

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**  
**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**  
आयकर अपील सं/ITA No.1100/KOL/2025

(निर्धारण वर्ष / Assessment Year : 2015-2016)

DCIT, Central Circle-4(4), Kolkata	Vs	N S Broking Private Limited, 115, Block-C, Bangur Avenue, Kolkata-700055
<b>PAN No. :AACCN 4934 F</b>		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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राजस्व की ओर से /Revenue by	:	Shri Praveen Kishore, CIT-DR
निर्धारिती की ओर से /Assessee by	:	Shri Manish Tiwari, FCA
सुनवाई की तारीख / Date of Hearing	:	09/07/2025
घोषणा की तारीख/Date of Pronouncement	:	26/08/2025

**आदेश / ORDER**

**Per Rajesh Kumar, AM :**

This is an appeal filed by the revenue against the order dated 20.01.2025, passed by the Id. CIT(A), Kolkata-27, for the assessment year 2015-2016.

2. The only issue raised by the revenue is against the order of the Id. CIT(A) in restricting the addition in respect of undisclosed commission income to 0.10% of the total turnover by ignoring the statement recorded on oath in which it was admitted that commission was @2%.

3. The facts in brief are that the assessee filed its return of income on 29.09.2015 declaring total income at Rs.2,26,210/-, which was processed u/s.143(1) of the Act on 28.01.2016. The case of the assessee was reopened u/s.147 of the Act by issuing notice u/s.148 of the Act on 24.03.2021 after the approval of the competent authority. A survey action u/s.133A of the Act was conducted on 03.12.2019 by the Investigation Wing, Mumbai on the assessee. During the course of investigation, it was

found that the syndicate of share brokers and entries operators were providing accommodation entries of bogus profit/loss to various entities, in lieu of unaccounted cash commission. The AO noted that during the survey proceedings, Shri Permanand Yadav, director of the assessee company has conceded the profit and loss made by the assessee to various entities in lieu of unaccounted cash commission at the rate of 2% of net premium in this kind of arrangement of trade. The AO computed the total undisclosed commission income and made the addition of Rs.3,65,39,431/- on the basis of net premium in BSE as well as BSE currency option derivatives @2%. The Id. AO observed that the assessee has earned total commission income of Rs.3,65,39,431/- for arranging trade in BSE equity option derivative and in BSE currency option currency derivative for the purpose of providing bogus gain/loss to different beneficiaries and treated the same as undisclosed income and added the same to the total income of the assessee.

4. In the appellate proceedings, Id. CIT(A) partly allowed the appeal of the assessee by sustaining the addition in respect of commission @0.10% of the total turnover of the assessee of Rs.182,69,71,560/-, which comes to Rs.18,26,971/-, thereby deleting the addition to the tune of Rs.3,47,12,460/-. While passing the appellate order the Id.CIT(A) observed and held as under :-

*6.2. Discussion and decision:*

*6.2.1. I have perused the assessment order, remand report, submission of the a well as the rejoinder to the remand report submitted by the assessee. On pe same, it is observed that during the year under consideration, the appellant company acted as a*

registered share broker. The appellant company has income from trading in securities. In the present case, information was received by the AO from the Investigation wing, Mumbai that the assessee was involved in providing accommodation entry to the beneficiaries in the form of awarding bogus LTCG or Bogus trading loss in synchronized trading through equity options segment in BSE in lieu of commission. On account of the said fact, the investigation wing, Mumbai conducted a survey under Section 133A of the Act on the office premises of the assessee on 03.12.2019. On the same date similar surveys were also conducted upon several other stock brokers.

6.2.2. It is observed that at the time of the said survey, the statement of Mr Sanjay Bansal, the designated partner of M/s Odyssey Securities Pvt. Ltd. a group company of the assessee and also of Mr. Permanand Yadav, a director of the appellant company, was recorded u/s 131 of the Act. In the statements recorded, Shri Bansal and Shri. Yadav had explained the details of the modus operandi followed by the appellant company for creating bogus transactions and accepted to have provided accommodation entries through these transactions. They had admitted the fact that they all have provided accommodation entry of profit/loss to various entities, in lieu of unaccounted cash commission at the rate of 2% of net premium in this kind of arrangement of trade. On the basis of the same, the assessing officer had applied 2% commission on the net premium of Rs. 182,69,71,560/- while calculating the undisclosed commission income and made the addition of Rs.3,65,39,431/-.

6.2.3. However, it is observed from record that the said statement was later retracted by Shri Sanjay Bansal. On perusal of the appellant's submission, it is observed that the appellant contended that the commission on the premium received from transactions was duly recorded in the books of accounts. Therefore, any further addition would result in double taxation. Additionally, the appellant argued that the commission rate of 2% charged is arbitrary. Accordingly, a remand report was sought from the AO on 27.11.2024, In response, the AO submitted the remand report on 09.12.2024, stating that the appellant had failed to respond to the show-cause notices and notices issued under Section 142(1) of the Income Tax Act. The AO further justified the addition based on the recorded statements. Subsequently, on 10.01.2025, the appellant filed a rejoinder to the remand report, alleging that the AO did not address the explanations provided in the appellant's submissions. Instead, the AO reached a conclusion in a generalized manner, asserting that the addition was made based on the facts of the case, without addressing the specific details presented.

6.2.4. The appellant in the rejoinder to the remand report also stated that if the AO wants to make addition based on the statement recorded during the survey, then the same should not be made fully as per the statement. However, in the recorded statement, Mr.

*Bansal had stated that they used to earn commission at the range of 0.05% to 0.15%. Relevant portion of the statement is reproduced as under:*

*"Q.23 Please state how much commission was earned by you in the transaction discussed above.*

*A.23 Sir, in these transaction we used to earn commission @ 5 to 15 paisa per 100 Rupees and all this commission was paid by our client through banking channel to the account of the broking company M/s Odyssey Securities Pvt Ltd."*

*6.2.5. The assessee had further relied on the case of 'DCIT, Central Cir-4(4), Kolkata vs. Aryav Securities Pvt. Ltd., ITA No.789/Kol/2023', wherein the same AO initially charged commission income at 2%. However, this rate was subsequently reduced by the CIT(Appeal) to 0.10% based on the statement of the deponent of M/s Aryav Securities Pvt Ltd. This was later upheld by the ITAT Kolkata Bench-B. Relevant portion of the pronouncement is as under.*

*"A perusal of the above observation of the CIT(A) would reveal that the id. CIT(A) has thoroughly discussed the statements of Shri Arun Shah which was recorded during the survey action and further has discussed the facts and circumstances of the case. The Id. CIT(A) has observed that the said Shri Arun Shah has specifically mentioned that the appellant had received commission of 0.1% only. The Id. CIT(A) has brought on record that in case of other parties, the Assessing Officer has assessed the commission income at different rates. He has further observed that the estimation made by the Assessing Officer was not based on any relevant material. He has further observed that the assessee had given details of entire modus operandi followed by him and pointed out names of key persons who obtained clients from him with regard to bogus trades. That the Assessing Officer has accepted every part of the statement of Shri Arun Shah recorded in survey action but ignored the statement, wherein, he had stated that the assessee had received commission income @ 0.1% only.*

*4. After hearing the rival submissions, we find that the order of the CIT(A) is well-reasoned and we do not find any reason to interfere with the same, in view of this, we do not find any merit in the appeal of the revenue and the same is accordingly dismissed*

*6.2.6. In view of the above judicial pronouncement as well as the discussion held the income is to be estimated @0.10% on the total turnover of the assessee of Rs. 182,69,71,560/-. Hence, the AO is directed to restrict the addition to 0.10% of the total premium of Rs. 182,69,71,560/- which comes to Rs.18,26,971/-. The rest of the addition i.e.. Rs.3,47,12,460/- (Rs.3,65,39,431 minus Rs.*

*18,26,971/- Rs.3,47,12,460/-) is liable to be deleted. Hence, these grounds of appeal raised by the assessee are partly allowed.*

5. After hearing the rival submissions of the parties and perusing the material available on record, we find that the Id. CIT(A) called for remand report from the AO and also confronted the same with the assessee, who filed rejoinder to the said remand report. The Id. CIT(A) upon perusal of the remand report as well as rejoinder noted that in the statement recorded during the course of Mr. Sanjay Bansal had stated that they used to receive commission in the range of 0.05% to 0.15% which is extracted in para 6.2 of the appellate order. Ld. CIT(A) relied on the decision of the coordinate bench of the Tribunal in the case of Aryav Securities Pvt. Ltd., passed in ITA No.789/Kol/2023, wherein the AO initially charged the commission @2% but it was reduced to by the Id.CIT(A) to 0.01% on the basis of statement of deponent of M/s Aryav Securities Pvt. Ltd. (supra). Considering the facts and circumstances of the case, we do not find any infirmity in the appellate order which is a very reasoned and speaking order. Accordingly, we uphold the same by dismissing the revenue's appeal.

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

Order pronounced in the open court on 26/08/2025.

**Sd/-**  
**(PRADIP KUMAR CHOUBEY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(RAJESH KUMAR)**  
लेखा सदस्य/ ACCOUNTANT MEMBER

**कोलकाता** Kolkata; दिनांक Dated 26/08/2025  
*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY  
ORDER,

(Assistant Registrar)  
Income Tax Appellate Tribunal, Kolkata