

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
I.T.A. No. 2564/Mum/2025
Assessment Year: 2014-15
&
S.A. No. 63/Mum/2025
Assessment Year: 2014-15

D L Tanumal Private Limited 1107, A One BKC C-Wing, G Block BKC, Bandra East Mumbai - 400051 [PAN: AAACD1463H]	Vs	Principal Commissioner of Income Tax-4, Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Madhur Agrawal & Mr. Hitesh Trivedi, A/R
Revenue by :	Smt. Sanyogita Nagpal, CIT D/R

सुनवाई की तारीख/**Date of Hearing** : 05/05/2025
घोषणा की तारीख /**Date of Pronouncement**: 07/05/2025

आदेश/O R D E R

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Principal Commissioner of Income Tax, Mumbai - 4, [hereinafter “the Id. PCIT”] dated 26/03/2025 pertaining to AY 2014-15.

2. The sum and substance of the grievance of the assessee is that the Id. PCIT erred in assuming jurisdiction u/s 263 of the Act and further erred in holding that the assessment order dated 02/05/2023 is not only erroneous but prejudicial to the interest of the revenue.

3. Representatives of both the sides were heard at length. Case records carefully perused and relevant documentary evidence brought on record, duly considered in light of Rule 18(6) of ITAT Rules, 1963.

4. Briefly stated the facts of the case are that the assessee filed its return of income on 27/11/2014 declaring total income at Rs.2,35,95,190/-.

5. Subsequently, the assessment was reopened u/s 147 of the Act and the re-assessment order was framed on 02/05/2023 assessing total income at Rs. 3,01,92,910/-, after making additions *inter alia* of Rs.65,97,720/- as unexplained credit.

6. Vide application dated 09/05/2023, the assessee moved an application for rectification u/s 154 of the Act stating that the amount of Rs. 65,97,720/- added as unexplained cash credit is already accounted in his financial statement as sale consideration and offered to income. However, while computing the total income, the AO has not reduced the amount from the business income and also added the same as income from other sources resulting into double taxation of the said income.

6.1. The contention of the assessee was accepted by the AO, who vide order dated 25/05/2023 framed u/s 154 of the Act, rectified the mistake mentioned hereinabove and re-computed the total taxable income at Rs. 2,35,95,190/-.

7. Assuming jurisdiction conferred upon him by the provisions u/s 263 of the Act, the Id. PCIT issued following showcause notice to the assessee:-



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE PRINCIPAL COMMISSIONER OF INCOME TAX
PCIT, Mumbai-4

To,
D L TANUMAL PRIVATE LIMITED
1107 A ONE BKC, C-WING , G BLOCK,
BKC BANDRA EAST
MUMBAI 400051 , Maharashtra
India

PAN/TAN: AAACD1463H	AY: 2014-15	DIN & Notice No : ITBA/REV/F/REV1/2024- 25/1074105690(1)	Dated: 06/03/2025
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NOTICE FOR THE HEARING

M/s/Mr/Ms

Subject: Notice for Hearing in respect of Revision proceedings u/s 263 of the **THE INCOME TAX ACT, 1961** – Assessment Year 2014-15.

In this regard, a hearing in the matter is fixed on **12/03/2025 at 11:30 AM**. You are requested to attend in person or through an authorized representative to submit your representation, if any alongwith supporting documents/information in support of the issues involved (as mentioned below). If you wish that the Revision proceeding be concluded on the basis of your written submissions/representations filed in this office, on or before the said due date, then your personal attendance is not required. You also have the option to file your submission from the e-filing portal using the link: incometaxindiaefiling.gov.in

In this case, Return of income for the above mentioned assessment year was filed by the assessee on 27/11/2014 declaring total income at Rs.2,35,95,190/-, which was processed u/s 143(1). In the case of the assessee, specific information as per Risk Management Strategy formulated by the CBDT had been Bagged through "Insight Portal" under the category 'High Risk CRIU/VRU' for the financial year 2014-15, as per which the assessee was one of the beneficiaries of having received a sum of Rs. Rs.65,97,720/-from unexplained sources through M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. Taking into consideration the above information, proceedings u/s 148A was initiated against the company

2.1 As seen from the observation made in the assessment order, during the course of search and seizure action conducted in the case of M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd., substantial amounts were found deposited in the bank account of the Society. During of post-search assessment proceeding, the M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. could not satisfactorily explain the source of such deposits before the Assessing Officer. In the course of the assessment proceedings, with a view to collect information u/s 133(6), the AO required the assessee

provide the PAN of Keshar Trading Co. and Shri Krishna Trading Co. However, the assessee did not provide the same. M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. did not respond to the notice issued u/s 133(6) by the AO. Under the circumstances, the AO held that the financial transactions entered into by the assessee with the M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. of Rs.65,97,720/-, which according to the represented sales proceeds receipt from M/s Keshar Trading Co., M/s Sri Hari Foods Products and M/s Shri Krishna Trading Co. has remained unexplained, as the genuineness of the transactions has not been established by the assessee. Accordingly, the amount of Rs.65,97,720/- is added to the total income of as income chargeable to tax u/s 68 rws 115BBE of the Act. Aggrieved by the addition, the assessee filed appeal before the CIT(A), which is pending for disposal.

2.2 Thereafter, the assessee had also filed an application u/s 154 before the Assessing Officer stating that the addition of Rs.65,97,720/- made to the total income has been recorded by it and forms part of sales declared in the Profit & Loss Account and has been offered for taxation. It is further claimed that during the assessment proceeding the AO has accepted this submission made by the company, however, while computing the total income the AO has not reduced the amount from business income and has also added the same as "Income from Other Sources". On the basis of the above submission, the assessee contended that there is double taxation of the same amount and requested the AO to rectify the assessment.

2.3 It is noticed that acceding to the request of the assessee, the AO has passed an order u/s 154 on 25/05/2023, whereby the income offered by the assessee under the head "Business & Profession" has been reduced to Rs.46,07,771/- as against Rs.1,12,05,491/- declared by the assessee on its own in the return of income. This has resulted in total income being reduced to Rs.2,35,95,190/ as against the income of Rs.3,01,92,910/- assessed as per the order dated 02/05/2023. 2.3 In view of the above, the assessee is not eligible for deduction u/s. 80G of the Income Tax Act, 1961 to the tune of Rs. 22,32,000/-. And the same needs to be disallowed and added back to the total income of the assessee.

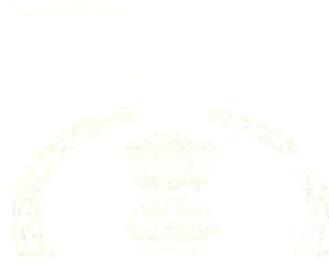
2.4 During the course of the assessment proceedings, the AO had made detailed enquiry in the alleged receipt of Rs.65,97,720/-. As per the finding given in the assessment order passed u/s 143(3) rws 1448, the genuineness of source of receipt of sum of Rs.65,97,720/- had not been satisfactorily explained by the assessee. M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. did not even respond to the notice issued u/s 133(6) during the assessment proceedings. Under the circumstances, the exact nature of the transaction and source of receipt and as to whether the sum of Rs.65,97,720/- actually forms part of the business receipt credited to the Profit & Loss Account had remained unexplained. Apparently, it is under the above circumstances the sum of Rs.65,97,720/- was brought to tax by the AO u/s 68 rws 115BEE of the Act. There was, thus, no mistake apparent from record, which required rectification u/s 154 of the Act.

3. In view of the aforementioned reasons, the order dated 25/05/2023 passed u/s 154 by the AO is erroneous in so far as it is prejudicial to the interests of the revenue. Therefore, I,

the Pr. Commissioner of Income-tax -4, Mumbai, in exercise of the powers conferred on me under the provisions of Section 263 of the I.T.Act, 1961, propose to consider this matter and pass such order thereon as the facts and circumstances of the case may justify.

4. Before doing so, I hereby give you an opportunity of being heard to explain your stand. If you desire to be heard in person or through an authorised representative, you may please attend before me at my office at the above mentioned address on **12/03/2025 at 11:30 AM**. You are also requested to furnish your submissions in writing so as to reach me on or before the date mentioned above.

Please note that in the event of failure to avail the opportunity as aforesaid, the matter will be decided on merits on the basis of material available on record.



OM PRAKASH SINGH
PCIT, Mumbai-4

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

8. We have given a thoughtful consideration to the aforementioned showcause notice of the Id. PCIT. The Id. PCIT holding that the rectification order dated 25/05/2023 framed u/s 154 of the Act is erroneous as well as prejudicial to the interest of the revenue and accordingly set-aside the same. While doing so, the Id. PCIT observed as under:-

"3.1 After going through the assessment records, Audit Memo, proposal of the A.O for section 263 proceeding and assessee's submission, following facts emerge:

(i) The assessment u/s. 147 r.w.s 144B of the Act was passed on 02/05/2023 determining total income of Rs. 3,01,92,910/- as against returned income of Rs. 2,35,95,910/- whereby addition of 65,97,720/- was made u/s. 68 rws 115BBE of the Act. Later on, rectification order u/s. 154 of the Act was passed on 25/05/2023 whereby additional of Rs.65,97,720/- was reduced from turnover on account of the fact that this amount added u/s. 68 of the Act was part of sales turnover. It was noted that the Assessing Officer has discussed in detail in the assessment order, the addition of Rs.65,97,720/- received from 3rd party in installments below Rs.50,000/- which was claimed by the assessee as sale receipts against sales made to parties - M/s. Krishna Trading Co. The A.O had noted in the assessment order that there was no co-relation

of fund movement established between the purchase parties M/s. Keshar Trading Co., M/s. Sri Hari Foods Products and M/s Shri Krishna Trading Co. vis-à-vis M/s. Renuka Mata Multi State Urban Co-op. Credit Society Ltd. This finding in the assessment order indicate that the A.O had consciously not reduced sales turnover by Rs.65,97,720/-.

Thus there was no mistake apparent from record for the later A.O to resort to rectification u/s. 154 of the Act.

(ii) In the reply filed by the assessee vide letter dt. 12/03/2025, the assessee contended that Rs.65,97,720/- was sale consideration duly recorded in the total sales turnover. As the same amount was added u/s. 68 of the Act, this led to double addition. Therefore, the order u/s. 154 was justified whereby Rs.65,97,720/- was reduced from sales turnover. This contention of the assessee is not acceptable because -

1. The Assessing Officer had passed order u/s. 147 r.w.s 144B with complete discussion on the issues involved and there was no case for any mistake apparent from record.

2. The Assessing Officer has treated the receipts of Rs.65,97,720/- as unexplained credit u/s. 68 of the Act. This amount could not have been linked to the sales turnover from 3 parties - M/s. Keshar Trading Co., M/s. Sri Hari Foods Products and M/s. Shri Krishna Trading Co., when clear finding was given that the amount of Rs.65,97,720/- was not received from these three parties. Thus, the Assessing Officer passing the order dated 02/05/2023 had consciously not reduced this amount of Rs.65,97,720/- from sales turnover. Therefore, there is no case of double addition and no action u/s 154 was allowable."

9. The aforementioned reasoning given by the Id. PCIT was considered carefully. However, we do not find any force in the aforementioned observations of the Id. PCIT. The AO while framing the assessment order dated 02/05/2023 u/s 147 r.w.s. 144B of the Act categorically held as under:-

"On perusal of submission, it is found two points on which assessee emphasis. The same is mentioned below:-

=> In case any proposed adjustment is made of the amount of Rs.65,97,720/-, the sale considered offered in the profit and loss account and computation of total income be omitted first and then only the proposed addition be made, which will have no impact on the total income; any addition made without reducing the sale consideration already offered as income in the computation of total income will result into double taxation of same income;

3.4. *The contention mentioned by the assessee is right. The profit shown on total receipt from the above proposed variation from sale consideration receipt is to be deducted from the total amount which have not been made in the show cause notice sent to the assessee with proposed variation."*

10. Basis the aforementioned observations, in his order rectifying the mistake the mistake, the AO observed as under:-

"2.1. However, while working out the total taxable income, business income was not reduced which resulted into double taxation of income. In the income tax computation form also, business income is taxed at Rs.5,49,38,639/- as against Rs.46,07,771/- after reduction of Rs.65,97,720/- as above. Also, the long-term capital loss is also taxed at Rs. 15,694/- as against Rs. Nil after set-off of brought forward loss."

11. Considering the aforementioned facts, we find that the assessee has furnished complete details of purchase invoices, relevant extract of bank statements reflecting payment made for purchases and receipt of sale consideration for sale of goods, sale invoices, delivery challans, sales register and ledger account. Further we find that the sales made to M/s. Keshar Trading Co., M/s. Sri Hari Foods Products and M/s. Shri Krishna Trading Co., were credit sales have not been reflected as trade debtors in the balance sheet because the sale consideration was received from M/s. Renuka Mata Multi State Urban Co-op. Credit Society Ltd. and the credit received from M/s. Renuka Mata Multi State Urban Co-op. Credit Society Ltd., is not shown as trade creditors/unsecured loans in the balance sheet, it can be safely concluded that the consideration received from the credit society is the sales realization of the sales made to three parties mentioned hereinabove.

12. Considering the facts of the case in totality as discussed hereinabove, we do not find any merit in the findings of the Id. PCIT. We accordingly set aside the order of the Id. PCIT dated 26/03/2023 and restore that of the AO dated 25/05/2023 framed u/s 154 of the Act. Accordingly, appeal of the assessee is allowed.

13. Since the appeal is disposed, the stay petition becomes infructuous.

14. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 7th May, 2025 at Mumbai.

Sd/-

**(SAKTIJIT DEY)
VICE-PRESIDENT**

Sd/-

**(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER**

Mumbai, Dated 07/05/2025

Sd/-

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (□ पील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
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Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai