

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRIPRADIP KUMAR CHOUBEY, JM**

ITA No.1024/KOL/2025

(Assessment Year:2013-14)

Advance Commotrade (P) Ltd.

(Now merged with Kalindi Farms
Private Limited)

C/o Subash Agarwal &
Associates, Advocates Sidha
Gibson, 1, Gibson Lane, Suite
213, 2nd Floor, Kolkata-700069
West Bengal

(Appellant)

ITO, Ward-1(1), Kolkata

Aayakar Bhavan, P-7,
Chowringhee Square,
Kolkata-700069, West Bengal

Vs.

(Respondent)

PAN No. AAICA2237J

Assessee by : Shri Siddarth Agarwal, AR

Revenue by : Shri Manoj Kumar Pati, DR

Date of hearing: 17.07.2025

Date of pronouncement: 26.08.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 05.02.2024 for the AY 2012-13.

02. At the outset we note that there is a delay of 378 days in filing the appeal for which the assessee had filed condonation petition along with affidavit. We find from the condonation petition as well as supporting affidavit that the assessee company Advance Commotrade (P) Ltd. was merged with Kalindi Farms Private Limited vide NCLT order dated 31-05-2022, which became effective from 01-04-2020 with the result that Advance Commotrade (P) Ltd. was not in existence anymore. The order passed by the Id. CIT (A) dated 05.02.2024 was not received by the staff as many employees had left the job. We also observed that in Form 35 the address stated to be

25, Surendra Lal Pyne Lane, Kolkata-700012 has been discontinued. The order was also ex-parte when there was no compliance to the notice issued by the Id. CIT (A). The email mentioned in form 35 was also prior to the merger which was also not accessible after merger. It was only known to the successor company on 18-11-2024 when the income tax portal was accessed randomly by the staff that order was passed on long back. Considering this reason to be bona fide and genuine, we hereby condone the delay and admit the appeal for adjudication.

03. The only issue raised by the assessee at the time of hearing is against the invalid reopening of assessment by the Id. AO u/s 147 of the Income-tax Act, 1961 (the Act) based on the ambiguous reasons record u/s 148 (2) of the Act and also the invalidity of assessment framed. The assessee also challenged the assessment framed u/s 147 of the Act read with section 144 of the Act, dated 29-09-2021 on the ground of invalid approval granted by the competent authority under section 151 of the Act.

04. The facts in brief are that the assessee filed the return of income on 27-09-2013 declaring total income at ₹16,275. Thereafter, the Larned AO received information that the assessee was benefited from a high-value transaction amounting to ₹2.50 crore with Bholanath Trade Links Pvt Ltd. during the F.Y. 2012-13, the source of which remained unexplained and it was noted in Para 1.2 of the Assessment Order that it is imperative on the part of the AO to verify the said receipt along with the source thereto in the hands of the assessee company during the F.Y. 2012-13 i.e. A.Y. 2013-14. It was further mentioned that the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act dated 18-03-2020, after obtaining prior approval of the appropriate authority after recording

the reasons for reopening. Finally, the assessment was framed by making an addition of ₹2.50 crore on account of unexplained cash credit in respect of transactions with Bholanath Trade Links Pvt Ltd.

05. In the appellate proceedings the Id. CIT (A) dismissed the appeal of the assessee by upholding the order of the Id. AO when assessee failed to make any compliance before the learned CIT (A).

06. After hearing the rival contentions and perusing the materials available on record, we find that the case of the assessee was reopened by the Id. AO u/s 147 of the Act by issuing notice under section 148 of the Act on 18-03-2020. We note that the reasons to believe were recorded u/s 148(2) of the Act which were based upon the information received by the Id. AO and the reasons only stated that the assessee is a beneficiary of ₹ 2.50 crore with Bholanath Trade Links Pvt Ltd. A perusal of the said reasons reveal that there was no details of the transactions whatsoever, narrated in the said reasons and the Id. AO has simply relied on the information received from the investigation wing, whereas on the other hand the assessee has received this money from Bholanath Trade Link Pvt. Ltd. in respect of shares sold to the said company of Purba Agro Food Pvt. Ltd. Therefore, the reasons recorded by the Id. AO were totally vogue, scanty and ambiguous. The Id. AO was not having information that on account of what the assessee had high value transaction with the said company i.e. Bholanath Trade Links Pvt Ltd. Therefore, reopening on the basis of the said santy and vogue reasons cannot be sustained. The case of the assessee finds support from the decision of Capital Broadways (P.) Ltd. vs. Income-tax Officer [2024] 301 Taxman 506 (Delhi)[03-10-2024], wherein the Hon'ble High Court has held that the reopening on the basis of vogue reasons is unsustainable in the eyes of law.

07. We further note from the copy of approval granted u/s 151 of the Act, of the competent authority wherein the approval has been given by stating (Yes, I am satisfied) and it is a fit case for issuing a notice under section 148 dated 18.03.2020 by Id. PCIT, Kolkata. In our opinion, the said approval is mechanical and the approving authority has not applied its mind to the proposal moved by the Learned AO. Even the Learned AO has not mentioned the details of nature of the transaction, modus operandi and also that as to how the income has escaped assessment. Therefore, the Id. PCIT has mechanically granted the approval without recording his own satisfaction on the reasons recorded by the Id. AO the time of granting approval u/s 151 of the Act. The case of the assessee is squarely covered by the decision of the Hon'ble High Court in the case of PCIT v.M/S. Sambuddha Tracon Pvt. Ltd., ITAT/90/2022, in IA No.GA/2/2022, wherein the Hon'ble High Court has held that the Section 151 of the Act mandates the recording of satisfaction by approving authority whereas in this case the High Court held that satisfaction was mechanical and in fact a rubber stamp was used to state(Yes, I am satisfied). Consequently, we are inclined quash the reopening of the assessment made by the Id. AO for two reasons; (i) the reopening is based upon ambiguous reasons (ii) approval u/s 151 of the Act has not been granted validly.

08. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26.08.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 26.08.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata