

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 6537/MUM/2024 (AY: 2010-11)
(Physical hearing)

ITO – 19(2)(4), 507, 5 th Floor Piramal Chambers, Parel Mumbai	Vs	Narendra K Rawal (HUF) 54/3 479, Jariwala Building, Arther Road, Tardeo, Mumbai – 400034. Mumbai – 400034. [PAN: AACHN4321B]
Appellant / Revenue		Respondent / Assessee

Assessee by	Sh. Sharwan Jha Advocate (Virtually appear)
Revenue by	Sh. Mahesh Dattatraya Londhe, Sr. DR
Date of hearing	01.07.2025
Date of pronouncement	03.07.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by revenue is directed against the order of Ld. CIT(A)-51, Mumbai dated 14.10.2024 for assessment year (AY) 2010-11. The revenue has raised following grounds of appeal:

1. "Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in treating assessee as conduit and not a beneficiary of accommodation entry, thereby confirming the addition to 1% as against total addition of Rs. 46,76,800/- made by AO on account of non-genuine unexplained transaction with Shri. Vipul Bhatt, an entry operator, who has controlled, managed and operated almost 347 bogus entities and assessee was found beneficiary of bogus transactions?"

2. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) has erred in treating assessee as conduit and not a beneficiary of accommodation entry of Rs. 46,76,800/-without considering the fact that, Mr. Vipulbhatt, in his statement on oath has admitted that he is an entry operator and that controlled, managed and operated as many as 347 bogus entities which were used by for providing bogus accommodation entries for commission and the name of assessee was found to be one of beneficiary, indulged in shame transaction?

3. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) has erred in treating assessee as conduit and not a beneficiary of accommodation entry of Rs. 46,76,800/-without appreciating the fact that during the re-assessment proceedings the Appellant has failed to prove with documentary evidences that he was not a beneficiary of accommodation entries of bogus transaction, but was only used as a conduit by the Shri. Vipul Bhatt, and has only received compensation, as commission in the shadow of such transactions?"

2. Brief facts of the case are that case of assessee was reopened on the basis of information received from DDIT (Inv.), Unit-7(4), Mumbai. IN the information, it was informed that a search action was carried out on 05.02.2016 in case of Vipul Vidur Bhatt and his related entities. During the search action, it was revealed that Vipul Vidur Bhatt was indulging in providing accommodation entries in the name of various entities managed by him or his person. Statement of Vipul Vidur Bhatt was recorded wherein he has accepted that he is directed in various entities / companies and also appointed dummy director. He accepted that he was operating 347 bogus entities which were operated by him for providing bogus accommodation entries. On the basis of such information, case of assessee was reopened. During the search, it was also found that assessee has also availed accommodation entries from Vipul Vidur Bhatt of aggregating Rs. 46,76,800/- . The various entities from which the assessee availed entries are mentioned in reasons recorded at page no. 2 of assessment order. The Assessing Officer issued notice under section 148 on 31.03.2017. In response to notice under section 148, the assessee filed its return of income on 24.04.2017 declaring income of Rs. 2,67,800/-. The assessing officer recorded that assessee has not responded to various show casue notices issued to the assessee.

Accordingly, he proceeded under section 144 and on the basis of statement of Vipul Vidur Bhatt made addition of aggregate amount of alleged entry of Rs. 46,76,800/- by treating the same as income of the assessee in the assessment order dated 22.12.2017.

3. Aggrieved by the order of Id. CIT(A), the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee filed detail written submission. In the submission, the assessee stated that during the search action on Vipul Vidur Bhatt, his statement was recorded and in response to specific question, he disclosed the name of assessee as one of his conduit. The assessee also submitted that in case of similar other persons, in Jayvidya M Bhatt and Rajul N Trivedi, the Id. CIT(A) have held that those persons were mere conduit and liable for addition of commission income and not of entire accommodation entries provided by them. The assessee specifically relied on question no. 15 of DDIT to Vipul Vidur Bhatt wherein the assessee was identified as a conduit.
4. The Id. CIT(A) on considering the submission of assessee held that action of assessing officer in treating the assessee as a beneficiary against a conduit as admitted by Vipul Vidur Bhatt in his statement is the basis of making entire addition. The Id. CIT(A) after considering the submissions of assessee and the report of investigation wing prepared in case of Vipul Bhatt. considered 1.00 % of aggregate of accommodation entry as a reasonable income and thereby restricted the addition to the extent of Rs. 46,768/- against the total addition of Rs. 46,76,800/- thereby deleted the addition of

Rs. 46,30,032/-. Aggrieved by the order of Id. CIT(A), the revenue has filed present appeal before Tribunal.

5. I have heard the submission of learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that assessing officer made addition of various entries availed by assessee from Vipul Vidur Bhatt. The assessee is a beneficiary of such accommodation entry. The assessee has not explained the nature of such entries. The Id. CIT(A) allow relief to the assessee merely on the basis of submission of assessee without allowing opportunity to the assessing officer.
6. On the other hand, the Id. AR of the assessee submits that during the search action, statement of Vipul Vidur Bhatt was recorded. In his statement he in categorically stated that assessee is one of the conduit which was used to provide accommodation entries. Thus, the assessee was a part of Vipul Vidur Bhatt providing entries and not the beneficiary. In the income tax proceeding, only income component on the transaction can be taxed being profit on such transaction and not the entire transaction. Admittedly, the assessee was a part of syndicate of Vipul Vidur Bhatt, therefore, only a reasonable percentage of income can be added, which the Id. CIT(A) as reasonably consider at 1.00%. Thus, the order of Id. CIT(A) may be confirmed. In alternative submission, the Id. AR submits that on similar transaction in case of Amisha Sudhir Bhatt, the SMC bench of Mumbai Tribunal in ITA No. 6313 & 6314/M/2024 dated 10.06.2025, on similar appeal by revenue consider 5.00% of the alleged accommodation entry as reasonable and directed the

assessing officer accordingly. Copy of decision of SMC Bench in Amisha Sudhir Bhatt is filed.

7. At the time of conclusion of submissions of both the parties, I directed both the learned representative to file the list of various entities of Vipul Vidur Bhatt and his statement if any. In compliance of my direction, the Id. Sr. DR for the revenue as well as Id AR of the assessee filed the list of 347 various entities allegedly managed by Vipul Vidur Bhatt on record.
8. I have considered the rival submissions of both the parties, order of lower authorities and the material placed before me. I find that assessing officer while making addition of Rs. 46,76,800/- has not specified the nature of transaction whether it was in the form of sales of any goods or against purchase of any material or in the name of loan secured or unsecured. The assessing officer simply in the reasons recorded mentioned that assessee availed accommodation entry from Vipul Vidur Bhatt. It is also an admitted fact that during assessment, the assessee except filing return of income has not filing any explanation to substantiate or explain the transaction. I find that before Id. CIT(A), the assessee relied on the statement of Vipul Vidur Bhatt.
9. At the time of hearing I specifically called the statement of Vipul Bhatt, which if filed on record. On perusal of statement of Vipul Vidur Bhatt and the list of various entities, which is part of a statement, I find that the name of assessee appeared at serial no. 228. Vipul Vidur Bhatt in his statement specifically stated that he was using this entity (assessee/ Narendra Kumar Rawal-HUF) for providing bogus accommodation entries to various

beneficiaries, control of entire activities of income tax related the matter, accounting matter, bank account transaction and share transaction etc. of assessee was managed for bogus accommodation entries. I find that at the time of recording statement no specific question was asked by Authorised Officer about the nature of specific entry whether in the form of sale, purchase or loan or share application etc. Thus, from the record of revenue it is an admitted fact that assessee-HUF is also a part of a conduit of Vipul Vidur Bhatt and cannot be treated independently. I find that even before Id. CIT(A), the assessee has not explained the nature of transaction. The assessee is a conduit of Vipul Bhatt and entire transaction cannot be added his income. Similarly, making addition @ 1.00 % of transaction of commission income is not justified unless the nature of transaction is explained. Thus following the decision of SMC Bench in Amisha Sudhir Bhatt (supra), the order of Id. CIT(A) is modified and the reasonable percentage of income of assessee is estimated @ 5.00 % in place of 1.00% as estimated by Id. CIT(A). Thus, the revenue is allowed part relief. In the result, the grounds of appeal raised by the revenue are partly allowed.

10. In the result, the appeal of the revenue is partly allowed.

Order was pronounced in the open Court on 03/07/2025.

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 03/07/2025
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai