

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND

SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

आयकर अपील (तलाशियां और अभिग्रहण)सं/IT(SS)A Nos.97 to 100/KOL/2024
&

आयकर अपील सं /ITA No.1702/KOL/2024

(निर्धारण वर्ष /A.Ys.2014-15, 2016-17, 2017-18, 2012-13 & 2010-11)

DCIT, Central Circle-4(1), Kolkata	Vs	Rajputana General Commercial Corporation Private Limited 33B, Sarat Bose Road, Kolkata PAN No. :AABCR 2016 H
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AND

आयकर अपील सं/ITA No.2206/KOL/2024

(निर्धारण वर्ष /A.Ys.2018-2019)

ACIT, Central Circle-4(1), Kolkata	Vs	Sanjeev Kejriwal 6/1B, Palm Avenue, Kolkata PAN No. :AEVPK 7424 H
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(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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राजस्व की ओर से /Revenue by	:	Shri Shri P.N.Barnwal, CIT-DR, Shri Nicholas Murmu, Sr. DR & Shri Manas Mondal, Sr.DR
निर्धारिती की ओर से /Assessee by	:	None
सुनवाई की तारीख / Date of Hearing	:	06/05/2025
घोषणा की तारीख/Date of Pronouncement	:	06/05/2025

आदेश / ORDER

Per Bench :

These are the appeals filed by the revenue against the separate orders dated 24.04.24, 31.05.24 & 03.06.24, passed in the case of the above two assesseees by the CIT(A), Kolkata-27, for the assessment years 2010-2011, 2012-2013, 2014-2015, 2016-2017, 2017-2018 & 2018-2019, respectively.

2. Shri Shri P.N.Barnwal, CIT-DR, Shri Nicholas Murmu, Sr. DR & Shri Manas Mondal, Sr.DR, appeared on behalf of the revenue in their respective appeals. None appeared on behalf of the assessee.
3. These appeals have been posted on multiple occasions and no one has represented on behalf of the assessee even though repeated notices have been issued through RPAD and email. Consequently, these appeals are being disposed off *ex-parte qua* the assessee.
4. First, we shall decide the appeals of the revenue in IT(SS)A Nos.97-100/Kol/2024 for the assessment years 2010-2011, 2014-2015, 2016-2017 & 2017-2018, respectively.
5. It was submitted by the Id. CIT-DR that out of the four appeals, appeal in IT(SS)A Nos.97-99/Kol/2024 is delayed by 08 days and IT(SS)A No.100/Kol/2024 is delayed by 02 days and ITA No.1702/Kol/2024 is delayed by 12 days for which the revenue has filed the applications for condonation of delay, wherein the revenue has provided the details of the dates in which the appeals were processed. The revenue has provided the reasons and the reasons having been found to be plausible reasons, the respective delay in filing above appeals by the revenue stands condoned and the appeals are being disposed off on merits along with other connected appeals also.
6. It was submitted by the Id. CIT-DR that there was a search on one Shri Sanjeev Kejriwal on 24.10.2017. It was the submission that a statement u/s.132(4) of the Act was recorded from said Sanjeev Kejriwal

on 26.10.2017 in the course of search wherein Shri Sanjeev Kejriwal has specifically admitted that he is providing accommodation entries to various persons and companies and the said entries were provided through bank accounts maintained by Shri Sanjeev Kejriwal, his wife Reetu Kejriwal, his father Shri Nirmal Kumar Kejriwal and a company under the name of Rajputana General Commercial Corporation (P) Ltd. It was the submission that in the statement Shri Sanjeev Kejriwal has specifically admitted that he charges a commission ranging from 0.25% to 0.50% in respect of the accommodation entries. He had clarified that the cash was received and bogus bills, accommodation entries and payments through RTGS and cheques were made through the said bank accounts maintained/controlled by Shri Sanjeev Kejriwal to persons providing the cash. It was the submission that consequently the Assessing Officer in the course of assessment estimated the income of the assessee at 0.45%. It was the submission that the said income was assessed in the hands of each persons protectively and the substantive addition was made in the hands of Shri Sanjiv Kejriwal. It was the submission that on appeal before the Id. CIT(A), the Id. CIT(A) relied upon the decision of the Hon'ble Bombay High Court in the case of Alag Securities Pvt. Ltd., reported in 315 CTR 905 (Bom-HC) and held that in the case of an assessee engaged in providing accommodation entries, the entire deposits cannot be assessed as unexplained cash credits and only the commission at the rate of 0.15% earned in providing accommodation entries can be assessed as income. Consequently, the Id. CIT(A) had directed the Assessing Officer to assess

the income of the assessee as 0.15% instead of 0.45% adopted by the Assessing Officer. It was the submission that Shri Sanjeev Kejriwal having himself admitted and the incriminating documents and statements recorded in the course of search having categorically shown that the income varied from 0.25% to 0.5%, the estimation of income of the assessee at 0.15% was not permissible, insofar as the said estimate went far below even the lower percentage as admitted by the entry operator/accommodation entry provider, Shri Sanjeev Kejriwal. It was the submission that the order of the Id. CIT(a) is liable to be reversed.

7. We have considered the rival submissions and also perused the records and orders of the authorities below. The facts in the present case clearly show that Shri Sanjeev Kejriwal has admitted in his statement u/s.132(4) of the Act that he is earning commission income of 0.25% to 0.5% on the accommodation entries provided by him through the bank accounts of his wife, father and the company in which he is having control. Shri Sanjeev Kejriwal having admitted to a commission percentage of 0.25% to 0.5%, then obviously the rate below 0.25% is arbitrary and against the basic principles of the statement given by him in the course of search. This being so, we are of the view that the percentage of 0.15% as directed by the Id. CIT(A) is erroneous, considering the fact that Shri Sanjeev Kejriwal has himself admitted to a commission percentage of 0.25% to 0.5%, we are of the view that the commission income of the assessee from the accommodation entries is liable to be adopted as 0.35% and we do so. The reliance on the decision of the Hon'ble Bombay High Court in the case

of Alag Securities Pvt. Ltd., referred to supra, used by the Id. CIT(A) to adopt percentage @0.15% is not a standard fixed by the Hon'ble High Court. The percentage fixed by the Hon'ble Bombay High Court is on the basis of the facts before the Hon'ble High Court. The facts and the evidence in respect of appeals before us clearly show that the percentage is varying between 0.25% to 0.5%. Accordingly, we partly allow the appeals of the revenue and the order of the Id. CIT(A) stands modified for all the years under consideration and the Assessing Officer is directed to compute the income of the assessee by fixing the rate of 0.35% in respect of sums representing accommodation entries provided.

8. Here we must mention that these appeals are in respect of protective addition made by the Assessing Officer and modified by the Id. CIT(A). The Assessing Officer while giving effect to this order shall verify as to whether the substantive addition made in the hands of Shri Sanjeev Kejriwal has been deleted from the file of Shri Sanjeev Kejriwal and if so then this protective addition would become substantive.

9. Thus, all the appeals of the revenue are partly allowed.

10. Now, we shall decide appeal of the revenue in **IT(SS)A No.1702/Kol/2024 for A.Y.2010-2011.**

11. It was submitted by the Id. CIT-DR that the Assessing Officer has brought to tax the entire deposit in the bank account of the assessee as the same was unexplained by the assessee. It was the submission that the Id. CIT(A) had estimated the income of the assessee at 0.15% as the income of the assessee. It was the submission that as the assessee has been

unable to explain the credits in its bank account, the income of the assessee is liable to be assessed in its entirety and not on the profit percentage.

12. We have considered the submission and various orders of the lower authorities. A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) has taken into consideration the fact that in the course of search on Shri Sanjeev Kejriwal, he has admitted that he is providing accommodation entries and using assessee's bank account for providing said accommodation entries. Shri Sanjeev Kejriwal has also admitted that he is charging a commission of 0.25% to 0.5%. A perusal of the order of the Id. CIT(A) clearly shows that the Id.CIT(A) considering the statement of Shri Sanjeev Kejriwal and has then directed the Assessing Officer to estimate the income of the assessee at 0.5% of the alleged accommodation entries. The revenue has not been able to show any specific error in the finding of facts as arrived at by the Id. CIT(A). Consequently, we find no reason to interfere in the order of the Id. CIT(A) and accordingly the appeal of the revenue is dismissed.

13. Thus, appeal of the revenue in ITA No.1702/Kol/2024 for A.Y.2010-2011 is dismissed.

14. Now, we shall decide the appeal of the revenue in **ITA No.2206/Kol/2024 for A.Y.2018-2019.**

15. It was submitted by the Sr. DR that the assessee was subjected to a search on 24.10.2017 and his statement was recorded on 26.10.2017, wherein the assessee has admitted to be providing accommodation entries and was charging a commission of 0.25% to 0.5%. It was the submission

that consequently the Assessing Officer had estimated the income of the assessee on substantive basis at 0.45% of the accommodation entries provided/routed through him. It was the submission that in the course of assessment the Assessing Officer had also issued a show cause notice to the assessee wherein the facts of the income being assessed on substantive basis in the hands of the assessee on protective in the hands of his wife Ms. Ritu Kejriwal, his father Nirmal Kumar Kejriwal and the company namely Rajputana General Commercial Corporation Pvt. Ltd., whose bank accounts were being used by the assessee for making accommodation entries, had been intimated to the assessee. The assessee had not responded to the show cause notices. Consequently the Assessing Officer had adopted 0.45% as the commission income. It was the submission that on appeal the Id. CIT(A) relying on the decision of Hon'ble Bombay High Court in the case of Alag Securities Pvt. Ltd, reported in 315 CTR 905 (Bom-HC) had directed the Assessing Officer to estimate the income of the assessee at 0.15%. It was the submission that the said percentage of 0.15% was far below even the admitted percentage of 0.25% to 0.5%. It was the submission that the order of the Id. CIT(A) is liable to be reversed.

16. We have considered the rival submission and perused the orders of the authorities below. The facts in the present case clearly show that the assessee himself in the statement in the course of search has admitted to a commission income percentage of 0.25% to 0.5% on the accommodation entries. We have also in the case of assesseees where the corresponding

protective addition have been made, directed the Assessing Officer to adopt an income percentage of 0.35%. In these circumstances on similar findings, the Assessing Officer is directed to adopt the income of the assessee at 0.35% as against 0.15% directed by the Id. CIT(A).

17. The Assessing Officer shall examine as to whether the income of the assessee has been assessed substantially or whether the income has been assessed protectively in the hands of the assessee. It would be worthwhile to mention here that the income is liable to be assessed only once either in the hands of the assessee or in the hands of Ritu Kejriwal or Nirmal Kumar Kejriwal or the company namely Rajputana General Commercial Corporation Pvt. Ltd. Thus, the appeal of the revenue in ITA No.2206/Kol/2024 is partly allowed for statistical purposes.

18. In the result, appeals of the revenue in IT(SS)A Nos.97-100/Kol/2024 are partly allowed. ITA No.1702/Kol/2024 is dismissed and ITA No.2206/Kol/2024 is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 06/05/2025.

Sd/-
(SANJAY AWASTHI)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 06/05/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Assistant Registrar)
Income Tax Appellate
Tribunal, Kolkata**