

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND DR. S. SEETHALAKSHMI, HON'BLE JUDICIAL MEMBER

ITA No. 410/Jodh/2023
(Assessment Year 2016-17)

Income Tax Officer, Ward-2(1), Udaipur	Vs.	Deepak Wahi, Bedla Road, Basera Housing Colony, Udaipur – 313001. PAN No. AACPW6790R
Assessee by	Shri Yogesh Pokharna, C.A.	
Revenue by	Shri Sanjay Dhariwal, CIT-DR.	
Date of Hearing	08.05.2025.	
Date of Pronouncement	24.06.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

The captioned appeal has been filed by the revenue against the order of the Id. National Faceless Appeal Centre [NFAC/CIT(A)], Delhi dated 08.09.2023 in respect of Assessment Year: 2016-17 where the revenue has raised following grounds:

- 1) Whether on the facts and circumstances of the case, the learned CIT(A), NFAC, Delhi was justified in deleting the addition of Rs. 24,75,000/- made by AO under the head 'Income from Business or Profession'.
- 2) Whether on the facts and circumstances of the case, the learned CIT(A), NFAC, Delhi was justified in deleting the addition of Rs. 11,71,206/- made by AO under the head Income from other source.
- 3) Whether on the facts and circumstances of the case, the learned CIT(A), NFAC, Delhi was justified in deleting the addition of Rs. 6,99,10,134/- made



by AO under the head Income from other source on account of peak balance (Ac No. 84501010008262).

4) Whether on the facts and circumstances of the case, the learned CIT(A), NFAC, Delhi was justified in deleting the addition of Rs. 4,99,40,698/- made by AO under the head Income from other source on account of peak balance (Ac No. 84502010083668).

5) Whether on the facts and circumstances of the case, the learned CIT(A), NFAC, Delhi was justified in deleting the addition of Rs. 2,48,013/- made by AO under the head Income from other source on account of peak balance (Ac No. 0169131000019).

2. The Inter-related issues raised by the department in the grounds of appeals pertains to deletion of additions made under different heads of income by the AO, based on alleged deposits appearing in appellants bank account which was claimed to be not opened and belongs to the appellant.

3. Briefly, the facts of the case are that the appellant is an individual who has e-filed the return of income for the AY 2016-17 on 29/03/2017, declaring total income at Rs.26,020/-. The assessee's case was selected for limited scrutiny through CASS. Subsequently, the Pr. Commissioner of Income Tax, Udaipur, vide his office letter No. 953 dated 19/07/2018, accorded the approval for conversion of the case from limited scrutiny to complete scrutiny. After hearing the assessee, the AO completed the assessment u/s. 143(3) of the Act on 19/12/2018, determining the assessee's total income at Rs. 12,37,95,250/- by making various additions.



4. Being aggrieved, the appellant preferred the appeal before the Ld. CIT (A)/ NFAC, who granted relief to the assessee and hence the revenue is in appeal.

5. We have heard both the sides, perused the material on record, assessment order, impugned order, written submission and case law cited before us. The Ld. CIT (DR) presented the appeal and vehemently placed reliance on the assessment order contending that the bank account belongs to the assessee. However, he fails to rebut the contention of the assessee taken on record by the Ld. CIT (A) and found the grievance of the assessee genuine with detailed analysis of facts with judicious interpretation in deleting the disputed addition made by the AO.

6. It is seen that the assessee has submitted before the AO that all the alleged bank account including FDR with Syndicate Bank, as well as Canara Bank were not opened by him, and were being opened by misusing his KYC by the third-party Mr. Bharat Bomb. Thus, the income earned on these accounts did not belong to him. It is evident from the copy of FIR Lodged by CBI/ ED wherein confession of Mr. Bharat Bomb was recorded to the effect that Mr. Bharat Bomb has fraudulently opened such account in the name of different parties, including the appellant assessee.

6. It is noted that appellant has neither rendered any professional service to Rajshikhar Material Trading Company LLP, nor received any professional fee from



it. We find that the appellant has requested to the AO on 13.11.2018 to call authorised persons from Rajshikhar Trading LLP for cross examination and confirm their alleged payment if any to assessee and what type of services appellant rendered to them. The appellant submitted that during license was provided to the CA for filing return of income. However, the AO alleged that there was no need to provide driving license to his CA for filing Income tax return and further the AO had overlooked one basic fact here that driving license is required in address proof for obtaining digital signature of appellant, and therefore, the same was provided to Mr. Bharat Bomb. If the AO has further doubts, he ought to have verified the signature of the assessee on bank account opening forms.

7. We find that based on investigation of CBI and ED, a Charge Sheet has already been filed before respectable Courts and Special Judge (Metropolitan Magistrate) Jaipur CBI-2 in FIR No. RCBD1/2017/E/0001 Dated 23/03/2017, CBI (BSFC) New Delhi Court wherein it was clearly held on similar facts that the Mr Bharat Bomb formed large number of fake firms, open dummy bank accounts by using name of various firms, uploaded fake IT Returns, entered into many property sale purchase transaction. It was observed that M/S RAJSHIKHAR MATERIAL TRADING ENTERPRISES loan file FLC Limit (D-84) of Krishan Kant Bagora and Piyush Bhardwaj — Accused Mahender Meghwal made forged



signatures on the loan application, purchase order, performa invoice, ITR, KYC documents, stock statements, ADV 80A, sanction letter etc. Forged purchase orders of Satyanam Enterprises, Deepak Traders, Rainbow General Trading, Dubai, Bellwether General Trading FZE, Reichen Metal FZE, Dubai were used in availing loan facilities (APB, Pg 29 para 82).

7.1 Meaning thereby that aforesaid firm Rajshikhar Material Trading LLP from whom so called alleged professional receipt was disclosed was one of fake firm formed by Shree Bharat Bomb, as confirmed by him during interrogation before CBI and ED.

7.2 In our view, the Ld. CIT(A) was justified in holding that the AO was wrong in holding that the bank account, wherein amount of Rs. 24,75,000/- credited by M/S Rajshikhar Material Trading LLP on account of fees for professional & technical services, belonged to the appellant. Since, the appellant has satisfactorily proved that this bank account was not opened by him and only his name and KYC were used by Mr. Bharat Bomb for opening this bank account. Accordingly, we hold that the amount credited in this bank account does not represent the appellant and the CIT (A) was justified in deleting the addition so made at Rs. 24,75,000/-. Thus, ground No. 1 raised by the revenue, is rejected.



8. In ground No. 2 to 5 the revenue challenged deletion of addition made on account of peak credits of deposits in the alleged bank Account and interest income under the head income from other sources.

9. The Ld. CIT (A) has observed that the AO was not justified in holding that bank account No. 84501010008262 of Syndicate Bank, A/c. No. 84502010083668 of Syndicate Bank and A/c. No. 0169131000019 of Canara Bank, belonged to the appellant. The AO has not done due diligence to cross verify the 15CA/CB forms, allegedly issued by the appellant. This form involves three parties who are (i) The remitter, (ii) The Chartered Accountant and (iii) The Bank Officer. Once the appellant denied these forms all together, the AO must have summoned the Bank Officer and CA who have signed these forms which the AO failed. On the other hand, the appellant has satisfactorily proved that these bank accounts were not opened by him and only his name and KYC were used by Mr. Bharat Bomb for opening these bank accounts. Thus, financial transactions appearing /credited in these bank accounts do not represent that the disputed additions made at Rs. 6,99,10,134/- on account of Peak Balance (A/c. No. 84501010008262 of Syndicate; Rs. 4,99,40,698/- on account of Peak Balance (A/c. No. 84502010083668 of Syndicate Bank and 2,38,013 on account of Peak Balance (A/c. No. 0169131000019 of Canara Bank, belong to the



appellant. Meaning thereby, each additions in the hands of assessee unwarranted.

10. Court of Special Judge (CBI) No. 2, Jaipur Metro —I (Raj) Cognizance Order in FIR No. RCBD1/2017/E/0001 (BSFC) New Delhi, Page 29 of 47, Date 18/04/23, the relevant para reads as under:

“91. Clients/Known of accused Bharat Bomb

1. Vik.ram Jain was CA and associated with Bharat Bomb — Accused in this case.

2. Harish Parikh client of Bharat Bomb. & director of M/S URVASHI MATERIAL TRADING CO. Pvt Ltd Witness in this case accused Mahendra Meghwal made his forged signature on loan documents.

3. Piyush Dharmawat was client Partner— M/S Shubh Export Traders — Witness in this case. Accused Mahendra Meghwal made his forged signature on loan documents.

4. Piyush Bhardwaj. client Director M/S Rajashikhar Material Trading Enterprises. _Witness in this case. accused Mahendra Meghwal made his forged signature on loan documents.

b. Deepak Wahi — client — Witness in this case _used his name & forged signature in loan documents of Deepak Traders, JLN Metal House, Shri Ram Exim Trade and Wahi Contractors.

6. Ravi Kumar Chaurasia - CA - Witness in this case His forged signature used on the CA certificate, stock statement etc.

7. Guman Mal Jain was CA of Pavitra Kothari . Witness in this case — used his name & forged signature in CA Certificate, Due Diligence Report .

8. Namita Jain — CA of Pavitra Kothari used her name & forged signature on the CA Certificate Stock Statement, Debtors List issued to M/S Tejasva Furniture and M/S Skyline Buildwell Pvt Ltd.



92. Thus, it is clear from above facts that mostly the Loan obtained on the basis of forged documents. It is also clear from the facts available on record that accused Bharat Bomb used the names of his relatives, clients, employees and former acquaintances for taking loans. Even in the name of his wife and sister. His wife and sister have stated in their statements that they never visited to Syndicate Bank and did not sign any loan document and similarly the clients and former acquaintances and employees of accused Bharat Bomb have also given statements that the loan documents are not signed by them and their signatures were made forged. Accused Bharat Bomb not only made forged loan documents but also used the identity documents of his relatives, clients, employees and former acquaintances to cheat the bank.

93 Thus, the existence of loans in the names of Bharat Bomb's relatives, employees, clients and former acquaintances is itself a fact which is prima facie sufficient to implicate accused Bharat Bomb with the forged documents and offence. In view of the material & evidence available on record and as discussed above, in my opinion accusation No. 1 appears to be prima facie established."

11. On parity of facts, the coordinate Jodhpur Bench has deleted additions on similar issues in the following appeals:

1. Nitin Parikh ITA No 263/J0dhpur/2023 & ITA No. 264/Jodhpur/2023
2. Pradeep Nimawat ITA No. 317/J0dhpur/2023 & ITA No. 318/J0dhpur/2023



3. Urvashi Material Trading Company Pvt Ltd ITA No 15/Jodhpur/2024,
ITA No 16/J0dhpur/2024

12. Considering the factual matrix, and the Judgements of the Coordinate Bench and the Special Court of CBI (Supra), we find no reason to interfere in the decision of given by the Ld. CIT (A)/ NFAC. The issues raised in the grounds of appeal by the department are found to be devoid of merits and hence rejected.

13. Without prejudice to above, we accept the alternative plea raised by the CIT (DR) as legally justified for direction to the AO u/s 150 of the Act to take necessary action in the hands Shri Bharat Bomb as the alleged amounts of deposits in the aforesaid bank accounts belongs to him. Accordingly, the AO is directed to initiate proceeding against Shri Bharat Bomb to bring the alleged incomer under the Tax Net.

14. In the result, the appeal of the revenue is dismissed.

Order pronounced on ²⁴...../.....⁰⁶...../2025 in the open court.

- Sd / -

(DR. S. SEETHALAKSHMI)
JUDICIAL MEMBER

Dated : ²⁴...../.....⁰⁶...../2025

- Sd / -

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.
