

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA Nos. 4025, 4027, 4026, 4030, 4029 & 4024/MUM/2023  
Assessment Years: 2014-15 to 2019-2020**

Deepak Bhanwarlal Jain,  
104, Sai Shakti Tower, Jesal  
Park, Bhayander East,  
Thane-401105.

**PAN NO. ACWPJ 8573 D**  
**Appellant**

ACIT-CC-5(1),  
1928, 19<sup>th</sup> floor, Air India Building,  
Nariman Point,  
Mumbai-400021.

**Vs.**

**Respondent**

Assessee by : None  
Revenue by : Mrs. Sanyogita Nagpal, CIT-DR

Date of Hearing : 15/10/2024  
Date of pronouncement : 22/10/2024

**ORDER**

**PER BENCH**

These appeals have been preferred by the assessee against a common order dated 12.09.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – 53, Mumbai [in short ‘the Ld. CIT(A)’] for assessment years 2014-15 to 2019-2020 respectively. As common grounds have been raised in all these appeal and therefore, same



were heard together and disposed off by way of this consolidated order for convenience.

2. Since identical grounds have been raised in all the years and therefore, for brevity, we reproduce the grounds raised by the assessee for assessment year 2014-15 only as under:

1. *On the facts and circumstances of the Appellant's case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the action of the Ld. AO in invoking the provision of section 153A without any incriminating evidence found during the course of search action.*
2. *On the facts and circumstances of the Appellant's case and in law the Ld. Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.4,03,048/- being alleged Commission Income by invoking the provisions of Section 69A of the Income Tax Act, 1961.*

3. Briefly stated, facts of the case are that a search and seizure action was carried out on 06.11.2019 at the premises of the assessee and consequently notice u/s 153A of the Income-tax Act, 1961 (in short 'the Act') were issued for the captioned assessment years. The Assessing Officer noted that during the course of the search proceedings, the assessee acknowledged the fact of being engaged in providing of accommodation entries through various concerns controlled by him and therefore, the Assessing Officer computed the commission @ 015% on the transactions through those concerns and added to the income of the assessee as under:

Asst. Year	Commission @ 0.15%
2014-15	4,03,048
2015-16	5,17,955
2016-17	5,28,430
2017-18	3,43,866



2018-19	54,004
2019-20	1,26,667
2020-21	4,626

4. On further appeal, the assessee challenged the legality of the addition on the ground that no incriminating material was found qua the additions and therefore, following the decision of the Hon'ble Bombay High Court in the case of Warehousing Corporation 374 ITR 645, no addition could have been made. But the Ld. CIT(A) referred to the decision of the Co-ordinate Bench of the Tribunal in the case of Skyway Infra Projects Pvt. Ltd. in ITA No. 2665/Mum/2022 and held that in the course of survey proceedings on the premises by the companies controlled by the assessee, no evidences of business activity was found and inquiries carried out in the vicinity of those companies also could not establish the fact of the business activity by those companies. The Ld. CIT(A) treated those information as constituting incriminating material. The Ld. CIT(A) also upheld addition on the merit.

5. Aggrieved the assessee is in appeal raising the grounds as reproduced above.

6. Despite notifying none attended on behalf of the assessee nor was any request for adjournment filed. On perusal of the record, we find that on 17.04.2024 a written application was filed on behalf of the assessee seeking adjournment which was duly granted but thereafter none attended on behalf of the assessee on 20.06.2024,



26.08.2024 and 15.10.2024. In view of the facts and circumstances of the case, we were of the opinion assessee that assessee was not interested in prosecuting the appeal and therefore, same were heard ex-parte qua the assessee after hearing arguments of the Ld. Departmental Representative (DR).

7. We find that in the case assessee has challenged the legality of the addition on the ground that no incriminating material was found qua the addition of commission income made by the Assessing Officer. We find that the Ld. CIT(A) has referred to the decision of the Co-ordinate Bench of the Tribunal in the case of M/s Skyway Infra Projects P. Ltd. (supra) and held that it was not a case of merely statement by the assessee but in the survey proceedings carried out along with search certain incriminating facts were observed in respect of companies controlled by the assessee through whom accommodation entries were provided. In our opinion, the finding of the Ld. CIT(A) on the issue in dispute is reasoned and no interference is called for in the same. The ground No. 1 raised in the appeals challenging invoking of section 153A in absence of any incriminating evidence is accordingly dismissed.

8. As far as ground No. 2 raised in the appeals on the merit is concerned in our opinion, the Ld. CIT(A) has correctly upheld the commission income on the accommodation entries carried out by



the assessee through companies controlled by him. Accordingly, the ground No. 2 of the appeal of the assessee is also rejected.

9. In the result, all the appeals of the assessee are dismissed.

**Order pronounced in the open Court on 22/10/2024.**

**Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 22/10/2024  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**