

आयकर अपीलीय अधिकरण  
कोलकाता 'सी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA**

श्री प्रदीप कुमार चौबे, न्यायिक सदस्य  
एवं

श्री रकेश मिश्रा, लेखा सदस्य  
के समक्ष

Before

**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

&

**SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 398 & 399/KOL/2025  
Assessment Years: 2017-18 & 2018-19**

Megha Trading Co.	Vs.	ITO, Ward 43(1), Kolkata
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AASFM0281H</b>		

**Appearances:**

**Assessee represented by** : Anil Kochar, Adv.

**Department represented by** : Praveen Kishore, CIT(DR) and  
S.B. Chakraborty, Sr. DR.

Date of concluding the hearing : 11-June-2025

Date of pronouncing the order : 28-July-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

Both these appeals filed by the assessee are against the separate orders of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AYs 2017-18 and 2018-19 dated 30.12.2024, which have been passed against the assessment order u/s 147 of the Act, dated 17.05.2023 and 09.03.2023, respectively.



1.1. Since the issues are common, both the appeals were heard together and are being decided vide this common order for the sake of convenience and brevity.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

**I. ITA No. 398/KOL/2025; AY 2017-18:**

*“1. For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.*

*2. For that the Ld. CIT(A) ought to have properly considered the factual aspect of the case and the provisions of Income Tax Act applicable in the case of the appellant and ought not to have dismissed the appeal on the alleged grounds.*

*3. For that the Ld. CIT(A) ought to have appreciated the factual aspect of the case and ought not to have confirmed the addition of Rs.8,90,685/- made by the A.O. on the alleged grounds.*

*4. For that the Ld. CIT(A) ought to have properly considered the factual aspect of the matter of Rs.8,90,685/- and ought not to have confirmed the treatment given by the A.O. to the transaction treating the same as accommodation entries on the alleged grounds.*

*5. For that the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.”*

**II. ITA No. 399/KOL/2025; AY 2018-19:**

*“1. For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.*

*2. For that the Ld. CIT(A) ought not to have directed the A.O. to apply 10% of income on the accommodation entry of Rs.76,26,846/- made by the appellant which was very high and excessive.*

*3. For that the submission of the appellant for application of 1% of the total amount of accommodation entry ought to have been made by the Ld. CIT(A).*

*4. For that the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.”*



3. Brief facts of the case are that the assessee had shown turnover of ₹1,33,04,161/- and purchases of ₹76,26,846/- were made from the entity M/s. Saakar Infra Nirman Pvt. Ltd. (in short 'SINPL') as noted from the ledger account furnished by the assessee during the survey proceedings. The Assessing Officer (hereinafter referred to as Ld. 'AO') was of the view that the transactions of ₹1,33,04,161/- were bogus sales during the FY 2016-17 and accordingly reopened the assessment by issuing notice u/s 148 of the Act. Subsequently, the assessee submitted the reply before the Ld. AO that the firm had provided bogus accommodation bills to SINPL during the year for an amount of ₹76,26,846/- and the firm had only provided the bogus accommodation bills for which accommodation charges at the rate of 1% of the total value of the bill, which comes to ₹76,268/-, was received and nothing further had been done. The Ld. AO issued notice u/s 133(6) of the Act which was complied with by SINPL, which provided bank statement, copy of journal and ledgers in the name of the assessee in its books of account. The other details like transportation, storage expenses, e-way bills etc. were not provided since the assessee had agreed that accommodation entries had been provided. Therefore, on a perusal of the submissions made by the accommodation entry provider SINPL, it was noticed that the accommodation entries provided to the assessee amounted to ₹76,26,846/-, which were added as bogus business purchases as unexplained expenditure u/s 69C r.w.s. 115BBE of the Act and addition of ₹76,268/- being 1% of the accommodation entries amounting the ₹76,26,846/- was also proposed and finally both the amounts were added as the assessee had not produced any documents whatsoever in support of its contention raised before the Ld. AO.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who directed the Ld. AO to treat 10% of the total amount of bogus accommodation entries of ₹76,26,846/- provided by the assessee as unaccounted income of the assessee towards commission earned for providing bogus accommodation entry to SINPL, which worked out to ₹7,62,684/-, and the addition of ₹77,03,114/- was directed to be restricted to ₹7,62,684/- as during the course of appeal proceeding, the assessee had filed written submission stating that it had provided accommodation entry to SINPL for ₹76,26,846/- and contended that the Ld. AO was not justified in treating the entire amount of accommodation entry of ₹76,26,846/- as income of the assessee and requested that 1% of such amount be treated as commission income in the hands of the assessee towards providing bogus accommodation entry to SINPL. The findings of the Ld. CIT(A) are as under:

*“7.1 I have given my thoughtful consideration to the issue under dispute and carefully examined the same in the light of the relevant provisions of the statute and the documentary evidence placed on record.*

*7.2. At the outset, as seen from the assessment order, there is no clarity regarding the issue under dispute. To be precise, in the initial paragraph of the assessment order, it is stated by the AO that M/s. Saakar Infra Nirman Pvt. Ltd. made purchases from various entities, including the assessee firm, wherein it was found that the assessee provided bogus accommodation entry for Rs.76,26,846/-. However, in the concluding part of the assessment order, the AO made the addition of Rs.76,26,846/- stating that "on perusal of submissions made by the accommodation entry provider M/s Saakar Infra Nirman Pvt. Ltd (SINPL), it is noticed that the accommodation entries provided to the assessee amounts to Rs. 76,26,846/-. Considering the above facts, addition of Rs. 76,26,846/- is proposed on account of bogus business purchases as unexplained expenditure u/s 69C r.w.s. 115BBE of the act. Also, an addition of Rs. 76,268/- (1% of accommodation entries amounting to Rs. 76,26,846/-) is proposed on account of commission expenses u/s 69C r.w.s. 115BBE of the Act.*

7.3 As seen from the above, it is amply clear that the AO re-opened the assessment u/s. 147 of the Act based on the information that the assessee firm provided accommodation entry of purchases to M/s. Saakar Infra Nirman Pvt. Ltd., for Rs.76,26,846/- but made the impugned addition of Rs. 77,03,114/- (76,26,846 + 76,268) on the ground that M/s. Saakar Infra Nirman Pvt. Ltd. provided accommodation entry of purchases to the assessee firm for Rs.76,26,846/-, apart from addition towards unexplained expenditure incurred by the assessee towards commission paid @ 1% on Rs.76,26,846/-, which worked out to Rs.76,268/-.

7.4 On the other hand, during the course of appellate proceedings, the assessee made written submissions stating that it had provided accommodation entry to M/s. Saakar Infra Nirman Pvt. Ltd. for Rs. 76,26,846/- and contended that the AO is not justified in treating the entire amount of accommodation entry i.e., Rs.76,26,846/- as income of the assessee and 1% of the such amount be treated as commission income in the hands of the assessee towards providing bogus accommodation entry to M/s. Saakar Infra Nirman Pvt. Ltd.

7.5 However, the assessee has not furnished any documentary evidence in support of its claim. Similarly, in the impugned assessment order, the AO has not brought any material evidence on record regarding the nature of transactions between the assessee firm and M/s. Saakar Infra Nirman Pvt. Ltd. As such, it is not clear who actually provided the bogus accommodation entry and who is the beneficiary of such accommodation entry.

7.6 Faced with this situation, based on the reasons recorded for reopening the assessment, I am of the considered opinion that the assessee had provided bogus accommodation entry to M/s. Saakar Infra Nirman Pvt. Ltd. for Rs. 76,26,846/- towards purchase of goods. Accordingly, after having considered the totality of facts and circumstances of the case, I am of the considered view that the AO is not justified in treating the entire amount of accommodation entry as income of the assessee, that too, as unexplained expenditure u/s. 69C rws 115BBE of the Act, apart from treating 1% of the same as commission expenditure u/s. 69Crws 115BBE of the Act.

7.7 In view of the above, the AO is directed to treat 10% of the total amount of bogus accommodation entry provided by the assessee of Rs.76,26,846/-, which worked out to Rs.7,62,684/-, as unaccounted income of the assessee towards commission earned for providing the said bogus accommodation entry to M/s. Saakar Infra Nirman Pvt. Ltd. As such, the impugned addition made by the AO of Rs. 77,03,114/- is hereby directed to be restricted to Rs.7,62,684/-. Thus, the grounds of appeal raised by the assessee on this issue are partly allowed.

8.0 In the result, the appeal filed against order u/s.147 rws144B of the Act dated 17.05.2023 for AY 2017-18 is partly allowed.”

5. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before this Tribunal. Before us, the assessee relied upon the order of the Coordinate Bench in the case of **Mina Pradhan Vs. ITO, Ward-42(4), Kolkata** in **ITA Nos.: 1587 & 1588/KOL/2024** for AYs 2017-18 & 2018-19 order dated 27.11.2024, in which the commission rate of 5% was applied in place of 1% on the bogus accommodation sales bill entries instead of 1% mentioned in the grounds of appeal. The finding from the order is hereby reproduced as under:

*“4. We have heard the arguments of the ld. AR and have also gone through the copy of ledger account filed. The transactions were relating to sales to SINPL and therefore, the same could not be added u/s 69C of the Act as has been erroneously done by the Ld. AO and also confirmed by the Ld. CIT(A). The provisions of Section 69C of the Act relate to unexplained expenditure which are not recorded in the books of accounts and the same are reproduced as under:*

*“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.”*

4.1. Therefore, the Ld. AO was incorrect in law in applying the provisions of Section 69C of the Act on the transactions shown as sales to SINPL. The result of search itself indicated that SINPL had made payments against the purchase of machinery and parts from various entities which were bogus and were involved in providing bogus accommodation entry in the form of bogus sales. Since the purchases were made by SINPL, the disallowance, if any, should have been made in the case of SINPL. There is merit in the argument of the assessee and which is also borne out from the facts of the case that since the assessee was providing accommodation entries, only the

*profit element on the sale could have been added. The ld. AR was fair enough to admit that a higher amount of 5% may be treated as commission on the transactions of Rs. 34,59,840/-. Accordingly, the Ld. AO is directed to apply the profit rate of 5% on the sales shown which are admitted to be accommodation entries, which works out to Rs. 1,72,992/- and is rounded off to Rs. 1,73,000/- on the transactions of Rs. 34,59,840/- and accordingly, add the same to the income of the assessee disclosed in the return of income in place of Rs. 34,59,840/- added u/s 69C of the Act. Accordingly, Ground nos. 3, 4, & 6 are allowed.*

*4.2. Ground no. 5 is also accordingly allowed, however, the commission rate of 5% is applied in place of 1% on the bogus accommodation sales bill entries instead of 1% mentioned in the ground of appeal.*

*4.3. Ground no. 2 relating to the assessment framed u/s 147 of the Act being totally wrong was not pressed and is accordingly dismissed as not pressed and ground nos. 1 & 7 being general in nature do not require any separate adjudication.*

*5. In the result, the appeal filed by the assessee for AY 2017-18 is allowed.”*

6. We have considered the submissions made. The Ld. AR submitted that in this case the beneficiary of the accommodation entry was identified and based upon the finding of the survey, the commission on accommodation entry bills only was liable to be charged. In the case of **Mina Pradhan** (supra) on similar facts, as against the commission rate of 1% on the accommodation entries the rate of 5% was applied. The Ld. AR very fairly conceded that in place of commission of 10% applied by the Ld. CIT(A), the commission @5% may be applied as the beneficiary is identified. The Ld. DR supported the order of the Ld. CIT(A). However, we find that the Ld. CIT(A) has not given any basis for applying the rate of 10% as the commission. Hence, following the decisions in the case of **Mina Pradhan** (supra), the order of the Ld. CIT(A) is modified and the Ld. AO is directed to apply the commission at the rate of 5% on the accommodation entry provided by the assessee at ₹76,26,846/- during the year under consideration. Hence, all the grounds of appeal raised by the assessee are partly allowed.



7. As regards the appeal for AY 2018-19 in ITA No. 399/KOL/2025, the total accommodation entries provided were of ₹17,81,370/- and the Ld. AO considered 50% of the total sale consideration of ₹17,81,370/- as the benefit divided between the assessee and SINPL. Since the facts are identical to the facts of A.Y. 2017-18, hence following the findings of para 6, on the total bogus entries of ₹17,81,370/- provided by the assessee, the Ld. AO is directed to apply the commission at the rate of 5% on the accommodation entries of ₹17,81,370/- instead of the addition ₹1,78,137/- being at the rate of 10% upheld by the Ld. CIT(A) with consequential relief to the assessee. Hence, the appeal for AY 2018-19 is also partly allowed.

8. In the result, both the appeals filed by the assessee in ITA Nos. 398 & 399/KOL/2025 are partly allowed.

**Order pronounced in the open Court on 28<sup>th</sup> July, 2025.**

*Sd/-*

**[Pradip Kumar Choubey]**

Judicial Member

*Sd/-*

**[Rakesh Mishra]**

Accountant Member

Dated: 28.07.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Megha Trading Co., 43/2, Deshbandhu Road (East), Kolkata, West Bengal, 700035.**
2. **ITO, Ward 43(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata