

IN THE INCOME TAX APPELLATE TRIBUNAL, DIVISION BENCH, JODHPUR

HEARING THROUGH: VIRTUAL MODE

BEFORE: SHRI. LALIET KUMAR, JM & DR. MITHA LAL MEENA, AM

ITA Nos. 20 & 21/Jodh/ 2018
Assessment Year : 2008-09 & 2009-10

M/s Super Shiv Shakti Minchem Pvt. Ltd. C-111, Shastri Nagar, Bhilwara	Vs.	The ITO Ward-3, Bhilwara
PAN NO: AALCS8492A		
Appellant		Respondent

Assessee by : Shri Goutam Chand Baid, C.A
Revenue by : Shri Karni Dan, Addl. CIT (Sr. D.R)
Date of Hearing : 21/05/2025
Date of Pronouncement : 17/06/2025

आदेश/Order

PER LALIET KUMAR, J.M:

Both the above appeals filed by the Assessee against the separate order of the Ld. CIT(A), Ajmer each dt. 30.11.2017 confirming the reassessment order framed under section 147 read with sections 144 and 254 of the Income Tax Act, 1961 for the Assessment Year 2009–10.

2. Since the issues involved in both the above appeals are common and were heard together, therefore, they are being disposed off by this consolidated order for the sake of convenience and brevity. We shall take ITA No. 21/Chd/2018 for the A.Y 2009-10 as a lead case for discussion, wherein the assessee has raised the following grounds:

1. That on the facts and in the circumstances of the case, the Ld. CIT (A) erred in upholding the validity of assessment order framed u/s 147. The assessment order framed u/s 147 may kindly be declared as erroneous and void ab initio.

2. That on the facts and in the circumstances of the case, the Ld. CIT (A) erred in sustaining the addition made by Ld. AO for Rs. 78,60,000/-treating the amount received towards subscription of share capital as unexplained cash credit. The addition so sustained may kindly be deleted.

3. That on the facts and in the circumstances of the case, the Ld. CIT (A) erred in sustaining the addition made by Ld. AO for Rs. 1,17,900/-presuming that such payment was made by assessee. The addition so sustained may kindly be deleted.

4. *The appellant craves liberty to add, amend, alter, modify, or delete any of the ground of appeal on or before its hearing before your honour.*

5. *The appellant prayed for the justice.*

3. Briefly the facts of the case are that the assessee is a private limited company incorporated on 06.02.2008. For the year under consideration, the assessee filed its return of income declaring a loss of Rs. 74,740/-. Subsequently, based on specific information received from the DDIT (Investigation)-II, Udaipur, the case was reopened under section 147. The information pertained to the alleged involvement of the assessee in transactions with the Mahasagar Group of Companies, which were found to be engaged in providing accommodation entries in the form of bogus share capital and fictitious profits/losses. Based on this, the AO recorded reasons and issued notice under section 148. After reassessment, the AO made additions amounting to Rs. 78,60,000/- under section 68 on account of share application money received from two entities, namely M/s Mihir Agencies Pvt. Ltd. (Rs. 60,00,000) and M/s Alpha Chemie Trade Agencies Pvt. Ltd. (Rs. 18,60,000), along with a further addition of Rs. 1,17,900/- under section 69C, being alleged commission paid to arrange these entries.

4. Aggrieved by the reassessment order, the assessee challenged the same before the CIT(A). The CIT(A), after considering the facts and submissions, upheld the reopening and sustained the additions. The assessee is now in appeal before us.

5. The core grievance of the assessee pertains to the legality of the reopening of the assessment and the additions made under section 68 and section 69C. The assessee's principal argument is that the reasons recorded by the AO for initiating proceedings under section 147 were vague, mechanical, and based entirely on information received from the Investigation Wing, without any application of mind or independent verification. It was submitted that the AO merely reproduced the content of the letter from the DDIT (Inv.), Udaipur, without establishing a live link between the alleged information and the assessee's case. The reopening, according to the assessee, was based on "borrowed satisfaction," which is not permissible under law.

6. The assessee further submitted that it had duly disclosed all relevant facts at the time of filing the original return. It was emphasized that both M/s Mihir Agencies Pvt. Ltd. and M/s Alpha Chemie Trade Agencies Pvt. Ltd., the companies which invested in the

assessee, were duly incorporated entities having valid PAN, were registered with the ROC, and regularly filed income tax returns. The assessee claimed to have furnished full documentary evidence in support of the share application money, including share application forms, board resolutions, confirmation letters, copies of audited financials and bank statements of the investor companies. The amounts were received through banking channels, and no defect had been pointed out in the documentation submitted. Therefore, it was argued that the burden of proof under section 68 stood discharged.

7. The assessee also contested the addition under section 69C, stating that no evidence was brought on record by the AO to establish that any commission was actually paid. The alleged figure of Rs. 1,17,900/- was presumptive and based on the generic modus operandi recorded by the Investigation Wing.

8. On the other hand, the Revenue relied upon the findings of the AO and the CIT(A), who placed significant emphasis on the investigation report and the sworn statement of Shri Mukesh Choksi, the main operator of the Mahasagar Group. The statement recorded by the Investigation Wing revealed that Shri Choksi was in the business of providing accommodation entries through a large number of entities, including the two companies that had subscribed to the assessee's share capital. In his statement, Shri Choksi candidly admitted that entities such as M/s Mihir Agencies Pvt. Ltd. and M/s Alpha Chemie Trade Agencies Pvt. Ltd. were shell companies used to issue cheques against cash payments received from beneficiaries, in exchange for a commission.

9. The CIT(A), after examining the statement of Shri Choksi and the pattern of investment in the assessee's company, recorded a categorical finding that these two companies were directly mentioned in the statement as conduits. Notably, the CIT(A) observed that Shri Choksi had specifically named the present assessee M/s Super Shiv Shakti Minchem Pvt. Ltd. as one of the entities that obtained accommodation entries through the aforementioned companies. The admission was not general in nature but referred to specific transactions and beneficiary companies, including the assessee. According to the CIT(A), this direct naming of the assessee could not be ignored or dismissed as mere suspicion. The fact that such companies were found to be non-

operational, had no significant business activity, and were part of a known network of entry providers, only served to confirm the genuineness of the investigation findings.

10. We have heard the rival contention of the parties and perused the material available on the record .Upon careful consideration of the rival contentions and the material available on record, we are of the considered view that the reassessment proceedings were validly initiated. The reasons recorded by the AO were based on specific, credible, and tangible material, including the statement of an identified entry operator, corroborated by details of transactions, amounts, and investor names. The AO is not expected to conclusively establish escapement of income at the stage of recording reasons. What is required is the existence of information that can reasonably lead a prudent officer to form a belief that income has escaped assessment. This threshold is clearly satisfied in the present case.

11. We are unable to accept the assessee's argument that the reopening was based on borrowed satisfaction. The AO recorded detailed reasons which referred to the search and seizure action in the case of the Mahasagar Group, the specific role of Shri Mukesh Choksi, and the names of the very entities that invested in the assessee. This is not a case of vague suspicion or generalized information. Rather, it is a case where the assessee is explicitly named in the investigation as a beneficiary of the entry scheme. The AO was justified in acting upon such material. Upon perusal of the material available on record, it is evident that the companies M/s Mihir Agencies Pvt. Ltd. and M/s Alpha Chemie Trade Agencies Pvt. Ltd. had made substantial investments in the share capital of the assessee company during the relevant assessment year. The amounts so received were duly credited in the books of the assessee. Importantly, the Board Resolutions authorizing such investments on behalf of these companies were signed by Shri Mukesh Choksi, who has categorically admitted, in his statement recorded by the Investigation Wing, that these companies were instrumental in providing bogus share capital entries in lieu of cash.

The linkage between the assessee and the Choksi group is not incidental but direct and traceable. The entities from which the assessee purportedly received share application money were not independent investors acting on commercial prudence but were controlled by an admitted entry operator, who has provided detailed explanation of the modus operandi and specifically identified the assessee as a recipient of such

accommodation entries. The chain of evidence — right from the entities under Shri Choksi's control, the banking trail, the documents executed, and the admission by Choksi himself — clearly establishes a closed circuit of fraudulent capital infusion into the assessee company.

12. In view of this, we are of the considered opinion that the Revenue had cogent and credible material to form a reason to believe that income had escaped assessment. The satisfaction recorded by the Assessing Officer was neither mechanical nor perfunctory, but based on detailed and specific information. Therefore, the initiation of proceedings under section 147 was legally valid and does not suffer from any jurisdictional defect. The ground raised by the assessee challenging the validity of the reopening is accordingly dismissed.

13. On merits, although the assessee produced documentation to demonstrate identity and existence of the investor companies, it failed to prove the genuineness of the transaction and the creditworthiness of the investors, especially when such entities were categorically described by their own controller (Shri Choksi) as entry operators. The courts have consistently held that mere production of documents like PAN and bank statements does not discharge the burden under section 68 if the overall transaction lacks credibility and commercial rationale. The onus is higher where entities are found to be part of an accommodation entry racket, and in such circumstances, the test of human probability must prevail over formality.

14. The assessee has placed on record a set of documents in support of the receipt of share capital, including board resolutions, bank statements, Permanent Account Number (PAN) details, and confirmation letters from the alleged investor companies. While these documents have been meticulously assembled and formally satisfy certain documentary requirements, the transaction in question, upon deeper scrutiny, does not withstand judicial or commercial examination. At the relevant point in time, the assessee was a loss-making entity, with a negative net worth and no significant commercial operations or achievements that would logically attract investment from independent, prudent investors. There existed no credible business profile, operational revenue, or growth prospect that could reasonably motivate an unrelated party to invest substantial amounts in equity capital in such a financially distressed company.

15. This leads us to the central and most critical question — one which remains conspicuously unanswered by the assessee: why would any commercially rational and financially prudent investor, who has no pre-existing relationship or strategic interest in the company, choose to invest large sums in a business that was neither generating profit nor possessing any real commercial track record? The total absence of any plausible economic logic or demonstrable business rationale behind the investment renders the entire transaction highly suspicious. In our considered view, the only tenable explanation that arises from the facts and surrounding circumstances is that the assessee sought to introduce its own unaccounted money into the system through a structured and deceptive circuitous route, using intermediary shell companies to present it as legitimate share capital.

16. This inference is further bolstered by direct evidentiary material obtained during the course of investigation. Notably, the statement of Shri Mukesh Choksi, recorded under due process, reveals that he operated a network of companies engaged in the provision of accommodation entries against cash payments. Among the companies identified by Shri Choksi were M/s Mihir Agencies Pvt. Ltd. and M/s Alpha Chemie Trade Agencies Pvt. Ltd., both of which are directly involved in the present case as purported investors in the assessee company. Shri Choksi's admission not only detailed the modus operandi adopted by his group to route unaccounted money as share capital but also named these very companies as entities used for such circular transactions. This is not an isolated assertion; the additions made in the hands of Shri Mukesh Choksi and his group entities in respect of similar accommodation entry transactions have already been upheld by the Hon'ble Bombay High Court, thus lending credibility and legal weight to the findings against the assessee in the current matter. Judicial pronouncements across various High Courts and the Hon'ble Supreme Court have consistently held that in cases where the surrounding circumstances point to a colorable device or sham transaction, the mere submission of documents such as PAN cards, confirmation letters, and bank statements is not sufficient to establish the genuineness of the transaction. In *Suman Poddar v. ITO* [ITAT No. 302 of 2019, GA No. 3355 of 2019], the Hon'ble Calcutta High Court held unequivocally that documentary evidence alone does not prove genuineness when the transaction defies economic logic. Similarly, in *Raj Bhandari v. CIT*, the Hon'ble Calcutta High Court emphasized that transactions lacking commercial substance or business purpose raise a higher

evidentiary burden on the assessee. This position was later affirmed by the Hon'ble Supreme Court, thereby underscoring the principle that judicial scrutiny must look beyond the form and examine the substance of the transaction.

17. The Hon'ble Supreme Court in *PCIT v. NRA Iron & Steel Pvt. Ltd.* [(2019) 103 taxmann.com 48 (SC)] provided authoritative guidance on this very issue. The Court ruled that in order to discharge the onus under Section 68 of the Income-tax Act, the assessee must not only prove the identity of the investor but also establish their creditworthiness and the genuineness of the transaction. The Apex Court further clarified that mere production of PAN and bank statements is not sufficient when the transaction appears commercially irrational or lacks substance. This precedent is particularly significant in the present case, where all three elements identity, creditworthiness, and genuineness are in question.

18. The assessee's contention regarding the denial of the opportunity to cross-examine Shri Mukesh Choksi is also devoid of merit. It is well-settled law that income-tax proceedings are quasi-judicial in nature and are not governed by the strict procedural rules of the Indian Evidence Act, which apply to civil or criminal trials. While the right to cross-examination is a part of natural justice, it is not absolute in income-tax matters and must be contextualized. In the present case, Shri Choksi's statement was given voluntarily before a statutory authority and was detailed, implicating not only himself but also the specific companies and modus operandi involved in providing accommodation entries. The assessee was duly made aware of the reliance placed on these statements and had multiple opportunities, including during assessment and appellate proceedings before the CIT(A), to present a credible rebuttal. No substantive or plausible rebuttal was furnished. Moreover, given the considerable lapse of time and the cogent evidence already on record, any further delay for the purpose of cross-examination would serve no useful purpose and would unnecessarily protract the proceedings without altering the core factual findings. As held by the Hon'ble High Courts it is for the assessee to produce the officials / Managing Director of the company which had invested in the assessee at his own expenses and it is not for the Revenue to call for him. Once the assessee claims that these companies have invested money in the form of share application in the assessee company then the onus is on the assessee

to prove and produce the relevant evidences that the investment was not bogus and onus cannot be shifted on the Revenue in the manner suggested by the assessee.

19. In light of the detailed factual matrix, corroborative confessional evidence, and the clear and consistent line of judicial authority, we find no infirmity in the additions made by the Assessing Officer under Sections 68 and 69C of the Income-tax Act. The CIT(A) has rightly upheld these additions, and we see no reason to interfere with the same. The documentary formalities presented by the assessee fail to address the fundamental lack of commercial rationale behind the transaction. When seen in conjunction with the judicially recognized conduct of the Mahasagar group of companies, operated by Shri Choksi, and the precedent findings of the Bombay High Court validating such additions in similar cases, the Revenue's case acquires a strong evidentiary foundation.

20. Lastly, the reaffirmation of these principles by the Hon'ble Bombay High Court in its rulings involving Mukesh Choksi group entities, as well as the authoritative ruling of the Hon'ble Supreme Court in PCIT v. NRA Iron & Steel Pvt. Ltd., collectively settle the legal position. They establish beyond doubt that in cases where transactions lack economic rationale, involve known entry operators, and are routed through dubious entities, mere submission of standard documents cannot legitimize them. The assessee must demonstrate the complete chain of commercial substance and provide a credible rationale for the transaction — which is glaringly absent in the present case.

21. In conclusion, considering the totality of facts, corroborative evidence, and binding judicial precedents, we hold that the Assessing Officer and the CIT(A) were entirely justified in treating the share capital receipts as unexplained income and unexplained expenditure under Sections 68 and 69C respectively. The grounds raised by the assessee are devoid of merit and are therefore dismissed.

22. In view of the above, we find no infirmity in the order of the CIT(A). The reopening of the assessment was legally valid and the additions made under sections 68 and 69C are fully justified based on the material brought on record.

23. Accordingly, the appeal filed by the Assessee in ITA No. 21/Jodh/2018 for A.Y. 2009-10 filed by the assessee is dismissed.

24. Both the parties fairly submitted that the facts and circumstances of other appeal i.e ITA No. 20 / Jodh/2018 are exactly identical to the Appeal in ITA No. 21/Jodh/2018 and similar contentions raised therein may be considered, therefore, our findings and directions given in ITA No. 21/Jodh/2018 shall apply *mutatis mutandis* to other appeal also, which are accordingly dismissed.

25. In the result, both the above appeals filed by the Assessee are dismissed.

(Order pronounced in the open Court on 17/06/2025)

Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER
AG

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, JODHPUR
6. Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar