

आयकर अपीलीय अधिकरण, 'एसएमसी' न्यायपीठ, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL 'SMC' BENCH, KOLKATA

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT

आयकर अपील सं/ITA No.1025/KOL/2025

(निर्धारण वर्ष / Assessment Year : 2015-2016)

Sanjay Kumar Drolia, 48/7, Tulsidham, Jessore Road, Bangur Avenue Crossing, Kolkata-700055	Vs	ITO Ward-49(1), Kolkata
PAN No. : ADMPD 0082 C		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Miraz D. Shah, AR
राजस्व की ओर से / Revenue by	:	Ms. Monalisa Pal Mukherjee, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	29/08/2025
घोषणा की तारीख / Date of Pronouncement	:	14/10/2025

आदेश / O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Addl./JCIT(A)-4, Chennai, dated 24.03.2025 passed for Assessment Year 2015-2016.

2. Facts in brief are that the assessee is an individual and had filed his original return of income on 02.04.2015 declaring a total income of Rs.9,11.110/-. The A.O. was in receipt of an information from DDIT (the Wing, Unit-3(1), Kolkata, wherein it was stated that the assessee was engaged in facilitating accommodation entry in the form of bogus billing, bogus share capital, unsecured loan to the beneficiary companies in lieu of commission at the rate of 0.50 percent of cheque amount during the period from F.Y.2009-10 to 2013-14. On the basis of the said information, the Ld. A.O. issued a notice u/s 148 of the I. T. Act, 1961, after obtaining approval from appropriate authority. In response to the said notice the assessee e-

filled the return of income under protest, declaring total Income of Rs.9,11,110/- and also intimated the A.O. about the same. Consequently, notices u/s 143(2) and 142(1) of the I. T. Act. 1961, were issued and served upon the assessee and in response to the said notices, the assessee appeared from time to time and filed all the required details and documents. The A.O was requested to provide certified copy of reasons recorded but the AO. failed to provide the copy of the same to the assessee. Instead, the Ld A.O. issued a show cause notice on the appellant asking it to show cause as to why commission 0.50 percent of Rs.43,91,94,938/-should not be added back to the total income of the assessee. In response to the said by cause notice, the assessee filed a written submission requesting the AO to provide the copy of the reasons recorded. Further, another submission was filed by the assessee stating that during the year under consideration the assessee was not engaged in any trading activity. The A.O. was further intimated that a statement of the assessee as a director of M/s. Silverpoint Infratech Ltd was recorded before the Investigation Wing. Kolkata, wherein he was forced to admit that commission 0.50 percent was earned for providing accommodation entry in the form of bogus billing, bogus share capital, unsecured loan to the beneficiaries. For the first time during the assessment proceedings on 21.11.2017, statement of assessee was provided for rebuttal. On receiving the copy of said statement, a reply dated 28.11.2017 was filed and kept on record. The AO found the contention of the assessee to be untenable and accordingly added back a sum of Rs.21.95.975/- to the total income of the appellant by treating the same as

commission income. Aggrieved thereby the assessee filed an appeal before the Id. CIT(A), wherein the Id. CIT(A) has affirmed the view taken by the AO. Now, the assessee is in further appeal before the Tribunal.

3. Ld.AR submitted that the Assessing Officer has reopened the assessment of the assessee without supplying the copy of reasons for reopening. It has also been submitted by the Id.AR that the addition made by the Assessing Officer alleging commission income from accommodation entries, is not sustainable without considering that the said income pertained to M/s. Silverpoint Infratech Ltd., a separate legal entity, and had already been included in its total income during its own assessment proceedings. Ld. AR further submitted that the Id.CIT(A) without considering the factual aspects of the matter and also without appreciating the fact that the statement recorded under section 131 was made by the assessee in his capacity as director of M/s. Silverpoint Infratech Ltd., therefore, the same cannot be the basis for taxing the alleged income in his individual capacity. Accordingly, Id. AR prayed that the addition made by the Assessing Officer and confirmed by the Id.CIT(A) deserves to be deleted.

4. On the other hand, Id. Sr. DR vehemently supported the orders of both the authorities below.

5. I have considered the submissions of the parties and perused the material available on record. The Assessing Officer has made the addition on account commission income @0.50% of the total accommodation entries as the assessee could not substantiate his claim that the

commission income earned by the company named M/s Silverpoint Infratech Ltd. and the said company has duly offered for taxation. This fact has also been recorded by the Assessing Officer in its assessment order. The AO has also mentioned that the assessee furnished copy of profit and loss account and balance sheet of the company named M/s Silverpoint Infratech Ltd. but nowhere the assessee could have explained that such commission income has been included in the profit & loss account under the head "Revenue from Operations" of the said company. However, during the course of hearing, Id.AR submitted that the no addition could be made in the hands of the assessee as the same amount, which has been added by the Assessing Officer in the hands of assessee, has already been offered to tax by Silverpoint Infratech Ltd. which is a separate legal entity. However, the assessee has not placed the copy of income tax return of M/s Silverpoint Infratech Ltd. before the Assessing Officer. Now, the assessee has filed the same before me, hence, in the interest of justice, the issue in this appeal is restored to the file of the Assessing Officer for deciding the issue afresh with a direction to verify and examine as to whether M/s Silverpoint Infratech Ltd. has offered the disputed amount for taxation which has been claimed by the assessee and pass order accordingly. Needless to say, the assessee shall be provided sufficient opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Id. AO, failing which the Id. AO shall be at liberty to pass appropriate order in accordance with

law and merits based on the materials available on record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 14/10/2025.

Sd/-
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT

दिनांक Dated 14/10/2025

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)
आयकर अपीलीय अधिकरण, कोलकाता /ITAT, Kolkata