IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 32/GTY/2024
Assessment Year 2017-18
&
I.T.A. No. 33/GTY/2024
Assessment Year 2021-22

Amit Kumar,
Flat No. 734, Modern Apartment,
Sector-15, Rohini, Delhi - 110089
[PAN: AKGPK7676Q] **.....Appellant**

vs.

Income Tax Officer,
Ward 1(1), Guwahati,
Aayakar Bhawan, Christian Basti,
G.S. Road - 781005 **..... Respondent**

Appearances by:

Assessee represented by	:	Suresh Gupta, FCA
Department represented by	:	Kausik Ray, JCIT
Date of concluding the hearing	:	10.06.2025
Date of pronouncing the order	:	25.06.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This is a batch of two appeals pertaining to the same assessee. Since, the issues are inter-connected, hence, they are disposed of through a single order.

1.1 The present two appeals emanate from the orders under Section 250 of Income Tax Act, 1961 (hereafter "the Act") passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)"], dated 18.01.2024.

2. In ITA No. 32/Gty/2024 pertaining to AY 2017-18, the Ld. AO passed an order dated 23.03.2022, through which an addition u/s 69C of the Act has been made amounting to Rs. 12,95,07,714/-. While making this addition the Ld. AO has recorded on page 2 of his order that the assessee was asked to submit details regarding the entries in the books of accounts and to this effect the assessee mentioned that his books of account and sundry creditor related documents were seized by the GST Department and hence, he was unable to present the same at that point in time. Furthermore, more importantly the Ld. AO issued a notice dated 14.03.2022 through which it was proposed to complete the assessment after making the impugned addition. In respect of this notice, the assessee averred that he has collected money on behalf of various companies as a broker and thereafter the same was transferred to the accounts of those companies only. On this issue, the Ld. AO has recorded on page 3 para 6 of his order that the assessee did not furnish any sale bills raised by the said companies, nor any bank account statement of these companies and finally no copy of agreement etc. entered into with these companies was provided by the assessee to prove that he was authorised to collect money on behalf of the said companies. Also, the Ld. AO found that there was no mention of any commission charged as a broker with respect to the alleged transactions on behalf of these companies.

2.1 Before the Ld. CIT(A), the assessee averred that the credit in all the bank accounts have been treated u/s 69C of the Act, even those belonging to his wife, HUF and his son. It was also averred, as an alternative argument, that at best there could be an addition of commission on the impugned deposits ranging from 0.25% to 0.50%. The Ld. CIT(A) has gone by the recording of fact in the Ld. AO's order that since the assessee did not furnish any explanation regarding the entries in the bank accounts, hence the impugned addition was liable to be upheld. Regarding the other arguments of estimating commission at 0.25% on the deposits, it has been held in para 7.23 at page 23 of the impugned order that since no details

whatsoever were provided by the assessee, hence this argument was not found to be tenable.

3. In ITA No. 33/Gty/2024 (AY 2021-22), the Ld. AO has recorded on pages 1 to 2 that there was absolutely no response to the notices sent from his office fixing the dates for hearing. It has been further recorded that the assessee's business premises were searched by DGGI, Guwahati, Zonal Unit. Before the GST Authorities a statement was recorded u/s 70 of the CGST Act in which the assessee had apparently admitted that the purchases shown by him are bogus and no transportation of materials was ever done. During the course of assessment proceedings, the Ld. AO initiated a process of verification of the major purchases in response to notice issued u/s 133(6) of the Act (notices issued in 8 cases is mentioned on page 3 of the Ld. AO's order). Only one Shri Vikas Bansal against whom an amount of Rs. 14,80,03,477/- was shown, responded by saying that he had not supplied any coal to the assessee and the assessee had only received fake bills issued from the units of Shri Vikas Bansal (M/s Bansal Associates). It has been recorded by the Ld. AO that the remaining 7 parties never responded to the notices. In similar manner, the Ld. AO attempted to verify the sales in the case of six parties mentioned on page 4 of the Ld. AO's order. Here also there was no response received from the said parties. Thus, attempts by the Ld. AO to verify the genuineness of sales and purchases either drew a blank or as in the case of Shri Vikas Bansal, the facts of bogus accommodation entries were confirmed. Thereafter, a total addition of Rs. 202,30,39,718/- was made by the Ld. AO.

3.1 Before the Ld. CIT(A) also, it was averred that the assessee was only an entry provider and hence should be assessed on the commission income which deserved to be estimated @ 0.15% to 0.25% of the total turnover. This argument has not been accepted by the Ld. CIT(A) and it has been recorded that if the assessee wanted to be identified only as an

entry operator then he should have revealed the names of the ultimate beneficiaries (para 11.2 at page 17 of the impugned order.)

4. Aggrieved by the action of Ld. CIT(A) for both the years, the assessee is in appeal with the following grounds:

ITA No. 32/Gty/2024

"1. On facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the reassessment proceedings ignoring the fact that impugned assessment is invalid and without jurisdiction as the said assessment is completed without complying with legal requirements of the provisions of section 147/148/151 of the Income Tax Act therefore such assessment is void ab initio and liable to be quashed.

2. On facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the reassessment proceedings ignoring the fact that reassessment proceedings-initiated u/s 147 of the IT Act ignoring the contention of appellant that the proceedings have been initiated by the AO without application of independent mind on the material, if any, provided by the other authority of department. The reasons given for reopening of assessment are incoherent, vague and leave assessee guessing for the live link between the material on record and the conclusion drawn. Therefore, such reassessment is void ab initio and liable to be quashed.

3. On facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the reassessment proceedings ignoring the fact that the satisfaction recorded by the Addl/JCIT, Guwahati is mechanical and without application of mind as such approval vitiates the assessment.

4. On facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the reassessment proceedings ignoring the fact that the same has been completed without jurisdiction without complying with provisions of 144B of IT Act therefore such assessment is void ab initio and liable to be quashed.

5. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the addition of Rs.12,95,07,714/- u/s 69C/69A rws 115BBE of IT Act treating the aggregate amounts of credit entries in the bank accounts of the appellant and his family members as unexplained expenditure

6. The appellant craves leave to add, delete, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority."

ITA No. 33/Gty/2024

"1. On facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the assessment proceedings ignoring the fact that impugned assessment is invalid and without jurisdiction as the said assessment is completed without complying with legal requirements of the provisions of section 143(2) of the Income Tax Act therefore such assessment is void ab initio and liable to be quashed.

2. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the disallowance of purchases of Rs.86,47,78,624/-ignoring the submission of appellant.

3. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the addition of Rs.86,66,86,730/- being difference in purchases as per books and figures reported in GST ignoring the reconciliation submitted with evidences on record.

4. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the addition of Rs.29,15,74,364/- being difference in sales as per books and figures reported in GST ignoring the reconciliation submitted with evidences on record.

5. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the addition of Rs.29,15,74,364/- being difference in sales as per books and figures reported in GST ignoring the reconciliation submitted with evidences on record.

6. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the aggregate additions of Rs.2,02,30,39,718/- without complying with mandatory provisions of sec 145(1) of IT Act in absence of any finding that the books of account not found to be reliable for computation of income and therefore such additions cannot be sustained in law.

7. On the facts and circumstances of the case, the Ld CIT(A) has erred in law in upholding the aggregate additions of Rs.2,02,30,39,718/- without computing the estimated commission/profit on the turnover when there is alleged admission on record that no actual purchases/sales have been done by the appellant and the only option left is to compute estimated commission on such accommodation entries provided by the appellant.

8. The appellant craves leave to add, delete, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority."

5. For AY 2017-18, the Ld. AR vehemently argued with the help of a paper book that the reopening of the case was illegal and void on account of the following reasons:

(i) The Ld. AO did not verify whether the bank accounts actually belonged to the assessee or to some other person, since as per the table at pages 6 and 7 of the impugned order, it can be seen that all of the bank accounts did not belong to the assessee.

(ii) At the time of issuing notice u/s 148 of the Act, the Ld. AO did not consider any material or evidence to lead to the conclusion that the said entries in the bank accounts had to be adversely dealt with.

(iii) The Ld. AO mechanically went about in respect of the information provided by the Investigation Wing and thereby depended on "borrowed satisfaction".

(iv) While the details of deposits were available with the Ld. AO, he did not apply his mind regarding how or why such entries needed to be treated adversely.

(v) The Ld. AR relied on certain case laws and most importantly on the case of Meenakshi Overseas Pvt. Ltd. reported in 395 ITR 677 (Delhi). During the course of discussion, while several cases were relied on but emphasise was also laid on the case of M/s SNG Developers Ltd. reported in 404 ITR 312 (Delhi). Through these cases it was argued that the Ld. AO could not have merely worked with "borrowed satisfaction" and hence the assumption of jurisdiction was illegal at best.

(vi) The Ld. AR also argued that the approval u/s 151 of the Act was given in a mechanical manner which would not be permitted in the face of several case laws relied upon by him.

Regarding the other issues on merit, it has been averred that the assessee's case has all along been that he is an entry provider for others. For this service, he receives a commission which is around 0.25% of the turnover and hence, after considering a plethora of judgments in this regard, the assessee cannot be saddled with liabilities u/s 69C of the Act with regard to the entire quantum of deposits. It was also pointed out that factually also all the bank accounts did not belong to the assessee and all of the figures therein could not be latched on to the assessee in any case.

5.1 For the AY 2021-22 it has been averred that once it was established that the assessee is merely an entry provider then only a reasonable commission could have been treated as his income, on the turnover of business. This also should have been done by rejecting the books of accounts u/s 145(3) of the Act. It was also argued that in the absence of

the invocation of section 145(3) of the Act, the AO could not have made any trading additions. The Ld. AR relied on a plethora of case laws to argue that at best a profit could be worked out after applying a commission rate of 0.15% only.

6. The Ld. DR relied on the orders of authorities below and stated that the Ld. AO conducted some enquiries for AY 2021-22 and for AY 2017-18, and the assessee is nowhere seen to have pointed out for AY 2017-18 that all the accounts did not belong to him. In this manner, the Ld. DR supported the orders of authorities below.

7. We have carefully considered the rival submissions and also gone through the assessment orders, impugned orders and the cases relied on by the Ld. AR and also the cases relied on by the Ld. CIT(A). For AY 2017-18 (ITA No. 32/Gty/2024) the first issue that deserves to be dealt with is regarding the validity of reassessment proceedings. The facts have been mentioned elsewhere in this regard but it deserves to be highlighted that in this case the Ld. AO received information from DCIT (BP), Guwahati, regarding the presence of multiple debit/credit transaction in bank accounts of the assessee during the financial year 2016-17. Thereafter, the Ld. AO made enquiries through the ITBA portal on ITS/360-degree profile. Thereafter, he worked out bank deposits amounting to Rs. 12,83,97,428/- on which income had purportedly escaped assessment. These details are gleaned from the communication dated 16.07.2021 from the AO to the assessee, which has been kindly supplied by the Ld. AR at pages 12 and 13 of the paper book. Thus, it is seen that most of the information used for the reopening was supplied by the DCIT(BP), Guwahati. In light of the arguments advanced by the Ld. AR, we need to decide whether the reopening was valid or it could not have done merely on the basis of "borrowed satisfaction". A review of important case laws in this regard shows that in the case of Raymond Woollen Mills reported in

236 ITR 34 (SC), the following has been held by the Hon'ble Supreme Court:

> *"The Supreme Court had only to see whether there was prima facie some material on the basis of which the Department could reopen the case. The sufficiency or correctness of the material was not a thing to be considered at this stage. The Supreme Court could not strike down the reopening of the case in the facts of the instant case. It would be open to the assessee to prove that the assumption of facts made in the notice was erroneous. The assessee might also prove that no new facts came to the knowledge of the ITO after completion of the assessment proceeding. The Supreme Court was not expressing any opinion on the merits of the case. The questions of fact and law were left open to be investigated and decided by the assessing authority. The assessee would be entitled to take all the points before the assessing authority. The appeals were dismissed."*

In the case of Khatu Shyam Processors (P.) Ltd. reported in 94 taxmann.com 429 (Gujarat), the head notes read as under:

> *"Section 68, read with section 147 of the Income-tax Act, 1961 Cash credit (Share capital) - Assessment year 2010-11 - Assessee-company was engaged in business of dying of cloth on job-work basis - It filed return declaring certain taxable income Assessing Officer passed an order of assessment under section 143(3) - Subsequently, Investigation Wing of Department supplied a list of paper companies which had provided accommodation entries in form of share capital and share premium Assessing Officer found that some of companies out of said list had provided accommodation entries to assessee during year under consideration - Assessing Officer thus issued noticed under section 148 seeking to reopen assessment - Whether on facts, Assessing Officer had prima facie reason to believe that income chargeable to tax escaped assessment and, thus, validity of impugned reassessment proceedings was to be upheld - Held, yes [Para 10] [In favour of revenue]"*

In the case of Reena Jain reported in 174 taxmann.com 849 (Calcutta). The head notes read as under:

> *"Where Assessing Officer reopened assessment on ground that assessee had received accommodation entry of bogus LTCG from penny stock, since Assessing Officer had taken note of ITBA data which revealed same and he had also pointed out that no documentary evidence was submitted by assessee regarding alleged transactions, it could not be said that Assessing Officer did not apply his mind while reopening assessment."*

We find that in the case of AMBER reported in 129 taxman.com 316 (Orissa), the head notes read as under:

> *"Where Assessing Officer issued a reopening notice against assessee on ground that an information was received from DIT (Investigation) that during a search conducted in case of a group of companies, it was found that assessee had obtained accommodation entries in nature of unsecured loans through two*

paper/shell companies, impugned reopening notice issued against assessee on basis of said information was justified."

In this case, the case of Meenakshi Overseas (supra) relied upon by the Ld. AR has been distinguished in para 16 of this order, while the case of Raymond Woollen Mills (supra) has been followed in para 15. Furthermore, in the case of Baldevbhai Bhikhabhai Patel reported in 94 taxmann.com 428 (Gujarat), a similar position emerges regarding the reopening and the approval accorded u/s 151 of the Act. This case is mentioned because one of the grounds taken by the assessee challenges that the approval has been accorded in a perfunctory manner. In this case, we can draw parallel from the case law to state that a proposal was sent to the approving authority which would be JCIT, Range-1, Guwahati and the same was received as proposed by the Ld. AO. We see this from para 7 of the Ld. AO's communication dated 16.07.2021 [contained in pages 12 and 13 of the assessee's paper book].

7.1 A combined reading of the case laws mentioned above and the case laws supplied by the Ld. AR would reveal that the Ld. AO was in possession of certain information from DCIT(BP), Guwahati on which basis he also verified from the ITBA 360-degree portal. Thereafter, he issued notice u/s 148 of the Act for which approval was accorded by JCIT, Range-1, Guwahati, u/s 151 of the Act. As mentioned earlier, a combined reading of the case laws on the subject would reveal that the assumption of jurisdiction was not on "borrowed satisfaction" and hence the reopening cannot be faulted with. Accordingly, the assessee does not succeed on the grounds pertaining to reopening, including the according of approval u/s 151 of the Act. Since, the reopening has been challenged only for AY 2017-18, hence these findings are specifically for the relevant grounds of appeal in that year.

8. For both of the years, the assessee has tried to make out the case that he was only an entry provider and the entries in his bank accounts,

were intended to earn a small commission. The Ld. AR has also assailed to action of Ld. AO in not rejecting the books of accounts u/s 145(3) of the Act and has also stated for AY 2017-18 that some of bank accounts were not even belonging to the assessee. In this regard, we need to discuss in the background of relevant judicial pronouncements, as to what is the legal course of action in the case of admitted accommodation entries.

8.1 In the recent judgements of PCIT v. Kanak Impex (India) Ltd. [172 taxmann.com 281] and Refrigerated Distributors Pvt Ltd. v. DCIT [172 taxmann.com781], the Hon'ble Bombay High Court has not only defined as to what is a bogus purchase, but also critically analysed a number of other case laws of the Supreme Court and other High Courts. This leads us to the question of understanding as to what is a bogus purchase. A bogus purchase refers to a fraudulent transaction wherein the assessee claims to have procured goods or services, but no actual delivery or receipt takes place. The Hon'ble Bombay High Court, in the case of Kanak Impex (India) Ltd. (supra), has defined the concept of accommodation entry in the case of bogus purchases by an example. This issue is discussed in para 14 of the order as under:

> *"14. Before we adjudicate the issue, it is relevant to understand the concept of accommodation entry by an example. Mr. A has unaccounted cash, which he uses to buy goods for selling. However, the sales are made by cheque. Since the goods are purchased with unaccounted money, they cannot be recorded in the books of account. Therefore, the modus operandi to bring such purchases into the books of account is that Mr A will contact Mr B, an accommodation entry provider. Mr B would issue a paper invoice in the name of Mr A, and Mr A would issue a cheque to Mr B to show that the purchases have been made by cheque from Mr B. After deducting certain commission, Mr B would then withdraw the money from his bank account and return the cash so withdrawn to Mr A. By this process, the purchases made by Mr. A by unaccounted cash enter the books of account as if the purchases are made from Mr. B. However, what has actually happened is that the unaccounted money of Mr. A is shown to have entered the books of account by such a modus operandi and Mr. A gets back his unaccounted cash from Mr. B."*

8.2 The Hon'ble Supreme Court in the case of, The State of Karnataka v. Ecom Gill Coffee Trading Private Limited [Civil Appeal No. 230 of 2023, order dated 13.3.25], has considered the importance of the documents

related to movement of goods as one of the major pieces of evidence to prove the genuineness of the transaction. Again, the Hon'ble Bombay High Court, in the judgement of PCIT v. Kanak Impex (India) Ltd. (supra), has defined the concept of accommodation entry in the case of bogus purchase by an example in para 15 of the order as under:

> *"15. The source of such unaccounted cash, which was utilised by Mr. A to buy goods originally, must be examined. Mr. B is only a paper entry provider. Therefore, the purchases are made from someone else, but through Mr. B they get formalised in the books of account so that sales can be made and recorded in the books of account. However, what needs to be examined is how he financed the original purchases. If such financing is out of unaccounted income, then the same has to be brought to tax, and if it is out of accounted income, it cannot be brought to tax. The onus is on Mr A to show the source of financing for the original purchase and to give the correct details from whom he has purchased the goods originally."*

8.3 The genuineness of the purchases would inter alia also include an explanation with regard to the source for paying for such purchases. Explaining the source of purchases would be one of the prime considerations for concluding whether the purchases have been made from accounted or unaccounted sources and to test the claim of said transaction (s) being only accommodation entry. Even confirmatory letters from the alleged suppliers may be required, apart from necessary entries in the books of accounts and proof of expenses incurred on movement of goods, e.g., wages, octroi charges, transportation expenses etc.

8.4 The next issue, which is relevant because the Ld. AR has taken an alternate argument that at best only commission (any figure between 0.15% to 0.25%) could be taxed, is whether the entire purchase should be considered as bogus or only the profit part embedded therein. The disallowance in respect of bogus purchase is made u/s 69C of the Act, by considering it as an unexplained expenditure. The said section reads as under:

> *"Unexplained expenditure, etc.*
>
> *69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the*

explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income."

8.5 In the case of N.K. Industries Ltd. vs Dy. CIT [72 taxmann.com 289 (Guj)], the Hon'ble Gujarat High Court has observed that estimating a certain percentage of the bogus claim is against the principles of Sections 68 and 69C of the Act, and if the purchases are bogus, then it is not incumbent upon the Tribunal to restrict the disallowance only to certain percentage of such purchases. The SLP against the said decision was dismissed by the Hon'ble Supreme Court in case of N. K. Proteins Ltd. vs Deputy Commissioner of Income Tax [84 taxmann.com 195 (SC)]. We again need to refer to the case of Kanak Impex (supra) for guidance:

"20. The Tribunal also misdirected itself by approaching the issue with the erroneous belief that it was estimating profit. In fact, the issue before the Tribunal was whether the CIT(A) was justified in not confirming entire purchase additions. Therefore, to that extent, the Tribunal too misdirected itself by approaching the issue solely based on estimating profit."

Further, in paras 22 and 23 of this order, the Hon'ble High Court has specifically mentioned that in case a part of the purchases is allowed to be claimed by estimating profit, then impliedly deduction of purchases is given, even though the purchases have been considered to be bogus.

8.6 Section 69C provides that where an assessee has incurred any expenditure and offers no explanation about the source of expenditure or the explanation offered is not in the opinion of the AO satisfactory, then the amount of expenditure may be deemed to be the income of the assessee and such unexplained expenditure, shall not be allowed as a deduction under any head of income. If the approach of allowing deduction in the name of estimating profit is accepted, then it would amount to endorsing outright conduct of illegality, contrary to the express provisions

of Section 69C of the Act. The Hon'ble Bombay High Court has given an example to clarify this, as mentioned in the body of that order.

8.7 Also, in the case of Principal Commissioner of Income Tax vs Mrs. Premlata Tekriwal [143 taxmann.com 173 (Cal)] the Hon'ble Calcutta High Court has observed that in spite of the AO having allowed the assessee to explain the transaction the assessee did not produce any document but stated that 2% of the bogus purchases may be added to the total income. Based on this, the Hon'ble High Court held that the purport of this admission would be that the assessee had accepted the allegation against him and precisely for that reason, they offered that 2% of the bogus purchases may be added to the total income. The Hon'ble High Court further observed that if this was the factual position then it was incumbent upon the AO to take the proceedings to their logical conclusion and having not done so, the PCIT was fully justified in exercising jurisdiction under Section 263 of the Act by which the entire expenses were to be disallowed as bogus purchases. The decision of the Hon'ble Allahabad High Court in the case of Assistant Commissioner of Income Tax vs Shanti Swarup Jain [55 taxmann.com 378 (All)] also takes a similar view. In the case of Shoreline Hotel (P) Ltd. vs Commissioner of Income Tax [98 taxmann.com 234 (Bom)], the Hon'ble High Court approved the reasoning of the CIT(A) that in case where the purchases are not proved, the entire purchases should have been added and not a certain percentage of such purchases. Further, in the case of CIT vs La Medica [250 ITR 575 (Del)], the Hon'ble Delhi High Court has held that once it is established that purchases are bogus and raw material supplier was non-existent, then the issue whether the purchases were made from some other parties, was irrelevant and the said payment was be treated as income from undisclosed sources. In the case of Kanak Impex (India) Ltd (supra), the Hon'ble Bombay High Court, also did not accept the submission of the assessee that if the addition made by the AO is sustained, then profit rate would be exorbitant and therefore addition should be deleted. The error in this argument is that

the AO had not made the addition because of low profits. The addition was made because the assessee failed to prove the genuineness of purchases (being accommodation entries). In the case of Refrigerated Distributors Pvt. Ltd (supra), the Hon'ble Bombay High Court has held in paras 12 and 13 as under:

> *"12. Apart from the fact that no substantial question of law based on perversity is even suggested, we find that the Appellants make out no such case. In fact, at the invitation of Mr Wagle, upon evaluating the material on record, we find that the material on record well supports the findings of fact. Based on such findings of fact, we were surprised that the assessing officer did not make a 100% addition and let off the assessee by making only a 25% addition."*

8.8 Furthermore, in the case of Buniyad Chemicals Ltd reported in 172 taxmann.com 462 (Bombay), the Hon'ble High Court in its judgement dated 17.3.2025, has given some important findings regarding cases like the present one, where admittedly organised tax evasion is detected. The relevant findings are as under:

"*It is not acceptable that because the respondent-assessee is engaged in the business of providing accommodation entry, revenue cannot assess the credits appearing in its bank account which are the money deposited by its customers. The respondent-assessee, to succeed in this submission, must give verifiable details of these customers; only then can the revenue verify whether the credits appearing belong to such customers. The Commissioner (Appeals), therefore, gave the relief by observing that an estimate of income will be made only in case of identified beneficiaries and balance credits would be assessed under section 68."* [Para 37]

"The respondent-assessee cannot contend that they will not give details of beneficiaries, but at the same time, credits cannot be assessed in its hands. It is wondered how the revenue can find out to whom the credits belong to unearth unaccounted income. The respondent-assessee cannot act as a shield for beneficiaries by making such a submission and at the same time refuse to pay taxes for the unexplained amounts in its bank accounts." [Para 38]

"If the submissions made by the respondent-assessee that since they are engaged in providing accommodation entry and therefore, the credits appearing in the bank cannot be assessed in its hands has to be accepted without the respondent-assessee giving details of the beneficiaries which they have flatly refused as recorded in the statement referred to hereinabove then the consequence would be that such unaccounted sum can never be brought to tax under the Act by the revenue authorities in the hands of none of the assessee/persons to whom such unaccounted sum belongs to. In the absence of any details provided by the respondent-assessee of the beneficiaries, the revenue will not be able to verify whether such credits really belong to those beneficiaries, in which case provisions of section 68 get attracted in the hands of the respondent-assessee. Any

interpretation which would make admitted unaccounted income tax free based on the denial by the assessee/persons to give details has to be rejected." [Para 39]

"In answer to question no.15, the director through the respondent-assessee company has admitted that the bills/vouchers and other documents given for providing accommodation entries are not genuine. This would mean that he has admitted that he was engaged in the offence of commission of 'fraud'. If so, and based on such fraud, it is necessary to enquire whether he has committed an offence under the Indian Penal Code/BNS, 2023. therefore, it is directed that a necessary investigation be conducted by the concerned police station against the director to ascertain the offence, if any, committed under Indian Penal Code and the consequent action." [Para 42]

"The director, in this statement, has also admitted that he has abetted in evasion of tax by various beneficiaries. He has also admitted that he cannot give details of the beneficiaries. The director has also admitted that by engaging in accommodation entry, he has engaged in the laundering of money. Therefore, the authorities under the Prevention of Money Laundering Act, 2002 should also investigate Shri Choksi on these activities." [Para 43]

"By ignoring the material on record, the Court would be failing in its duty and its oath if the activities of such persons are not directed to be investigated into and taken to their logical conclusion. Inaction only encourages more persons to engage in illegal activities as admitted by the respondent-assessee during hearing. As a Court of law, such a thing to happen in the future cannot be permitted or at least this Court should ensure that action against persons involved in such activities should be a deterrent for other persons to think on such line." [Para 46]

8.9 In the present case the assessee has admitted to being an accommodation entry provider, but he has not submitted any details about the alleged beneficiaries of such activity. Thus, the discussions in light of case laws cited above would settle the issue against the assessee in principle. We are also conscious of the fact that the Ld.AO has erred in terms of visiting the assessee with additions even on account of bank accounts which admittedly do not belong to him. This is demonstrably true for AY 2017-18. We are also conscious of the fact that the provisions of section 145(3) of the Act have not been invoked in AY 2021-22. But in this regard, the caveat that needs to be considered is that the assessee neither presented any books of accounts or details nor did he respond to the notices issued by the Ld. AO. Thus, we have a situation where it is only a bald statement made by the assessee that books of accounts or documents are available with him as a matter of fact. Thus we deem it fit

to set aside the order of Ld. CIT(A) for both of the years with regard to the specific additions made thereon and remand the same to the file of Ld. AO for fresh assessment regarding the transactions seen in bank accounts or in the statement of accounts. Both the Ld.AO and the assessee would need to be guided by the findings given in paras 8.1 to 8.8 (supra) in this order for this exercise. Needless to say, the Ld. AO would give ample opportunity to the assessee and the assessee would make a full presentation of facts before the Ld. AO.

9. With the above remarks, the grounds pertaining to reopening in ITA No. 32/Gty/2024 are dismissed and the grounds pertaining to the specific additions made in both the years are allowed for statistical purposes, since, they are being remand back to the Ld. AO.

10. In Result, ITA No. 32/Gty/2024 is partly allowed and ITA No. 33/Gty/2024 is allowed for statistical purposes.

Order pronounced on 25.06.2025

Sd/-	Sd/-
[Manomohan Das]	**[Sanjay Awasthi]**
Judicial Member	**Accountant Member**

Dated: 25.06.2025
AK, Sr. PS

Copy of the order forwarded to:
1. Amit Kumar
2. Income Tax Officer, Ward 1(1), Guwahati
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches