

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**

**SHRI SANJAY GARG, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 1784/Kol/2024  
Assessment Year 2013-14**

**Sri Tanmoy Dutta,**

C/o M/s Salarpuria Jajodia & Co.,  
7, C.R. Avenue, 3<sup>rd</sup> Floor,  
Kolkata – 700072  
[PAN: BEGPD7135C]

..... **Appellant**

**vs.**

**AO, NFAC/ITO,  
Ward-63(3), Kolkata,**

Aayakar Bhawan, P-7, Chowringhee Square,  
Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by : S. Jhalaria, FCA

Department represented by : Shri Subhendu Datta, CIT-DR

Date of concluding the hearing : 11.12.2024

Date of pronouncing the order : 03.02.2025

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals) [hereinafter referred to as “the Ld. CIT(A)] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) dated, 26.06.2024.

2. The assessee in this appeal is aggrieved by the action of the Ld. CIT(A) in confirming the addition of Rs. 6,90,75,400/- made by the Assessing Officer (hereinafter referred to as “the AO”) u/s 69A of the Act on account of alleged unexplained cash deposits made in the bank accounts of the assessee.

3. Brief facts of the case are that the assessee did not file any return of income for the Assessment Year (AY) under consideration. The AO received information that there were cash deposits to the tune 6,90,75,400/- in the two bank accounts of the assessee during the financial year under consideration. He therefore, show caused the assessee as to why the assessment be not reopened and the aforesaid deposits be not treated as unexplained income of the assessee. Simultaneously, the AO also called for information u/s 133(6) of the Act from the bank about the details of transactions made in the bank accounts held by the assessee.

4. In reply to the show cause notice issued by the AO, the assessee submitted that the assessee was an individual and at that time was of tender age (21 years) and not mature enough. That the assessee belonged to lower middle class family and his family income was meagre. That father of the assessee was a labourer. That during the financial year 2012-13 relevant to the assessment year under consideration, since the assessee was struggling with poverty, some persons lured the assessee to route their amount through bank account of the assessee and for which they offered commission income to the assessee. The assessee accordingly opened two bank accounts in IDBI Bank, Sarat Bose Road, Kolkata and the said persons used bank accounts of the assessee for monetary transactions. It was submitted that the said persons made total transactions of Rs. 6,90,75,400/- through the aforesaid bank accounts of the assessee and paid in commission of Rs. 69,076/- @ 0.10% by cash to the assessee in respect of the aforesaid/deposits bank transaction done by them through the bank accounts of the assessee. Thereafter, Income Declaration Scheme, 2016 (in short 'IDS 2016') was launched by the Central Government. The assessee, on the advice of some senior person, availed the said IDS Scheme and offered the said commission income of Rs. 69,075/- for taxation. The disclosure made by the assessee was accepted by the Department. The assessee paid the due taxes, surcharge and penalty etc. @ 45% of the disclosed income. Apart from that the assessee had also declared some

more commission income at Rs. 6,54,100/- in respect of financial year 2012-13 relevant to AY 2013-14, another commission income of Rs. 1,26,100/- and Rs. 80,000/- earned during AY 2012-13 and 2015-16 was declared under the said IDS 2016. The source of such income emanating from the cash deposits in the banks was clearly explained and exhibited in the disclosure petition. The Department accepted the disclosure and issued certificate of discharge of liability. After so many years, the assessee has now received a notice u/s 148 of the Act proposing the addition of the same amount in relation to which the assessee has already offered the explanation and also offered the commission income earned there upon and further the disclosure of the assessee under IDS 2016 stood already accepted and a certificate to in this respect already issued by the Pr. CIT, 21, Kolkata.

5. The AO considering the submissions of the assessee and after going through the record observed that he was not satisfied with the explanation offered by the assessee. He however, observed that the assessee was dealing in wholesale garment business. He, therefore, treated the entire cash deposits of Rs. 6,90,75,400/- as turnover of the assessee and estimated the profit rate @ 5% at Rs. 34,53,776/-. He thereafter, issued a draft assessment order proposing the addition of Rs. 34,53,770/-. He however gave the benefit of declaration made by the assessee in the IDS income of Rs. 7,23,176/- and proposed the addition of Rs. 27,30,594/-. However, in the final assessment order, the AO made the addition of the entire deposit in the bank accounts of the assessee, treating, the same as income of the assessee from undisclosed sources.

6. The Ld. CIT(A) confirmed the additions so made by the AO. Being aggrieved, the assessee thus has come in appeal before us.

7. We have heard the rival contention and gone through the material available on record. In the case in hand, much before the issue of notice u/s 148 of the Act, the assessee had already declared in the IDS Scheme

that he had earned commission income in respect of bank transactions routed through his bank account. The said disclosure already stood accepted by the Department. The assessee in the said disclosure, had also mentioned about the sources of income disclosing the same was income of the assessee on account of commission received for the bank transactions done by other persons through his bank accounts. The Ld. Counsel for the assessee has brought our attention to relevant paras of the draft assessment order to show that information was given to the AO not only by the assessee but also by the bank that after deposit of the cash amounts in the bank account of the assessee, the same were transferred to concern M/s Gagandeep Mercantile Pvt. Ltd. and M/s Panghat Vincom Pvt. Ltd. Therefore, the AO was also duly provided information about the name of the beneficiaries the fact the amount was immediately transferred after deposit to the accounts of the aforesaid concerns, was also verified by the AO from the bank account of the assessee. The Ld. Counsel has further invited our attention to page 66 of the paper book to show that the assessee had duly disclosed to the AO not only the name of the beneficiaries but also their address and PAN No. and the amount in question was also transferred to their bank accounts. Moreover, the assessee also categorically pleaded before the AO that the assessee was a poor person with meagre resources of income and there was no source of income available to the assessee for deposit of such a huge cash amount of Rs. 6,90,75,400/-. In this case, the declaration made by the assessee has been duly accepted much before the issue of notice u/s 148 of the Act. The assessee has satisfactorily demonstrated the entire facts and circumstances of the case and which could not be rebutted by the AO even by any circumstantial evidence. Even the AO earlier proposed to make the addition @ 5% of the deposits but later on, in the final assessment order made the addition of the entire deposits, whereas, the assessee has duly explained the source of deposits and also provided the name and addresses of PAN No. of beneficiaries who used the accounts of the assessee. Under the circumstances, we do not find any justification on the part of the lower authorities in making/confirming the

impugned addition and the same is accordingly or to be deleted. In the result, appeal of the assessee stands allowed.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the court on 03.02.2025

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Sd/-  
**(Sanjay Garg)**  
**Judicial Member**

Dated: 03.02.2025  
AK, P.S.

*Copy of the order forwarded to:*

1. Sri Tanmoy Dutta
2. AO, NFAC/ITO, Ward-63(3), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches