

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "G", MUMBAI

Before Justice (Retd.) C V Bhadang, Hon'ble President &
Ms. Padmavathy S, Hon'ble Accountant Member

ITA No. 5475/Mum/2024
(Assessment Year : 2013-14)

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| Ms. Zinki Ashish Jain, 555/557, Plumber House, JSS Road Chira Bazar, Mumbai 400 002. PAN ALVPR0617E (Appellant) | Vs. | ITO 41(3)(4), Mumbai. (Respondent) |
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Appellant By : Shri Rahul Hakani
Respondent By : Shri Arun Kanti Datta- CIT (DR)

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| Date of Hearing : 18.09.2025 | Date of Pronouncement: 30.09.2025 |
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ORDER

Per Justice (Retd.) C V Bhadang, President:

By this appeal the assessee is challenging the addition of Rs.145,63,07,190/- made by the Assessing Officer u/s. 69A r.w.s. 115BBE of the Income Tax Act, 1961 ("Act" for short), vide order dated 18.05.2023, which order has been confirmed in appeal by the learned CIT(A) vide order dated 27.09.2024. The appeal relates to assessment year 2013-14.

2. The brief facts are that the assessee is a sole proprietor of M/s. Manibhadra Trading Company. The assessee filed Return of Income (RoI)

for the relevant assessment year on 29.07.2014, declaring total income of Rs.1,98,430/-. The Assessing Officer, on the basis of information received from ADIT, re-opened the assessment, in view of the receipt of Rs.145,61,17,760/- in the bank account of the assessee with ING Vysya Bank from one shri Harishchandra S Joshi, proprietor of M/s N S Enterprises. Statutory notice u/s. 148 of the Act was issued to the assessee. The assessee did not file any RoI in response to the statutory notice. The Assessing Officer found that the assessee had failed to explain the receipt of the said amount as a result of which the Assessing Officer made the impugned addition as unexplained cash credit.

3. In appeal, several notices were issued to the assessee as set out in para 2 of the impugned order passed by the learned CIT(A). The assessee sought adjournment on 12.05.2023 and 16.05.2023. Although, initially time was granted, the Assessing Officer in view of the time barring assessment found that no further time can be granted. Even before the learned CIT(A) the assessee did not produce any material. A perusal of para 5 of the impugned order shows that the assessee claimed before the Assessing Officer that her bank account has been used only to provide accommodation entries to Shri Harishchandra S Joshi, Proprietor of M/s. N S Enterprises. The bogus sale and purchase transactions with the assessee were done to show inflated turnover so as to improve the financial statements of M/s. N S Enterprises. The assessee claimed that in return she received commission ranging from 0.05% to 0.15% only. The learned CIT(A) found that the assessee neither filed any reply nor filed any documents/verification to substantiate the contention of her

account being used to provide accommodation entries. The learned CIT(A) has observed that the assessee has failed to discharge the onus cast upon her as a result of which the appeal came to be dismissed. Feeling aggrieved, this appeal is filed.

4. We have heard parties. Perused record.

5. It is submitted by the learned AR that the assessee was unable to respond to the notices issued by the learned CIT(A) due to non-cooperation by the previous consultant. It is submitted that the assessee has filed an application dated 09.09.2025 under Rule 29 of the Appellate Tribunal Rules, 1963 seeking production of additional evidence as contained in Paper Book -II. It is pointed out that the assessee seeks to produce extract of bank statements and the statement of Shri Ritesh Burad and the assessment order passed for assessment year 2012-13, which are relevant for the purpose. It is submitted that the bank statements disclose the names of various companies with which the entries in the bank account pertain. It is pointed out that the statement of Shri Ritesh Burad and his assessment order would show that he was providing accommodation entries. On behalf of the appellant reliance is placed on the decision of Supreme Court in the case of *Tek Ram v. CIT (2014) 357 ITR 133* in order to submit that the documents being relevant may be allowed to be produced.

6. The learned DR has supported the impugned order. It is submitted that the appellant except making bald statement of her account being used for providing accommodation entries, has not corroborated or furnished any documents in support of her claim before the Assessing

Officer as well as before the CIT(A). He, therefore, submitted that the CIT(A) was justified in confirming the impugned addition. In so far as the production of additional evidence is concerned, the learned DR in all fairness submitted that appropriate order be passed.

7. We have considered the circumstances and the submissions made. We do find that the appellant has failed to file any RoI in response to the notice u/s. 148 of the Act, which has been treated as notice u/s. 148A(b) in accordance with the decision of Supreme Court in *Union of India and Ors. Vs. Ashish Agarwal* (444 ITR 1). The assessee failed to produce any documents before the authorities below. However, it is contended that this was on account of non-cooperation of the earlier consultant. The assessee has now sought to produce relevant documents in the form of Paper Book-II. In this case the issue turns upon whether the assessee has successfully established her claim of the account of proprietorship being used for giving accommodation entries. The consequential issue is whether the assessee was only in receipt of certain commission as claimed by her. In such circumstances, we find that in the interest of justice and fair disposal of the matter the assessee can be granted one opportunity. However, considering the fact that the assessee has failed to co-operate and produce necessary documents/information earlier, we are inclined to impose costs of Rs.25,000/- (Twenty Five Thousand) on the assessee to be paid to the credit of Income Tax Department as "Other fees" within one month from the date of receipt of this order.

8. In such circumstances, the production of documents is allowed. Their verification would entail the matter being remitted back to the file of the CIT(A). The learned CIT(A) shall examine the documents so produced and then decide the justifiability of the impugned addition made. Needless to mention that it would be open to the learned CIT(A) to call for a remand report from the Assessing Officer if found necessary. In such circumstances the appeal is partly allowed. The matter is remitted back to the file of the CIT(A) for disposal according to law in the light of the observations made above. The assessee shall co-operate for appropriate disposal of appeal by furnishing such information and producing such documents, if any, as may be called for by the learned CIT(A).

9. The appeal is disposed of in the aforesaid terms.

Order pronounced in the open court on 30.09.2025.

Sd/-

[Padmavathy S]
ACCOUNTANT MEMBER
Mumbai, Dated : 30.09.2025.
SA

Sd/-

[Justice (Retd.) C V Bhadang]
PRESIDENT

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'G' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai