

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

ITA No. 2415/DEL/2022	A.Y. 2010-11 [U/s 143(3)/147]
ITA No. 2410/DEL/2022	A.Y. 2010-11 (U/s 271D)
ITA No. 2414/DEL/2022	A.Y. 2010-11 (U/s 271E)
ITA No. 2411/DEL/2022	A.Y. 2011-12[(U/s 143(3)/147]
ITA No. 2413/DEL/2022	A.Y. 2011-12 [U/s 271D]
ITA No. 2412/DEL/2022	A.Y. 2011-12 [U/s 271E]
ITA No. 772/DEL/2024	A.Y. 2012-13 [U/s 271D]
ITA No. 771/DEL/2024	A.Y. 2012-13 (U/s 271E)
ITA No. 903/DEL/2024	A.Y. 2013-14 [U/s 143(3)/147]

DCIT, CC-18, Delhi.	<u>Vs</u>	Sant Lal Aggarwal, Shop No. 24, Indra Market Bahadurgarh, Jhajjar-124507 PAN: AEWPA 7133 C
APPELLANT		RESPONDENT
Assessee represented by		Shri Salil Aggarwal, Sr. Adv.; Shri Shailesh Gupta, CA; Shri Uma Shankar, Adv. Shri Madhur Aggarwal, Adv.; & Shri Mahir Aggarwal, Adv.
Department represented by		Sh. Mahesh Kumar, CIT(DR)
Date of hearing		24.09.2025
Date of pronouncement		29.09.2025

ORDER

PER: KRINWANT SAHAY, AM:

This bunch of 9 appeals has been filed by the Revenue in respect of very same assessee i.e. Sant Lal Aggarwal for assessment years 2010-11, 2011-12 & 2012-13 involving identical facts pertaining to quantum and penalty u/s 271D & 271E. All the aforesaid appeals involve consideration of a common issue i.e. alleged interest received/ earned with regards to alleged cash loans received by assessee from Sh. Sant Asha Ram Bapu. Thus, it was prayed that the Revenue's Appeal for AY 2010-11 (ITA No. 2415/Del/2022) be taken as lead matter and remaining all appeals (i.e. quantum and penalty u/s 271D/271E) will get covered since all involve identical and common issue.

2. Grounds of appeal raised by the Revenue are as under:

“1 On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in deleting the addition of Rs. 4,21,68,259/- being payment of interest in cash to Sh. Asharam Bapu on the cash loan received on the basis of the assessment order received from Assessing Officer of Sh.Asharam Bapu without appreciating the fact that as per statement of Sh. Dev Kumar Chhatani & Sh. Tilak Ram Verma recorded during the post search/survey, it was established that the account of "Bhagat" pertains to the assessee Sh. Sant Lal Aggarwal.

2 On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in deleting the addition of Rs. 4,21,68,259/ without giving AO the opportunity to offer his comments on new evidence(s) before the Ld. CIT(A) in the form of assessment order in the case of Sh. Asharam Bapu and identity of 'Bhagat', which were not available before the assessing officer.

3 On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in deleting the protective addition of Rs. 1,28,42,239/ being 50% of

commission earned by M/s Index Securities and Research Pvt. Ltd. without appreciating the fact that the dummy directors themselves had admitted in their statements (recorded on oath) that the company was not doing any business activity in reality which was further corroborated from the findings of Ld. CIT(A) in the case of M/s Index Securities and Research Pvt. Ltd., that, the paper directors were just following the directions of the major shareholders.

4. The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.

3. Assessment Order dated 29.12.2017 u/s 147/143(3) r.w.s. 153A of the Act, was passed by learned AO, wherein, following additions were made:

i) Addition of Rs. 4, 21, 68, 259/- as alleged interest received on account of loan transactions (Pg-1 to 6 of AO order for facts and findings)

Departmental Ground Nos. 1 and 2 in ITAT

ii) Addition of Rs. 1, 28, 42, 239/- on protective basis, with regards to commission earned by Index Securities & Research Pvt. Ltd. by relying on the assessment order for AY 2010-11 of (Pg 7 to 11 of AO order for facts and findings) -Departmental Ground No. 3 in ITAT

4. Aggrieved against it the assessee preferred appeal before the Ld. CIT(A) who vide order dated 08.07.2022 deleted the addition on merit, inter alia, by holding that the aforesaid addition was solely made on the basis of statement of Sh. Devidas Tikamdas Chattani and Sh Tilak Ram Verma, which were never allowed to be cross examined by assessee. That further, even "Bhagat" as referred in his statement was not assessee rather one Sh. Dilip Vitthalbhai Bhagat, Vadodra (as

also verified by AO of Sh. Asha Ram Bapu) and as such, it is he who has dealt with Sh. Asha Ram Bapu and not the assessee. With respect to the addition of Rs. 1, 28, 42, 239/- the Ld. CIT (A) deleted the addition by relying on his own order of Index Securities & Research Pvt. Ltd. with regards to AY 2011-12. Aggrieved against it the Revenue is in appeal before us.

5. Learned CIT(DR) heavily relied upon the assessment order.

6. Arguments of assessee's counsel in brief on first issue (Departmental

Ground No. 1 and 2) are as under:

i) Heavy reliance is placed on findings of CIT (A), since direct investigations were made by CIT (A) from AO of Sh. Asha Ram Bapu and relief was granted thereafter, by holding that assessee was not involved in cash loan transactions, rather, the said person has been identified as Sh. D.V. Patil in the assessment order of Sh. Asha Ram Bapu and as such, no addition could be made in the hands of assessee.

ii) Reliance is also placed on the order of learned CIT (A), wherein, relief was granted since there was no corroboration done by learned AO and further, no cross examination provided by learned AO with regards to statements relied in the order of assessment. Judgment of Hon'ble High Court of Delhi in the case of PCIT vs Best Infrastructure (India) Pet. Ltd. reported in 397 ITR 82 is also relied, as was also relied by learned CIT (A).

6.1 On second issue (Departmental Ground No. 3) assessee's counsel's arguments are as under:

iii) With regards to addition on protective basis of a sum of Rs. 1, 28, 42, 239/-, it was submitted that the sole basis of learned AO to make the said addition was the reassessment order for AY 2010-11 in the case of M/s Index Securities (India) Pvt. Ltd., which have been quashed by Hon'ble ITAT in ITA No. 1957/Del/2019, as such, the addition so made by learned AO does not sustain/survive.

iv) Further, even for AY 2011-12 in the case of Index Securities, the ITAT has quashed the reassessment vide order in ITA No. 2180/Del/2022, reliance was also placed on the same. Further, reliance is also placed on the order of ITAT, Delhi in the case of Ankita Aggarwal vs ITO in ITA No. 4224/Del/2019, wherein the ITAT has held that Index Securities is a genuine NBFC company and not a paper company, by relying on judgments of ITAT, Hon'ble High Court and the Hon'ble Supreme Court.

6.2 Counsel of the assessee accordingly prayed that all nine appeals by Revenue be dismissed.

7. We have heard rival submissions of the parties and perused the material available on record. We are of the considered view that once it has been proved by the Assessing Officer of Sant Asha Ram Bapu that the person identified as "Sant Ji" i.e. Shri Dilip Vitthalbhai Bhagat of Vadodra and accordingly the Assessing Officer made all the additions in his hands on the basis of papers/ documents found and investigation/ inquiry made it was proved that Shri Dilip Vitthalbhai Bhagat

was the person through whom money of Sant Asha Ram Bapu was routed for giving loans and accordingly additions were made in his hands, the same amount cannot be taxed in the hands of the assessee Sant Lal Aggarwal merely on the basis of statements of Sh. Devidas Tikamdas Chattani and Sh. Tilak Ram Verma and that too without giving any opportunity of cross-examination. Therefore, relying on the basis of facts discussed above along with case laws discussed above, we are of the considered view that the findings given by the Ld. CIT(A) in his appellate order does not require any interference on this issue. Accordingly, department appeal on this ground is dismissed.

7.1 Since the addition on quantum has been dismissed, therefore, any penalty arising out of it cannot be sustained. Accordingly, department's corresponding penalty appeals u/s 271D & 271E are also dismissed. Resultantly, Revenue's quantum appeal ITA No. 2415/Del/2022 and penalty appeals ITA Nos. 2410 & 2414/Del/2022 u/s 271D & 271E respectively for A.Y. 2010-11 are dismissed.

7.2 Undisputedly, facts for A.Y. 2011-12 & 2012-13 are identical to A.Y. 2010-11. Therefore, following our findings in A.Y. 2010-11 mutatis mutandis revenue's quantum as well as penalty appeals for A.Y. 2011-12 & 2012-13 are also dismissed.

8. To sum up, all the Revenue's appeals are dismissed.

Order pronounced in open court on 29.09.2025.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Dated: 29.09.2025.

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI