

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA. NO.899/Ind/2024
Assessment Year 2013-14

Sanjeev Kumar Agrawal, E-2/134, Arera Colony, Bhopal (PAN: ADHPA8387N) (Assessee/Appellant)	<u>बनाम/</u> Vs.	ACIT (Central)-2, Bhopal (Revenue/Respondent)
Assessee by	Shri Gagan Tiwari, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	18.06.2025	
Date of Pronouncement	24.06.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee u/s 253 of the Income Tax Act 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal. The assessee is aggrieved by the order) dated **25.10.2024** passed by the Ld. CIT(A) which is hereinafter referred to as the "**impugned order**".

2.

FACTUAL MATRIX

2.1 That as and by way of an assessment order bearing Number: ITBA/AST/S/147/2021-22/1042379634(1) dated 31.03.2022 passed u/s 147 of the Act total income of the assessee was computed at **Rs.62,59,780/-**. The assessee's Return of Income as per ITR filed **u/s 148 was Rs.27,59,780/-**. **Addition of Rs.35,00,000/- was made.** The assessee had taken **loan from one company called M/s Jay Jyoti (India) Pvt. Ltd.** The main person was one Sharad Darak. It was alleged that assessee had taken loan/accommodation entry of Rs.35 lakh from M/s Jay-Jyoti India Pvt. Ltd which was nothing but a shell company. The aforesaid assessment order is hereinafter referred to as the **"impugned assessment order"**.

2.2 That the assessee being aggrieved by the **"impugned assessment order"** prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the **"impugned order"** has dismissed the appeal of the assessee on grounds/reasons stated therein.

2.3 That the assessee being aggrieved by the **"impugned order"** has preferred the instant second appeal before this

Tribunal and has raised following grounds of appeal in Form No.36 against the “**impugned order**” which are as under:-

“1. 143 . Unjustified Addition

That on the facts and in the circumstances of the case, the decision of the learned A.O. is contrary to law, materially incorrect, and unsustainable in law as well as facts. And that all the adverse findings recorded therein are opposed to facts, equity, and law.

2. 148. Reassessment

That on the facts and circumstances of the case and in law, the reassessment proceedings initiated under section 147 are not valid and without jurisdiction. The order of the assessment made us 147 is unlawful and without jurisdiction, in absence of proper satisfaction note and proper reasons, hence the same be kindly cancelled.

3. 148. Reassessment

That on the facts and circumstances of the case and in law, the reassessment proceedings initiated under section 147 are not valid and without jurisdiction as the same was totally based on the statement of the third party and without giving the opportunity of the cross examination to the appellant, hence initiation of the reassessment proceedings is unlawful and without jurisdiction in absence of proper satisfaction note and proper reasons, hence the same be kindly cancelled.

4. 68. Cash Credit

That on the facts and in the circumstances of the case and in law, the learned AO was not justified in making the addition on account of cash credit and, therefore, the said unlawful and unjustified order be quashed and relief to be provided to appellant for the addition made for Rs. 35,00,000.00.

5. 144. Additional Grounds

The appellant may kindly be allow to rise additional grounds either before or at the time of hearing of this appeal”

3.

Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 18.06.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia brought to our notice that instant appeal is a covered matter and that there are numbers of orders of **this tribunal** wherein it has been held that broad issue with regard to **M/s Jay-Jyoti (India) Pvt. Ltd being paper company has not been accepted**. Hence applying those orders and decisions of the coordinate bench this Tribunal should too set aside the **"impugned order"** and allow the appeal. The Ld. AR has also stated that he is withdrawing Ground No.1 to 3. Per contra Ld. DR fairly stated that with regard to **M/s Jay-Jyoti (India) Pvt. Ltd it is true** that this Tribunal has held in several orders that **it is not a paper company/shell company** and assessee therein have been given benefit. The ratio of those orders should be followed in the instant appeal as well as facts are similar/identical.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the “**impugned order**” basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and so also after hearing and upon examining the contentions are of the considered opinion that the loan taken by assessee of Rs.35 lakhs which is added to Return of Income is not liable to be added as this Tribunal in following cases:-

- (i) ***Sanjay Shukla V/s ACIT Central Circle-2, Indore. ITA No.333&49/Ind/2020 order dated 15.03.2022***
- (ii) ***M/s Hi Link City Homes Pvt. Ltd V/s ITO 21), Indore. ITA No.2/Ind/2021 order dated 19.09.2022.***
- (iii) ***ACIT, Central-2, Indore V/s Shri Sanjay Shukla. ITA No.333/Ind/2020 order dated 15.03.2022.***
- (iv) ***ACIT, Central-1, Indore V/s Shri Krishna Devcon Ltd. ITA No. 8 to 10/Ind/2022, IT(SS)A No.11&3/Ind/2022, C.O. No.03/Ind/2022 order dated 21.08.2023.***
- (v) ***Joint CIT (OSD)-CC-7(4) V/s M/s. Shalimar Housing & Finance Ltd. ITA No.4079/Mum/2019 order dated 01.06.2021.***
- (vi) ***ACIT,3(1), Indore V/s Shri Pramod Kumar Sethi. ITA No.382 & 383/Ind/2014 order dated 06.11.2018.***

have held that M/s Jay-Jyoti (India) Pvt. Ltd is not a paper company nor a shell company. Hence we too respectfully following above decision concur with the view of both parties that issue in appeal is covered one. Consequently we set aside the **“impugned order” and allow the appeal of the assessee.**

5. Order

5.1 The appeal of the assessee is allowed and **“impugned order”** set aside.

5.2 In result, appeal of the assessee is allowed.

Order pronounced in open court on 24.06.2025.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 24/06/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore