-through entity, we decline to interfere with the order of the ld. CIT(A) in deleting the commission charged.”

8. We are of the considered view that the case of the assessee for all AYs is squarely covered by the decision in the Tribunal in the case of Zed Enterprises (P) Ltd., ITA No. 208 to 212/Del/2022 for AY 2012-13 to 2016-17. We are therefore, in agreement with the above extracted observations/ findings in para-7 as the facts of the present case are squarely covered by this case. In view of the decision & following the reasoning in the case of Zed Enterprises (P) Ltd. (supra) and considering

the facts and circumstances of the instant case, all four appeals of the Revenue deserve no consideration and are accordingly dismissed.

9. Cross Objections are not pressed; hence these also stand dismissed.

10. In the result, all four appeals of the Revenue as well as all four Cross Objections of the assessee are dismissed.

Order pronounced in open Court on 13th September, 2024.

Sd/-

**(SAKTIJIT DEY)
VICE PRESIDENT**

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated: 13th/09/2024

Binita, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI