

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA**  
**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**  
**AND**  
**SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**आयकर अपील सं /ITA No.455/KOL/2023 & 413/KOL/2024**

(निर्धारण वर्ष /Assessment Year. : 2009-2010 & 2010-2011)

<b>Dhanesh Paswan, Staff Quarter Indian Botanic Garden, B Garden, Shibpur, Howrah-711103</b>	<b>Vs</b>	<b>ACIT, Circle-46 Kolkata</b>
<b>PAN No. :ANWPP 6528 K</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
<b>निर्धारिती की ओर से /Assessee by</b>	<b>:</b>	<b>Shri Pritam Sudhukhan, AR</b>
<b>राजस्व की ओर से /Revenue by</b>	<b>:</b>	<b>Ms. Ranu Biswas, Addl.CIT-Sr.DR</b>
<b>सुनवाई की तारीख / Date of Hearing</b>	<b>:</b>	<b>18/06/2025</b>
<b>घोषणा की तारीख/Date of Pronouncement</b>	<b>:</b>	<b>18/06/2025</b>

**आदेश / ORDER**

**Per George Mathan, JM :**

These are two appeals filed by the assessee against the separate orders dated 10.02.2023 & 29.12.2023, passed by the Id.CIT(A), National Faceless Appeal Centre (NFAC), Delhi for A.Yrs. 2009-2010 & 2010-2011.

2. Shri Pritam Sudhukhan, Id. AR appeared on behalf of the assessee and Ms. Ranu Biswas, Id. Sr.DR appeared on behalf of the revenue.

3. Out of the two appeals, one appeal of the assessee i.e. ITA No.455/Kol/2023 is barred by 26 days. An application along with affidavit has been filed by the assessee for condonation of delay stating therein sufficient reasons which are plausible and not found to be false. Accordingly, delay of 26 days in filing the appeal in ITA No.455/Kol/2023 is condoned and appeal is admitted for hearing along with ITA No.413/Kol/2024.

4. It was submitted by the Id. AR that the assessee is an individual. It was the submission that the assessments have been completed u/s.144 of the Act in both the appeals of the assessee. It was the submission that certain bank accounts were found in the name of the assessee and in the said bank accounts substantial transactions have been found. The assessee was asked regarding the said bank accounts. The assessee submitted that he had no knowledge about the transactions, especially the cash transaction in his bank accounts. It was the submission that the assessee had claimed that he was an employee under some persons namely Shri Kamal Agarwal, Shri Arun Agarwal and Shri Mukesh Bajaj, who had used his PAN and Voter ID to open the account. It was the submission that the said persons had misused his identity card to open the bank account and made such transactions. It was the submission that the AO held that no evidence in regard to the same has been produced. It was further submitted that on appeal the Id. CIT(A) had confirmed the addition even though the assessee had brought to the attention the decision of the coordinate bench of the Tribunal in the case of Murli Manohar Karnani, passed in ITA No.1099/Kol/2015 dated 06.10.2017 wherein under similar situation the Tribunal had deleted the additions.

5. In reply, the Id. CIT-DR submitted that the bank accounts could be opened only on the KYC of the assessee and a bank account cannot be operated by any third party. It was the submission that other than mere claim that third parties have been used the assessee's ID for operating the bank account, no action had been taken by the assessee

such as filing a police complaint anything to substantiate his claim that he was not operating the bank account.

6. We have considered the rival submissions. A perusal of the assessment order clearly shows that the assessee is running a proprietorship in the name of Parasmani Suppliers. A perusal of the assessment order shows that the assessee had no knowledge of the transactions being done in his name in the bank account as identified by the AO. It is also noticed that before the AO also no representation has been made nor any evidence produced. It is also noticed that even before the Id. CIT(A) no evidence has been produced. A perusal of the order of the Id. CIT(A) shows that other than repeating the claim before the Id. CIT(A), there is nothing else produced. Admittedly, there are substantial cash transactions in the accounts of the assessee. The cash has been deposited in the account of the assessee and the same is said to have been used for making transfers to various other bank accounts. The assessee has categorically submitted that he does not know anything about either the bank account which is in his name or to whose bank accounts the money have been moved. This being so and also considering the fact that the assessee has not produced any evidence before the AO or the Id. CIT(A), the issues in this appeal are restored to the file of AO for readjudication. The AO shall collect the details such as the account opening form and the KYC of the said account from the banks, insofar as it is alleged that the bank accounts are closed and it would not be possible for an individual assessee to obtain such

information from the banks. The AO shall have the same verified in respect of the KYC of the assessee. The AO shall also obtain the details of the accounts to which the funds have been moved from the present account and obviously as it is mentioned that the funds have been moved without any knowledge of the assessee, it would have to be deemed that the said amounts were basically loans given to such accounts. Obviously, the provision of Section 281B of the Act would be available with the AO to attach those bank accounts to hold against any demand that could arise in the impugned assessment. The AO shall provide the details of the bank accounts to the assessee for his rebuttal. If the assessee is unable to explain the account opening form and if a signature is available therein then obviously the AO would be at liberty to draw adverse inference. If the funds from the said accounts have been moved from one account to another account through RTGS or by cheque the AO shall examine the signatures on the cheques/RTGS to verify as to whether the same has been done by the assessee or by a third party using the identity theft. With the above directions, the issues in both the appeals are restored to the file of AO for readjudication after affording sufficient opportunity of being heard to the assessee.

7. In the result, both appeals of the assessee are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 18/06/2025.

Sd/-  
**(RAKESH MISHRA)**

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-  
**(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

**कोलकाता** Kolkata; दिनांक Dated 18/06/2025

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अद्येषित/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.

सत्यापित प्रति //True Copy//

**आदेशानुसार/ BY ORDER,**

**(Assistant Registrar)**

**Income Tax Appellate Tribunal, Kolkata**