

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2312/Del/2023  
Assessment Year: 2018-19

Sh. Deepak Batra, C/o-DS Legal & Associates, B-50, LGF, South Extension- II, New Delhi	<b>Vs.</b>	DCIT, Central Circle, Gurgaon
<b>PAN: ACRPB9560F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Shantanu Jain, Adv. Ms. Janvi Khanna, Adv.
Department by	Ms. Pooja Swaroop, CIT(DR)

Date of hearing	04.08.2025
Date of pronouncement	22.08.2025

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This assessee's appeal for assessment year 2018-19, arises against the Commissioner of Income Tax (Appeals)-3 [in short, the "CIT(A)"], Gurgaon's order dated 17.07.2023 passed in case no CIT(A)-1(A)-3/GGN/107-33/2017-18, involving proceedings under section 153A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance raised herein challenging both the learned lower authorities' action adding commission income @ 4% amounting to Rs.3,68,956/-; for having provided accommodation entries to various parties, we note that the CIT(A) has confirmed the assessment findings to this effect as under:

*“4.1 Search and seizure proceedings u/s 132 of Act were carried out in the case of the appellant on 17.03.2021. The appellant is Chartered Accountant by profession, based at Rohtak. The Assessing officer on the basis of various facts as discussed in assessment orders for above Assessment Years, reached to the inference that the appellant was involved in arranging accommodation entries of bogus Long Term Capital Gain (LTCG) for his various clients by charging commission @4%. After making analysis of facts and material on record, the AO made following additions on account of such commission earned by the appellant for different AYs as under:-*

Sl. No.	A.Y.	Commission charged
1.	2015-16	8,28,679/-
2.	2016-17	9,59,510/-
3.	2017-18	4,19,355/-
4.	2018-19	3,68,956/-

*Further, the AO made addition of Rs. 7,31,870/- on account of bogus LTCG claimed as exempt u/s 10(38) of the Act and Rs. 14,637/- on account of expenses incurred to avail such bogus LTCG for AY 2017-18. The detailed facts and basis for making above additions by the AO are discussed in detail in the assessment orders (Supra) passed by the AO.*

4.2 During the appellant proceedings, it was contended by the appellant that the AO has made above additions without having any incriminating material found and seized during the course of search proceedings in the case of the appellant. Reliance was placed upon the decision of Hon'ble Supreme Court in the case of PCIT Vs. Abhisar Buildwell Pvt. Ltd. Civil appeal No. 6580/2021 dated 24.04.2023, Hon'ble Delhi High Court in the case of CIT Vs. Kabul Chawla 380 ITR 573 (Delhi).

4.3 The facts of the case and material available on record in respect of above grounds of appeal have been going through. The AO has issued notice u/s 153A of the Act on above assessment years as the appellant has been covered u/s 132 of the Act. The AO vide para 6.6 (8.6 for AY 2017-18) of the assessment orders has discussed the basis for additions made on account of unaccounted commission income earned by the appellant for arranging accommodation entries of bogus LTCG for various clients against commission @4%. The AO has relied upon certain documents found and seized during the course of search as tabulated vide para 6 of the assessment order (para 8 for AY 2017-18), statements of various persons recorded u/s 131 of the Act during pre-search proceedings wherein they have been admitted that they have obtained accommodation entries of bogus LTCG through the appellant. Ongoing through the documents found and seized material during the course of proceedings as tabulated by the AO as per para 6/8 of the Assessment orders, it is observed that except the material seized from the residence of the appellant vide Sl. No. 1,3,4 and 5 of the table, remaining material has been found in the nature of income tax records of various clients maintained by the appellant as Chartered Accountant in his office. Such record is in the shape of particulars of ITRs and corresponding details in respect of such clients. Such record cannot be termed as incriminating as such seized records reflect the particulars of ITRs of various persons as per table vide para 6 of the assessment order.

The remaining material vide Sl. No. 1,3,4 and 5 (supra) of the table vide para 6/8 of the assessment order, seized from the residence of the appellant has been found relating to the AY 2018-19. Ongoing through the said material, it is found that it contains particulars of Long Term Capital Gain obtained by certain persons namely Shri Kamal Bansal HUF, Shri Rahul Bansal, Shri Suresh Kumar, Shri Hardik Arora, Smt. Manshi Arora, Shri Bhawnesh Kumar, Shri Gaurav Kathuria, and Shri Paras Sharma (all relevant to AY 2018-19) in the shape of accommodation entries by paying equivalent amount of cash through the appellant. Name of the appellant is clearly mentioned in such documents found and seized from his residence, relevant to AY 2018-19. Therefore, such documents which are relevant to AY 2018-

*19 found and seized from residence of the appellant during the search proceedings are incriminating in nature as the same establish role of the appellant is arranging bogus LTCG for various clients (supra).*

*4.4 On the basis of above facts and discussion, it is thus found that the AO has made additions for AY 2015-16 to 2017-18 without having any incriminating material found and seized during the course of search proceedings u/s 132 of the Act. These AYs pertain to completed / unabated years as no assessment proceedings were pending for these years as on date of search and therefore, ratio of decision of Hon'ble Supreme Court in the case of M/s Abhisar Buildwell Pvt. Ltd. (Supra) is applicable to the facts of the present case for AYs 2015-16 to 2017-18. Keeping in view of the facts and discussion, there is merit in the above ground of appeal No. 6 for AY 2015-16, 2016-17 and ground of appeal no. 10 for AY 2017-18 taken by the appellant. Accordingly, additions made by AO for AYs 2015-16 to 2017-18 are hereby deleted and corresponding grounds of appeal are hereby allowed. However, as directed by the Hon'ble Supreme Court in the above decision, the completed /unabated assessments can be reopened by the AO in exercise of power conferred u/s 147/148 of the Act subject to fulfillment of condition as envisaged u/s 147/148 of the Act.*

*4.5 From the above facts, it is clear that the additions made by the AO for AY 2018-19 are based upon incriminating material found and seized during the course of such proceedings in the case of the appellant u/s 132 of the Act, therefore, ratio of decision of Hon'ble Supreme Court in the case of M/s Abhisar Buildwell Pvt. Ltd. (Supra) is not applicable to the facts of the present case for AY 2018-19. Keeping in view of the facts and discussion, it is held that there is no merit in the above ground of appeal No. 6 for AY 2018-19. Once it has been found, duly supported with the incriminating evidences, that the appellant was involved in arranging bogus LTCG for some of the clients for AY 2018-19, similar presumption can be made for various other clients for AY 2018-19. Thus from the facts, it is found that the appellant was involved in arranging accommodation entries in the form of bogus LTCG for various clients by charging commission for AY 2018-19. The AO has estimated such commission income @4%. Accordingly addition made by the AO for Rs. 3,68,956/- for AY 2018-19 is hereby sustained and grounds of appeal no. 3-7 are dismissed.”*

3. Learned counsel has firstly filed the entire seized material indicating various cash and other entries involving Mr. Kamal

Bansal etc. He next place on record a chart of 12 parties wherein it is claimed that both the learned authorities have extrapolated the relevant commission entries which nowhere disclosed any of the corresponding cash involved. The assessee's case accordingly is that he is aggrieved against both the learned lower authorities' action travelling beyond the corresponding figures in the seized material whilst adding the impugned commission income @ 4% of the transactions herein.

Learned CIT(DR) draws strong support from both the learned lower authorities' respective findings assessing the impugned commission income in the assessee's hands.

4. We have given our thoughtful consideration to the foregoing vehement submissions reiterating the respective rival stands. We find no merit in the assessee's case in principle. This is for the precise reason that the learned CIT(A)'s detailed discussion has examined all the relevant facts at threadbare whilst upholding the assessment findings that the assessee had provided accommodation entries to various parties which could see light of the day due to the search herein dated 25.02.2021. Learned CIT(DR) further takes us to the assessment findings wherein

various parties had deposed during investigation that the assessee/a chartered accountant had charged commission @ 4% of the corresponding bogus long term capital gain entries. And also that the learned Assessing Officer had further sought to provide cross examination opportunity to the assessee who did not avail the same. We thus find merit in the learned CIT(DR) vehemently submissions in principle to this effect.

5. Next comes equally important aspects of quantification of the impugned alleged commission income on the assessee's accommodation entries which has been assessed @ 4% herein. We are of the considered view that although we have upheld the above addition in principle, the fact however remains that possibility of some expenditure etc. in this entire process could not be altogether ruled out. That being the case, we deem it appropriate that a *lumpsum* deduction thereof amounting to Rs. 1 lakhs would be just and proper with a rider that the same shall not treated as a precedent. The impugned addition is restricted to Rs.2,68,956/- therefore. Necessary computation shall follow as per law.

No other ground or argument has been pressed before us.

6. This assessee's appeal is partly allowed.

***Order pronounced in the open court on 22<sup>nd</sup> August, 2025***

***Sd/-***  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 22<sup>nd</sup> August, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi