

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'F': NEW DELHI)**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No:-2961/Del/2019
(Assessment Year- 2010-11)**

The Assistant Commissioner of Income Tax, Central Circle-18, New Delhi.	Vs.	Jagat Projects Ltd, Office No.1, Basement- 1, Radisson Blue Hotel, Plot No.4, Sector-13, Dwarka, New Delhi-110034.
PAN No:AACCJ0391C		
APPELLANT		RESPONDENT

Appellant by :S/Shri. Salil Aggarwal, Sr. Adv., Shailesh Gupta,
CA & Mahir Aggarwal, Adv. & Uma Shankar, Adv.

Department by: Ms.RajinderKaur,CIT(DR)

Date of Hearing : 28.07.2025

Date of Pronouncement :.30.09.2025

ORDER

PER AMITABH SHUKLA, A.M :

This appeal filed by the Revenue is directed against the order dated 31.01.2019 passed by CIT(A), 27, Delhi, arising out of the order passed by Assessing Officer dated 26.12.2017 u/s 147 r.w.s. 143(3), r.w.s.153AQ for A.Y.2010-11. The reference to the word "Act" in this order

hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 The appellant Revenue has raised following grounds of appeal:-

“...1. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.11,54,00,000/- without appreciating the fact that the directors of M/s ISRPL have admitted in their statements that it is a paper entity involve in providing accommodation entries and the same has been corroborated by evidence in the form of transfer of fund from bogus entities of KRBL Group to entities of Jagat Group including M/s ISRPL was found during search at KRBL Group.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.11.54,00,000/- by holding the transaction of fund transfer between assessee company and M/s ISRPL as regular business transaction without appreciating the fact that assessee company has not received any interest on the loans given by it to M/s ISRPL which is not a normal business practice.

3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the source of fund of M/s ISRPL which was share capital & share premium received during A.Y. 2007-08, 2008-09 & 2010-11 has already been held clear by appellate authorities and confirmed by Hon'ble High Court without appreciating the fact that evidences unearthed during search & survey at M/s KRBL Group, M/s ISRPL, its directors & Jagat Group were not available at the time of passing of decision for these years. Further, the matter has not attained finality in view of department's SLP pending before the Hon'ble Supreme Court.

4. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 11,54,00,000/- on the ground that as the transaction of transfer of fund between assessee company and M/s. ISRPL was taken place through banking channels therefore, the same are genuine business transactions without appreciating that it has been held by various courts that merely because a transaction took place through banking channel does not prove the genuiness of transaction and during the course of assessment

proceedings, the assessee company has failed to prove that this was a genuine business transaction.

5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the A.O, by holding M/s ISRPL as genuine NBFC Company without appreciating that M/s ISRPL has regularly showing bad debts in its profit & loss account in respect of loans given to various entities without making any effort for collection of debt which in fact a way to remit the unaccounted income to these concerns.

6. 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.....”

3.0 Through the impugned grounds of appeal the Revenue has contested the decision of Ld.CIT(A) in deleting the addition of Rs.11,54,00,000/- made by the Ld.AO on account of undisclosed income of the assessee. As per brief factual matrix of the case, the assessee had filed its Return of Income on 12.10.2010 declaring income of Rs.2,30,96,210/-. As a sequel to proceedings u/s 143(3) r.w.s. 153A dated 28.03.2013 income was determined at Rs.2,52,00,600/-. Information was received subsequently from the Investigation Wing Delhi regarding a search and seizure operations upon the premises of one M/s.KBRL. Group. It transpired therefrom that one M/s.Index Securities and Research Pvt Ltd (ISRPL) was indulging in providing accommodation entries. Accordingly, survey u/s 133A was conducted on ISRPL and search upon its directors. Thereafter, survey was also conducted upon Shri Sant lal Agarwal, a director of assessee company. Enquiries into the bank account of ISRPL

alluded that the account is mainly used for routing debit credit entries i.e amounts are credited on one day and the same are debited by way of onward transmission. The Ld.AO initiated proceedings u/s 148 against the assessee through notice dated 30.03.2017. Based upon statement of the two directors of ISRPL to the investigation authorities, the Ld.AO concluded that the said ISRPL was a conduit company engaged in providing accommodation entries. Consequently, he proceeded to add the amount of Rs.11,54,00,000/- appearing in the bank accounts of assessee, which was received from ISRPL as undisclosed income of the assessee.

4.0 Per contra, the Ld.DR relied upon the order of lower authorities and requested for confirming their orders.

5.0 The Ld.Counsel for the assessee vehemently argued in favour of the order of Ld.First Appellate Authority. It was contended that the same is based upon correct understanding of the facts of the case. The Ld.Counsel argued that it had challenged the order of Ld.AO both on legal grounds as well as deficient merits of the impugned addition of Rs.11,54,00,000/-. The Ld.Counsel argued that the Ld.CIT(A) has accepted the legal challenge raised by the assessee holding that proceedings u/s 148 were bad in law. It was argued that the impugned decision has not been contested by the Revenue in its grounds of appeal. The Ld.Counsel submitted that once the Ld.CIT(A) has held that

proceedings u/s 148 were bad in law and the Revenue has accepted the impugned decision, there cannot be any further case as the assessment order has attained nullity. The Ld.Counsel further argued that even on the merits of the addition the Ld.CIT(A), after extensively analysing the facts, has held that there is no case for making any addition in hands of the assessee.

6.0 We have heard rival submissions in the light of material available on records. We have noted that the assessee had ,while challenging the legality of notice u/s 148 and the merits of the addition submitted the following sequence of events before the Ld.CIT(A) as available in the order of the Ld.First Appellate Authority.

“...2 CHRONOLOGICAL SEQUENCE OF EVENTS

2.1 12.10.2010: That for the year under consideration, appellant filed its return of total income, declaring an income of Rs. 2,30,96,210/- (pages 1-5 of Paper Book). The return of income was duly filed along with Audit Report, Balance Sheet, Profit & Loss Account and tax audit report, a copy of which is placed at pages (pages 6-38 of the Paper Book). That from the perusal of the audited financial, it may kindly be seen that under the loans and advances recoverable, it has specifically been mentioned that there was an outstanding loan of Rs. 13,06,00,000/- from M/s Index Securities & Research Pvt. Ltd. (see page 16 of the PB). Further in the tax audit report, details of the squared up loans were given wherein it has been provided that loan of Rs. 11,63,00,000/-received from M/s Index Securities & Research Pvt. Ltd. has been squared up during the year (see page 38 of the PB).

2.2 28.12.2012 That a notice under section 153A of the Act was issued to the appellant. During the course of the assessment, learned AD specifically raised queries with regard to the squared up loans as also the details of loans and advances of Rs. 13,06,00,000/- given to M/s

Index Securities & Research Pvt. Ltd and Rs. 6,00,00,000/- given to Shri. Radhey Shyam Dang. And in response to the same, appellant filed the requisite details during the course of the assessment.

2.3 28.03.2013: That learned DCIT framed an order of the assessment at a total income of Rs. 2,52,00,596/- as against the declared income of Rs. 2.30.96,210/- by making disallowance of interest and bank charges of Rs. 21,04,496/ (see page 140-141 of PB). While making the aforesaid disallowance, learned AO observed as under:

“4. Issue of disallowance of Bank Interest payments:

The assessee has claimed in the profit and loss account expenses of Rs. 21,04,386/- against "Bank Interest & Charges". Vide query letter dated 08.02.2013 at point no. 7, it was specifically asked that the assessee company has given loan/advances to its subsidiary company/Radhey Shyam Dang of Rs. 19.06 crores during the year. It was further asked why interest payment should not be disallowed as no interest is charged from the subsidiary company, M/s Index Securities & Research Pvt. Ltd./Radhey Shyam Dang. Moreover the assessee has taken secured loan from banks. As such, the assessee has advanced interest bearing funds for non business purposes.”

2.4 That being aggrieved against the aforesaid order of assessment, assessee filed an appeal before the learned CIT(A), and learned CIT(A) vide her order dated 21.07.2017 was pleased to allow the appeal of the appellant and disallowance made in the order of assessment was deleted. The order of the learned CIT(A) dated 21.07.2017 is being placed as Annexure-A to this submission. In view of the aforesaid facts, it is more than evident that sum received by the appellant of Rs. 11,63,00,000/- from M/s Index Securities & Research Pvt. Ltd, and also sum advanced by the appellant of Rs. 13,06,00,000/- to M/s Index Securities & Research Pvt. Ltd. was fully disclosed by the appellant and was subject matter of assessment in the order of assessment dated 28.03.2013 passed u/s 143(3) r.w.s. 153A of the Act.

2.5 30.03.2017: That after the expiry of the four years from the relevant assessment year and immediately before the expiry of the six year, a notice u/s 148 of the Act has been issued to the assessee alleging that the income of the assessee has escaped assessment within the meaning of section 147 of the Act (see page 39 of the PB).

2.6 08.11.2017: In response to the aforesaid notice, assessee filed its reply requesting that the return originally filed may kindly be treated as

return in response to the aforesaid notice and also requested the learned AO to provide the copy of the reasons to believe alongwith the material for the formation of the reasons to believe. Thereafter again on 20.11.2017, appellant made a request to provide the copy of the reasons to believe. Copy of the aforesaid replies has been placed at pages 69-70 of the PB.

2.7 20.11.2017: The reasons to believe as has been recorded by the learned AO was provided to the appellant and from the perusal of the reasons to believe, it was found that such reasons to believe was based on the statement of directors of M/s Index Securities & Research Pvt. Ltd., and hence appellant vide its reply dated 28.11.2017 and 01.12.2017 requested the learned AO to provide the copy of the statements as well as the material which was made the basis of recording the reasons to believe for assumption of jurisdiction u/s 147 of the Act. Copy of such replies has been placed at pages 75-78 of the PB.

2.8 04.12.2017: That learned AO provided the copy of the statements of the directors of M/s Index Securities & Research Pvt. Ltd.

2.9 13.12.2017 That the appellant filed its detailed objections wherein it was specifically submitted that sum of Rs. 11,63,00,000/- was received from M/s Index Securities and Research Pvt. Ltd which sum was also repaid during the year and after the repayment, assessee has given an advance of Rs. 13,06,00,000/- which was duly reflected in the balance sheet, as such, allegation made in the reasons to believe, that aforesaid transaction has not been disclosed is factually incorrect and hence initiation of the reassessment proceedings is clearly without application of mind and hence beyond jurisdiction.

2.10 14.12.2017: The objections filed by the appellant was disposed off. It was held for the reopening of the case, only prima facie material is required and sufficiency of the reasons cannot be examined and at the time of the reopening there was enough material in the form of statement of directors of M/s Index Securities & Research Pvt. Ltd wherein it has been admitted by them that this company is not doing any real business and is engaged only in the business of providing accommodation entry. It is submitted that it is not the contention of the appellant that material on the basis of the proceedings were initiated were insufficient, and on the contrary, the submission of the appellant was that reasons to believe of the learned AO is justiciable and there was no tangible material for the assumption of jurisdiction u/s 147 of the Act. Infact, it is settled law that the reasons to believe must have a 'direct

nexus' and a "live link with the formation of an opinion by the AO that taxable income of an Assessee has escaped assessment. It is submitted that the reasons that led the AD to reopen the assessment were factually incorrect as reasons of the learned AO was the statement of directors of M/s Index Securities & Research Pvt. Ltd, which statements were factually incorrect and contrary to record. It is an admitted fact that only material which was with the learned AO was only the statement of the directors of M/s Index Securities & Research Pvt. Ltd and nothing more. Infact, before recording the reasons to believe, neither the books of account of the appellant nor the books of account of M/s Index Securities & Research Pvt. Ltd was examined at all, as had the learned AO examined the books of account of the appellant and M/s Index Securities & Research Pvt. Ltd, he would have known that statement of the directors of M/s Index Securities & Research Pvt. Ltd are factually incorrect. And in any case, the reasons to believe of the learned AO that deposits are not appearing in the balance sheet and other details filed by the assessee is incorrect and hence the assumption of the jurisdiction was unsustainable in law.

2.11 26.12.2017: That despite the fact that there was no material at all even to remotely suggest that the allegation made in the reasons to believe that M/s Index Securities & Research Pvt. Ltd is engaged in the business of providing accommodation entry, learned AD on the basis of the statement of the directors of M/s Index Securities & Research Pvt. Ltd and his observation that bank account of M/s Index Securities & Research Pvt. Ltd is immediately debited once any amount is credited held that M/s Index Securities & Research Pvt. Ltd is engaged in providing accommodation entry. On the basis of the aforesaid erroneous assumption, it was held that assessee is one of the beneficiary of the accommodation entries and assessee has routed its unaccounted income through M/s Index Securities & Research Pvt. Ltd and thus the sum of Rs. 11,54,00,000/- credited in the account of M/s Jagat Projects Ltd. is the unaccounted income of the appellant and hence he computed the income of the appellant at Rs. 13,84,96,210/- as against the returned income of Rs. 2,30,96,210/-.....”

7.0 We have further noted that as regards the legal challenge raised to 148 proceedings the Ld.CIT(A) has given his findings in para 4.2 to 4.2.1 of his order on pages 31 to 33. After carefully analyzing the various facets of the case he concluded that ..

“.....Further these facts were available in the last assessment completed u/s 153A on 28.03.2013 also. In such circumstances, I am of the view that reasons to believe is not based on complete facts and it appears that before reopening of the assessment, AO has not verified the complete facts. In fact, in subsequent assessment year also appellant has claimed to advance further sum of Rs. 1,52,47,00,000/- to M/s Index Securities and Research Pvt. Ltd and had received a sum of Rs. 89,36,10,000/- from the aforesaid company. Hence it is seen that the appellant had running transactions with the aforesaid company. The transactions of receipt of the sum from the aforesaid company is not a solitary transaction but such transactions are spread for the whole year. Therefore, it is seen that appellant has regular transaction with the aforesaid company. Further, it appears that while forming the reasons to believe, AO has solely relied on the unsubstantiated statement of the directors of M/s Index Securities and Research Pvt. Ltd and had not made any independent enquiry to arrive at such satisfaction....”

Thus from the above findings it is clear that the Ld.CIT(A) has unequivocally held that as the reasons to believe were not based upon complete facts the consequent reopening u/s 148 was bad. The grounds of appeal no.2 to 2.4 of the assessee were thus allowed. The proceedings u/s 148 held as bad in law, the corresponding assessment order would assume nullity. Pertinently, the Revenue has accepted the impugned decision of the Ld.CIT(A) by not contesting the same before us.

8.0 Coming to the merits of the addition we have noted that once again the Ld.CIT(A) has analysed the entire facts of the case carefully and extensively before arriving at his conclusion that the addition deserves to be deleted. Thus, he held as under:

“.....4.3 Ground nos. 3 to 5 relate to addition of Rs.11.54 cr. for loan taken from M/s Index securities & Research Pvt. Ltd., for part of the year, treating it to be accommodation entry.

4.3.11 have gone through the facts of the case, records and written submissions of the appellant. This case was earlier passed u/s 153A of the IT Act 1961 on 28.3.2013. The present assessment had been made u/s 147 r.w.s. 153A of the income tax making an addition of Rs 11.54 cr. treating this amount received from M/s ISRPL as accommodation entry.

The appellant company was incorporated on 09.06.2008 i.e. in AY 2009-10. It is engaged in the business of trading of rice and paddy. In the year under consideration, the appellant has shown a turnover of Rs. 43,49,71,363/- and has disclosed an income of Rs. 2,30,96,210/- in the return of income. The appellant and M/s Index Securities and Research Pvt. Ltd are group companies of the Jagat group.

From the ledger account furnished by the appellant, it is observed that the appellant is having running loan account with M/s Index Securities and Research Pvt. Ltd. (ISRPL). During the year under consideration, appellant company had received amounts on various dates (primarily from 11.09.2009 to 06.01.2010) aggregating to Rs. 11,63,00,000/- from ISRPL & repaid amounts (primarily from 12.12.2009 to 31.03.2010) aggregating to Rs. 24,69,00,000/- to ISRPL, and at the end of FY 2009-10 as on 31.03.2010, an amount of Rs. 13,06,00,000/- was receivable by appellant from M/s ISRPL. This might be the reason the AO could not find the loan of Rs 11.54 cr. from M/s ISRPL under the head "loans" on liability side of balance sheet of appellant, as this amount was squared up during the year and additional amount of Rs 13.06 cr. was advanced by the appellant to M/s ISRPL. Infact the running loan account also appear in next financial year wherein the appellant had taken amounts of Rs.89.36 cr. from M/s ISRPL and repaid the amount of Rs.152.47 cr. during the year, leaving a closing credit balance of the appellant of Rs. 76.17 cr. with M/s ISRPL. The transactions had been made through banking channels and flow of funds are in both the directions between these two companies during the year.

4.3.2 Further the appeal of the Index Securities and Research Pvt. Ltd. for assessment year 2010-11 against the order u/s 147 r.w.s. 153A wherein, on the basis of above reasons, it was held by AO that ISRPL is providing accommodation entries, had been decided. The discussion in the appellate order is not reproduced for the sake of brevity and only conclusion on the basis of discussion made in the appellate order of M/s ISRPL is reproduced as under:

- "10. On the basis of above discussion, it can be concluded as under:*
- The source of money in the company is in the form of share capital and premium only, no unsecured loans are there. The incoming money was disputed by the revenue, but dispute has been settled*

in favour of appellant by Hon'ble High Court. Once the source of funds in any entity have been established or taxed, the subsequent application of funds (either through gift/loans/advances etc.) cannot be challenged in the hands of recipients unless, credible evidences suggest so.

- *The appellant company is registered entity with RBI and its affairs are regulated by it. The appellant company had shown these activities in its all the subsequent returns also. Thus there is real business of investment and financing from which real substantial receipts are being shown in the books of the appellant. The AO had not rejected the interest receipts of Rs 5.5 cr. Shown by the appellant during the year. Further major receipts (Rs 1.22 cr appx) in the year under consideration is from bank FDR, the bank will not ask for accommodation entries and give additional commission.*
- *As per the evidences mentioned in the assessment order, there is no evidence found or investigated w.r.t. this fact of accommodation entries or loan entries leading to additional earning of commission in cash over and above the interest charged by the appellant.*
- *The only statement of directors that they do not know the financial affairs of the company and financial affairs are known to major shareholders i.e. Sh. Sant Lal Aggarwal and Sh. S. K. Pawa and the conclusion that directors are paper directors and so the company is involved in providing accommodation entries is not a correct conclusion as discussed above. There need to be independent corroborative material to prove the allegation. The shareholders are competent and authorised persons to manage the affairs of business of their company.*
- *There are no transactions with KRBL group in the year under consideration.*
- *Thus on the basis of above discussion, it is concluded that the appellant company is not a paper company providing accommodation entries, however the directors may be paper directors just following the directions of major shareholders and doing various compliances. Thus the addition made by the AO @2% commission charged of Rs 2.56 crore on all advances is hereby deleted and appeal of the appellant is allowed."*

4.3.3 Thus the facts & inferences drawn in the appeal of M/s ISPRL as reproduced above coupled with the facts on loans by the appellant are summarized as under:

(i) *The source of funds in M/s ISRPL had been share capital & share premium received in the assessment years 2007-08, 2008-09 and 2010-11. This share capital and premium were added in the assessments of M/s ISRPL in these respective years. However, these additions could not stand the test of appeal and Hon'ble High Court had confirmed the deletion made on technical grounds as well as on merits by CIT(A) for these years. Thus the source of capital once taxed (although subjudice), considering it as receipt of accommodation entry, in M/s ISRPL, becomes clean for any further application of that money. Hence the subsequent entries cannot be termed as accommodation entries unless corroborated by credible evidences.*

(ii) *There is no corroboration of the inference drawn by the AO with any independent evidence that M/s ISRPL is involved in accommodation entry business. The CBDT Instruction Nos. F No. 286/2/2003- IT (Inv) dated 10.03.2003) and F. No. 286/98/2013-IT (Inv.II) dated 18.12.2014 also are relevant in this regard.*

(iii) *The appellate company has a regular running account with the appellant.*

The loan of Rs 11.54 cr. received from M/s ISRPL had been repaid during the year and further a sum of Rs 13.05 cr. had been advanced by the appellant during the year to M/s ISRPL. In fact, the addition of "disallowance of interest" on account of interest free advance to group concern M/s ISRPL had been made in the case of appellant in the last assessment made u/s 153A on 28.03.2013. Further there are continued loan transactions in the succeeding year also wherein the appellant company had advanced to ISRPL total amount of Rs 152.47Cr. and received total amount of Rs 89.36 Cr. from ISRPL, leaving a net credit balance of the appellant in the books of ISRPL at Rs 76 Cr. at the end of the next financial year. Thus the appellant had been mostly creditor of ISRPL except initial amount of Rs11.54 Cr. for short period of year.

Considering the above facts and circumstances, the loan entries of Rs.11.54 Cr received by the appellant from M/s ISRPL are held to be regular loan entries through regular banking channel transacted for the purposes of the business. Therefore the addition made by the AO treating the loan receipts of Rs 11.54 Cr from M/s ISRPL to be accommodation entries is hereby deleted and this ground of appeal is allowed....."

9.0 We have noted that the decision of Ld.CIT(A) is based upon proper understanding and appreciation of the facts of the case and therefore we wholly concur with the same. On the issue of reliance upon the order of the lower authorities, we rely upon the order of Hon'ble Delhi High court in the case of Global Vantedge Pvt Ltd dated 14.03.2013 considering ITA No.1828- 1829 / Del / 2010 and ITA No.1254 / Del / 2011 holding as under:-

*“...The learned counsel for the revenue contended that it was incumbent upon the Tribunal to have recorded its own findings rather than merely confirming the findings of the CIT (Appeals). However, the learned counsel for the respondent/ assessee drew our attention to the Supreme Court decision in the case of **CIT v. K.V. Pilliah and Sons : (1966) 63 ITR 411 (SC)**, wherein, on a similar point having been raised, the Supreme Court observed as under: -*

“The Income-tax Appellate Tribunal is the final fact-finding authority and normally it should record its conclusion on every disputed question raised before it, setting out its reasons in support of its conclusion. But, in failing to record reasons, when the Appellate Tribunal fully agrees with the view expressed by the Appellate Assistant Commissioner and has no other ground to record in support of its conclusion, it does not act illegally or irregularly, merely because it does not repeat the grounds of the Appellate

Assistant Commissioner on which the decision was given against the assessee or the department. The criticism made by the High Court that the Tribunal had “failed to perform its duty in merely affirming the

conclusion of the Appellate Assistant Commissioner” is apparently unmerited.”

10. Accordingly we are of the considered view that the order of Ld.CIT(A) does not require any intervention at this stage. All the grounds of appeal raised by the Revenue are therefore dismissed.

11. In the result, the appeal of the Revenue is dismissed.

Order pronounced in open court on 30th Sept-2025

Sd/-

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sh Damodar Kutty Sr. PS

Dated:30/09/2025.

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI