

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.5798/Del/2024  
(ASSESSMENT YEAR 2016-17)

ITA No.5797/Del/2024  
(ASSESSMENT YEAR 2017-18)

ITA No.5796/Del/2024  
(ASSESSMENT YEAR 2018-19)

Stercon Energy Pvt. Ltd., 215-219 Pearls Business Park, Saraswati Park, Delhi-110034.  PAN-AAOCS7746Q	Vs.	Asst. CIT, Central Circle-29, New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Amol Sinha, Adv., & Shri Ankit Kumar, Adv.
Department by	Shri Dayainder Singh Sindhu, CIT(D)
Date of Hearing	16/10/2025
Date of Pronouncement	17/10/2025

**ORDER**

**PER MANISH AGARWAL, AM:**

These three appeals are filed by the assessee against three separate orders passed by the Ld. Commissioner of Income Tax (Appeals)-25, New Delhi [CIT(A), in short] u/s 153C/153B of the Income Tax Act, 1961 (hereinafter referred as 'the Act') for Assessment Years 2016-17, 2017-18 and 2018-19 respectively.

2. The identical issues are involved in all these three appeals, hence, they are taken together and disposed-off by this common order for the sake of convenience. We first take the assessee's appeal in ITA No.5798/Del/2024 for Asst. Year 2016-17 for adjudication.

3. Brief facts of the case are that a search and seizure operation was carried out in the case of 'Himanshu Verma Group cases' and during the course of search, it was found that various companies were operated and managed by Sh. Himanshu Verma for providing accommodation entries as admitted by Sh. Himanshu Verma in his statement recorded during the search. Based on such admission, the AO recorded his satisfaction on 23.09.2019 and initiated proceedings u/s 153C of the Act in the case of the assessee. Thereafter, the notices u/s 153C were issued for various years from 2012-13 to 2018-19 and the assessment for these years were completed in u/s 153C and 143(3) of the Act wherein in AY 2016-17 to AY 2018-19, various additions were made by holding that assessee company had received commission of 4% of total amounts transacted in its bank accounts. Further addition of commission @1% of capital of the assessee was made in AY 2016-17 and additions were made for the same. In the first appeal, the Ld. CIT(A) dismissed the appeal of the assessee and, therefore, the assessee is in appeal before the Tribunal by taking the following grounds of appeal:

*"1. That the Ld. AO has erred in passing an order u/s 143(3) of the Income Tax Act, 1961 (herein referred as 'the Act') by assessing a total income of Rs. 39,86,480/- in complete ignorance of facts on record and also in complete violation law and Ld. CIT(A) has erred in upholding the same.*

*2. That the Ld. AO has erred in taking account of an income at 4% amounting to Rs. 25,91,654/- on total credits of Rs. 6,47,91,345/- in two bank accounts in the hands of the Assessee wherein admittedly the said income was earned by Himanshu Verma in individual capacity and Ld. CIT(A) has erred in upholding the same.*

*3. That the Ld. AO erred in taking accumulated credits of Rs. 6,47,91,345/- as base to calculate the income of the company disregarding the facts that the majority of credits*

were received from entities from whom amount was receivable as on 1 April 2015 and Ld. CIT(A) has erred in upholding the same.

4. That the Ld. AO has erred in taking the income on money lent to various parties in the past which was already received by Mr. Himanshu Verma in the year of lending and has already been assessed in his personal hands in the prior years and Ld. CIT(A) has erred in upholding the same.

5. That the Ld. AO has erred while making addition of Rs. 13,29,719/- relying on the statement of Mr. Parvinder Singh, Director of the company whereas Himanshu Verma himself has admitted in the statement stating non-receipt of any cash for sale of company and Ld. CIT(A) has erred in upholding the addition made by the Ld. AO.

6. That the Ld. AO has erred in law and on facts while making the addition/disallowance, in absence of any incriminating material indicating any unaccounted transaction by the appellant company and in view of the settled legal position by the various courts of law that in 153C assessment proceedings, additions cannot be made unless they are based on any incriminating material or inquiries based on such material, the impugned addition/disallowance made by the AO is unjustified, illegal and hence deserves to be deleted.

7. That the Ld. AO has erred in not recording the satisfaction note qua the Assessee herein which has to be independent from the searched person and Ld. CIT(A) has erred in upholding the same.

8. That the Ld. AO has erred in passing the impugned assessment order beyond limitation as prescribed under the statute and Ld. CIT(A) has erred in upholding the same.

9. The order of the CIT (A) is confirming the order of the Ld. Assessing Officer is bad in law and contrary to the facts on record.

10. The appellant craves leave to add, alter, amend or vary any of the above grounds during the pendency of the appeal.”

3. The assessee has challenged the additions of Rs.25,91,654/- made by applying of 4% rate of commission of total credit of Rs.6,47,91,345/- in the bank accounts and further challenged the addition of Rs.13,21,719/- being 1% commissions on the total capital of the assessee company. Before us, the Ld. AR submits that there was a transfer of management in the month of November, 2015, thereafter, the new management has taken over the control and management of the assessee company. Prior to that as submitted by Sh. Himanshu Verma, all the transactions carried out in

the bank account of the assessee were controlled and managed by him for which the commission income if any is of Shri Himanshu Verma and cannot be held as the income of the assessee company.

4. Before us, the ld. AR of the assessee also submits that there was no incriminating material whatsoever was found from the possession of the assessee company. Solely on the basis of the statement of Sh. Himanshu Verma wherein he admitted that he was controlling and managing the assessee company, addition was made in these three years in the hands of the assessee. He further submits that in the statements Shri Verma stated that the share of the company were transferred in the year 2015 and balance sheet for Assessment Year 2016-17 to 2018-19 were signed by the new Director as they have taken over the control and management of the assessee company. The Ld. AR submits that in the statement of Sh. Himanshu Verma, he admitted that he had transferred the company by charging the commission @ 1% of the total capital. He submits that the amount of commission, if any, paid it is paid by the incoming shareholders and not by the assessee company itself and further the amount was received by Sh. Himanshu Verma, however, the AO has made the addition on this amount in the hands of the assessee. The Ld. AR submits that it is the income by the Sh. Himanshu Verma and not of the assessee, therefore, the addition made be deleted on this score.

5. With respect to the satisfaction note recorded, the Ld. AR submits that common satisfaction was recorded for all the assessment years and no incriminating material whatsoever was identified except the statements of Sh. Himanshu Verma. He further submits that without precisely specifying the year to which incriminating material relates to, all the years cannot be open. In this regard reliance is placed on the judgment of the Hon'ble Madras High Court in the case of Agni Vishnu Ventures

Pvt. Ltd. vs. DCIT reported [2023] 157 taxmann.com 242 (Mad.). Further reliance is placed on the judgment of the Co-ordinate Bench of the ITAT in the case of the Super Bazar Stores Pvt. Ltd. vs. ITA No.9757/Del/2019. It is thus requested that the addition made in the hands of the assessee are without any incriminating material and the proceedings initiated on the basis of vague and none descriptive satisfaction note are bad in law and consequent order passed be quashed. He requested for the same.

6. On the other hand, Ld. CIT-DR supported the order of the lower authorities and filed written submissions covering all the grounds of appeal taken by the assessee which as under:

*“Sub: Written Submission by Departmental Representative in the above case-reg.  
Ground No. 1 is general in nature and therefore, does not require any separate adjudication by this Hon'ble Tribunal.*

*Ground No. 2: That the Ld. AO has erred in taking account of an income at 4% amounting to Rs. 25,91,654/-on total credits of Rs. 6,47,91,345/-in two bank accounts in the hands of the Assessee wherein admittedly the said income was earned by Himanshu Verma in individual capacity and Ld. CIT(A) has erred in upholding the same.*

*Issue in brief as per AO:*

*1. Jurisdiction and Initiation of Proceedings*

- *Notice u/s 153C was issued to the assessee company on 24.09.2019 consequent to search and seizure action in the case of entry operator Sh. Himanshu Verma.*
- *In response, the assessee filed return declaring meagre income of Rs. 65,070/-. Subsequent notices u/s 143(2) and 142(1) were issued, in compliance to which the Authorised Representative (AR) appeared and furnished details.*

*2. Assessee Company Used as a Conduit for Accommodation Entries*

- *On the basis of material gathered during search and submissions made, it was established that the assessee company was used by Sh. Himanshu Verma (entry operator) as a conduit company to provide bogus accommodation entries to beneficiaries.*
- *The present shareholders/directors assumed control only from November 2015 onwards, prior thereto, the affairs were controlled by Sh. Himanshu Verma.*

*3. Perusal of Bank Accounts and Bogus Credits*

- *Scrutiny of two bank accounts for F.Y. 2015-16 revealed credits aggregating to Rs. 6,47,91,345/-, received from known entry-providing companies controlled by Sh. Himanshu Verma, viz. Mis Glocal Impex India Pvt. Ltd., M/s Anna Realtors India*

*Pvt. Ltd., M/s Supernext Infraheights, M/s Heerak Clothing Pvt. Ltd. & M/s Sagarmati Fabrics Pvt. Ltd.*

- *The modus operandi was that the assessee company received accommodation entries and routed them further to actual beneficiaries.*

#### *4. Estimation of Commission Income*

- *Following the consistent approach adopted in the case of Sh. Himanshu Verma (entry operator the AO estimated commission income at 4% of total credits, amounting to Rs 25,91,654 earned by the assessee company from providing accommodation entries*
- *The basis for such estimation was the nature of activity, comparable cases of entry operators, and the factual position that the assessee company facilitated bogus entries during the relevant year.*

#### *5. Statement of Entry Operator and Cross-Examination*

- *Statement of Sh. Himanshu Verma was recorded u/s 131, wherein he admitted to having sold the assessee company for cash commission and confirmed its role in accommodation entry operations*
- *On cross-examination, Himanshu Verma reiterated these facts, and the then director Sh. Parvinder Singh also admitted having purchased the assessee company in cash. These judicial proceedings corroborated the fact that the assessee company was complicit in accommodation entry business and earned commission therefrom.*

#### *6. Addition on Account of Unexplained Investment*

- *In addition to commission income, unexplained investment of Rs. 13,29,719/- (1% of total capital of Rs. 13,29,71,951/-) was added in the hands of the assessee, based on the admission of Himanshu Verma regarding sale consideration received in cash.*

#### *7. Ruling of the AO Relevant to the Ground of Appeal*

- *The AO conclusively established that the assessee company, after takeover from Himanshu Verma, continued to provide accommodation entries and earned commission income thereon.*
- *The addition of Rs. 25,91,654/- @4% commission on total credits of Rs. 6,47,91,345/- was thus justified and in line with the settled judicial approach for entry operators.*
- *The AO rejected the assessee's contention that such income should be assessed in the hands of Himanshu Verma individually, since after November 2015 the company itself was under control of new management, who admitted purchase of the company for cash and its use as a conduit for accommodation entries.*

#### *Adjudication by CITIA on Ground No. 2:*

##### *1. Assessee's Submission Before CIT(A)*

- *The assessee contended that all business operations were managed and controlled by Shri Himanshu Verma, and therefore, any income earned therefrom ought to be assessed in his hands.*
- *It further submitted that in AY 2015-16, its assessment was completed u/s 143(3) r.w.s. 153C without any addition, on the finding that the company was merely a paper entity controlled by Shri Verma*

- *The assessee also argued that commission income has already been taxed in the hands of Shri Verma and that the rate of 4% applied by the AO was on the higher side.*
2. *Findings on Commission Income of 4%*
- *The CIT(A) observed that commission income was added in the hands of the assessee company only after its sale to new persons.*
  - *The AO's finding that the assessee company continued to receive bogus credits from entities controlled by Shri Verma and routed the same to beneficiaries could not be controverted by the assessee.*
  - *The assessee failed to bring any cogent evidence during appellate proceedings to dislodge the factual findings of the AO.*
3. *Findings on Commission from Sale of Company (1%)*
- *The AO had allowed cross-examination of Shri Himanshu Verma at the request of the assessee.*
  - *During cross-examination, Shri Verma categorically admitted to the sale of the company in lieu of commission @ 1% of total capital.*
  - *The assessee was unable to rebut this testimony with any contrary evidence either before the AO or during the appellate proceedings.*
4. *Appellate Conclusion*
- *The CIT(A) held that the AO's additions were based on factual evidence, corroborated by statements of Shri Himanshu Verma, and not on mere presumption.*
  - *The assessee's arguments regarding taxation in the hands of Shri Verma individually were found untenable in view of the fact that the company had already been sold to new management, and the accommodation entry operations continued in its name.*
  - *Accordingly, the CIT(A) confirmed the additions of Rs. 25,91,654/- (commission @ 4%) and Rs. 13,29,719/- (commission on sale of company), aggregating to Rs. 39,21,373/-, and dismissed the grounds of appeal.*

*DR's Contentions for Ground No. 2:*

*1. Background and Jurisdiction*

*1.1 The case of the assessee company, Stercon Energy Pvt. Ltd., emanates from search and seizure proceedings carried out in the case of Shri Himanshu Verma, a known entry operator. Consequent to the incriminating material seized and statements recorded u/s 132(4) and 131, proceedings u/s 153C were validly initiated.*

*1.2 During assessment, the AO established on the basis of bank statements, seized records, and corroborative statements that the assessee company functioned merely as a conduit for routing accommodation entries.*

*2. On Commission Income of Rs. 25,91,654/- (4% on Credits)*

*2.1 The AO, after thorough examination, found that the assessee received bogus credits of Rs. 6,47,91,345/- from entry-providing entities controlled by Shri Himanshu Verma. These amounts were routed further to beneficiaries for a commission.*

*2.2 Following settled practice in the cases of entry operators, the AO estimated commission income at 4%, working out to Rs. 25,91,654/-, and brought the same to tax in the hands of the assessee company.*

2.3 The assessee's plea that such income is taxable in the hands of Shri Himanshu Verma individually is devoid of merit. Shri Verma was taxed on commission only in years where he had direct control of the company. For the year under consideration, the company had been sold and was under new management, which admitted to the purchase and continued use of the company for the same activities. Hence, the commission rightly belongs to the assessee company

3. On Commission of Rs. 13,29,719/- (1% on Sale of Company)

3.1 The AO also brought to tax Rs. 13,29,719/- being 1% of the total capital, on the basis of the sworn statement of Shri Himanshu Verma, who categorically admitted to having sold the assessee company for a cash commission.

3.2 At the request of the assessee, cross-examination of Shri Verma was duly provided. During such cross-examination, Shri Verma reiterated his admission, and the director of the company. Shri Parvinder Singh, also acknowledged purchase of the company for cash.

3.3 This finding remained uncontroverted by the assessee during assessment or appellate proceedings Hence, the addition was fully justified.

4. Findings of the CIT(A)

4.1 The Ld. CIT(A), after appreciating both the assessment order and the submissions of the assessee, confirmed the additions made by the AO.

4.2 The CIT(A) specifically noted that:

- Commission income was rightly assessed in the hands of the assessee company after its transfer to new management.
- Cross-examination of Shri Himanshu Verma was provided, but the assessee could not rebut the factual findings;
- The plea that the income should be assessed only in the hands of Shri Verma was not substantiated with any evidence.

4.3 Accordingly, the CIT(A) dismissed the appeal and upheld the additions of Rs.39,21,373/-

5. Rebuttal of Assessee's Pleas

5.1 Plea of taxation in hands of Shri Verma: This plea overlooks the fact that Shri Verma was assessed on commission only up to the point where he directly controlled the company. After sale, the company itself became the vehicle for accommodation entries under new ownership, and thus, income accrues to the assessee company.

5.2 Reliance on earlier AY assessment (AY 2015-16): The fact that no addition was made in AY 2015-16 is irrelevant, as in the year under consideration the assessee company had active banking operations with large credits and continued entry operations. Income has to be assessed on year-to-year basis, and fresh incriminating evidence justifies the addition,

5.3 Plea of high commission rate (4%): The rate of 4% is a reasonable estimation, consistent with judicial precedents and assessments in the cases of entry operators. The assessee has not furnished any material to suggest that a lower rate is applicable in its case.

6. Legal Position

6.1 It is trite law that income is to be assessed in the hands of the person who earns it. In the present case, it was the assessee company which maintained the bank accounts, routed

*the funds, and facilitated accommodation entries during the relevant period. Hence, the income rightfully accrues to it.*

*6.2 The Hon'ble Courts have consistently upheld the principle that in accommodation entry cases, commission income is to be estimated and taxed in the hands of the entity operating as a conduit. The AO's action in estimating commission @4% is therefore squarely in line with such jurisprudence.*

*6.3 Further, additions made on the basis of corroborated statements, cross-examination, and documentary evidence carry strong evidentiary value and cannot be discarded in absence of contrary proof from the*

*Ground No. 3: That the Ld. AO erred in taking accumulated credits of Rs. 6,47,91,345/- as base to calculate the income of the company disregarding the facts that the majority of credits were received from entities from whom amount was receivable as on 15t April 2015 and Ld. CIT(A) has erred in upholding the same.*

*Issue in brief as per AO:*

*1. Receipt of Accommodation Entries:*

*On perusal of bank statements and details furnished, it was established that the assessee-company functioned as a conduit for routing accommodation entries on behalf of entry operator Shri Himanshu Verma. The company received credits aggregating to Rs. 6,47,91,345/- during F.Y. 2015-16 from entities such as M/s Glocal Impex India Pvt. Ltd., M/s Anna Realtors India Pvt. Ltd., M/s Supernext Infraheights, M/s Heerak Clothing Pvt. Ltd., and M/s Sagarmati Fabrics Pvt. Ltd., all controlled by Shri Himanshu Verma,*

*2. Nature of Transactions:*

*These credits, though received at different intervals, were cumulatively parked in the assessee's bank accounts and subsequently transferred to the beneficiaries of accommodation entries. The assessee failed to substantiate any genuine business purpose for such transactions.*

*3. Basis of Commission Income:*

*Considering the modus operandi of entry operators, the total accumulated credits routed through the assessee's accounts were rightly taken as the base for estimating commission income. The assessee's contention that a part of the credits remained receivable as on 01.04.2015 is untenable, as the company admittedly acted as a facilitator of accommodation entries throughout the financial year.*

*4. Corroborative Evidence:*

*The statement of Shri Himanshu Verma, recorded u/s 131, confirmed that the assessee-company was sold for cash consideration and used as a vehicle for providing accommodation entries. The statement of the new director, Shri Parvinder Singh, further corroborated that the company was purchased by him in cash and operated as per the dictates of the entry operator.*

*5. Ruling of the Assessing Officer*

- In view of the above facts, the entire accumulated credits of Rs. 6,47,91,345/- were considered as the operative base for computing commission income.*
- Commission was estimated at 4% of the said accumulated credits, resulting in an addition of Rs. 25,91,654/- to the income of the assessee-company.*
- Further, the unexplained investment on account of cash consideration paid for acquiring control of the company, as admitted by Shri Himanshu Verma, was separately brought to tax.*

Adjudication by CITIAL on Ground No.3*1. Assessment of Commission Income in the Hands of the Appellant*

- *The Ld. CIT(A) observed that the addition of commission income 45% on accommodation entries was made by the Assessing Officer in the hands of the appellant company only after the company was taken over by new shareholders/directors in 2015-16.*
- *The assessee's contention that such income ought to be assessed in the hands of Shri Himanshu Verma, being the entry operator, was found untenable since the impugned transactions and credits were routed through the bank accounts of the appellant company even after change of control*

*2. Commission on Sale of the Company*

- *The Ld. CIT(A) noted that Shri Himanshu Verma had categorically admitted, on oath, to having sold the appellant company against a commission of 1% of its total capital.*
- *The appellant was provided an opportunity of cross-examination of Shri Verma during the course of assessment proceedings, however, the factual finding remained uncontroverted*

*3. Failure to Rebut AO's Findings*

- *Despite due opportunity, the appellant could not adduce any cogent evidence or material to rebut the specific findings of the Assessing Officer, either during the assessment stage or in the appellate proceedings.*
- *The plea that similar commission was assessed in the hands of Shri Verma in earlier years was found irrelevant in light of the fact that the impugned year involved transactions carried out by the appellant company post its sale.*

*4. Ruling of the Ld. CIT(A):*

- *The Ld. CIT(A) held that the additions made by the Assessing Officer are factually and legally sustainable. Accordingly, the grounds of appeal raised by the appellant were found devoid of merit and were dismissed, with the additions made by the Assessing Officer being confirmed in toto.*

DR's Contentions for Ground No. 3:*1. Basis of Estimation by the Assessing Officer*

*The learned AO has rightly considered the accumulated credits of 26,47,91,345/- appearing in the assessee's bank account as the proper base for computation of commission income. In accommodation entry cases, the quantum of credits routed through the banking channels is the most reliable indicator of the extent of entry operations carried out by the assessee. The AO, relying upon the incriminating documents and the sworn statement of Shri Himanshu Verma, determined that the assessee was systematically engaged in providing accommodation entries, and therefore, the accumulated credits represent the true turnover of such activities.*

*2. Fallacy in Assessee's Contention Regarding Opening Balances*

*The plea of the assessee that majority of credits were "receivables" as on 01.04.2015 (opening balance) is wholly untenable. It is settled law that in entry-providing operations, both fresh credits and rotation of funds constitute accommodation entries. The nature of such transactions is not akin to genuine business receivables but mere circulation of funds. Therefore, even if certain credits were carried forward from the earlier year, their*

*reintroduction or rotation during the current year forms part of the total credits routed and is rightly includible in the base for estimating commission income.*

### *3. Onus on the Assessee to Prove Genuine Nature of Credits*

*The assessee has failed to discharge the primary onus of establishing the genuineness, creditworthiness, and source of the so-called receivables. No reliable evidence has been produced to prove that these credits represented genuine business transactions. Mere entries in books or self-serving reconciliations cannot override the incriminating evidence gathered during search and the categorical admission of the entry operator. In absence of credible rebuttal, the AO was justified in treating the entire credits as base turnover for estimating commission.*

### *4. Estimation on Accumulated Credits Supported by Jurisprudence*

*Judicial pronouncements in similar cases (e.g., N.K. Proteins Ltd. v. DCIT [2017] 292 CTR 354 (SC)) have upheld the principle that in cases of accommodation entries and sham transactions, the apparent cannot be accepted as real, and estimation based on gross credits is a reasonable method of computation. The AO's approach is consistent with this settled proposition.*

### *5. Validity of CIT(A)'s Confirmation*

*The Id. CIT(A) has correctly upheld the AO's action after appreciating that the assessee neither disproved the incriminating evidence nor substantiated its claim that the credits represented genuine receivables. The assessee's submissions were merely general in nature and devoid of supporting documentation. Hence, the CIT(A)'s finding is based on sound reasoning and warrants affirmation.*

*Ground No. 4: That the Ld. AO has erred in taking the income on money lended to various parties in the past which was already received by Mr. Himanshu Verma in the year of lending and has already been assessed in his personal hands in the prior years and Ld. CIT(A) has erred in upholding the same.*

*DR's Contentions for Ground No. 4:*

#### *1. Proper Taxability in the Hands of the Assessee-Company*

*It is respectfully submitted that the Id. AO has rightly brought to tax the commission income relatable to monies lended to various parties through the assessee-company. The factual matrix reveals that once the control and management of the assessee-company was transferred, the lending operations and the corresponding income therefrom were effectively routed through and accrued in the name of the company. Therefore, the assessee-company is the correct taxable entity in law, irrespective of whether Mr. Himanshu Verma had previously returned certain amounts in his individual capacity.*

#### *2. Principle Against Double Taxation Not Attracted*

*The assessee's plea that the said income has already been assessed in the personal hands of Mr. Himanshu Verma in earlier years is misconceived. What is being taxed in the present proceedings is not the same income already assessed in Mr. Verma's hands but the commission attributable to the use of the assessee-company as a conduit in subsequent years. The lending transactions carried on through the assessee-company constitute a distinct taxable event and cannot be merged with the individual assessments of Mr. Verma*

#### *3. Independent Identity of Corporate Entity*

*It is trite law that a company is a separate juristic person. Once lending transactions were carried on in the name of the assessee-company, the income arising therefrom cannot be ignored or shifted back to the personal accounts of its former director. The assessee cannot*

*approve and reprobate by claiming the corporate structure when convenient and disowning it when tax consequences arise. The AO has, therefore, correctly recognized the company as the taxable entity.*

#### *4. Evidentiary Value of Incriminating Material*

*The additions made are based on credible incriminating material unearthed during the search and on the categorical statement of Shri Himanshu Verma himself, who admitted the modus operandi of using companies to route accommodation entries and earn commission. The assessee has failed to bring on record any reliable evidence to substantiate that the impugned income had been assessed elsewhere in a manner that extinguishes its taxability in the company's hands. Self-serving assertions cannot displace the cogent findings of the AO.*

#### *5. CIT(A)'s Findings Are Well-Reasoned*

*The Id. CIT(A) has correctly upheld the addition after duly considering the assessee's submissions and appreciating that the assessee failed to establish with corroborative evidence that the impugned sums had already suffered taxation in the hands of Shri Verma in the relevant year. The appellate authority's reasoning is legally sound and does not suffer from any infirmity warranting interference.*

*Ground No. 5: That the Ld. AO has erred while making addition of Rs. 13,29,719/- relying on the statement of Mr. Parvinder Singh, Director of the company whereas Himanshu Verma himself has admitted in the statement stating non-receipt of any cash for sale of company and Ld. CIT(A) has erred in upholding the addition made by the Ld. AOO.*

*DR's Contentions for Ground No. 5:*

##### *1. Statement of Entry Operator, Shri Himanshu Verma*

*Shri Himanshu Verma, in his sworn statement recorded u/s 131, categorically admitted that he had sold the assessee company in lieu of cash consideration. He confirmed his earlier admissions made during search and post-search proceedings, acknowledging receipt of cash commission at the time of transfer of control of the assessee company.*

##### *2. Cross-Examination Proceedings and Confrontations*

*The factual position becomes clearer from the cross-examination proceedings conducted on 12.02.2021 in the case of M/s Stercon Energy Pvt. Ltd...*

*Admission by Shri Parvinder Singh: He categorically stated that the company was purchased through one Shri Arun, who worked at office of CA, at 1% of the total capital.*

*Confirmation by Shri Himanshu Verma: When confronted, he accepted that the company was sold at 1% of capital.*

*Payment Details: When asked about the amount and mode of payment, Shri Parvinder Singh expressed inability to recall, whereas Shri Himanshu Verma clearly stated that the consideration was to be received in cash and is still pending*

- Purpose of Purchase: Shri Himanshu Verma further stated that the purpose of such purchases is to clean unaccounted money through accommodation entries, pointing out that bogus unsecured loans were already reflected in the books of the assessee company.*
- Confrontation on Bogus Loans: When this was confronted, both Shri Parvinder Singh and the Authorised Representative Shri Mayank Goel accepted that even as on date, bogus unsecured loans were outstanding in the company's books.*

*Thus, the addition of 13,29,719/- is based not merely on an isolated statement, but on a sequence of admissions, confirmations, and acceptance of the presence of bogus unsecured loans, which demonstrate the genuineness of the AO's findings*

***Ground No. 6: That the Ld. AO has erred in law and on facts while making the addition/disallowance, in absence of any incriminating material indicating any unaccounted transaction by the appellant company and in view of the settled legal position by the various courts of law that in 153C assessment proceedings, additions cannot be made unless they are based on any incriminating material or inquiries based on such material, the impugned addition/disallowance made by the AO is unjustified, illegal and hence deserves to be deleted.***

*DR's Contentions for Ground No. 6;*

### *1. Preliminary Submission*

*The assessee's challenge to the additions on the ground of alleged absence of incriminating material is wholly untenable. The proceedings under section 153C of the Act were lawfully initiated and additions were rightly made on the basis of credible, incriminating evidence and statements recorded during search and post-search investigation. The Ld. CIT(A) has rightly upheld the same.*

### *2. Existence of Incriminating Material*

- *In the search conducted on Shri Himanshu Verma in 2012, voluminous documents pertaining to accommodation entry operations were seized.*
- *Crucially, in his statement on oath recorded on 13.04.2017, Shri Himanshu Verma admitted that the assessee-company was one of the entities being operated and managed by him for the purpose of providing accommodation entries in lieu of commission.*
- *Such a direct admission, corroborated with seized documents, constitutes incriminating material squarely relatable to the assessee-company, satisfying the statutory requirement under section 153C*

### *3. Continuity of Bogus Transactions Post Sale of Company*

- *The assessee-company was sold through a mediator, Shri Ganesh, Chartered Accountant, and new directors were inducted. The balance sheets for AYs 2016-17, 2017-18, and 2018-19 were signed by the new directors.*
- *Despite the change in management, it is significant that bogus unsecured loans continued to remain outstanding in the books of the company, thereby evidencing continuity of accommodation entry operations.*

*The persistence of such suspicious liabilities in successive years demonstrates that the company was not a genuine business concern but merely a conduit for layering of accommodation entries.*

### *4. Statutory Recognition under Section 132(4)*

- *Section 132(4) of the Act expressly provides "The authorized officer may during the course of the search of seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, mu bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act.*

- Thus, the sworn statement of Shri Himansha Verma recorded during and post search is not only admissible but has evidentiary value equivalent to other seized material, and can validly form the foundation for making additions

#### 5. Judicial Precedents Supporting Revenue's Case

- In *Dayawanti Gupta v. CIT* [2016] 75 taxmann.com 308 (Delhi), the Hon'ble Delhi High Court held that statements made under oath during search are valid incriminating material and additions can be sustained on such basis.
- Similarly, in *Indian National Congress v. DCIT* [2024] 160 taxmann.com 606 (Del), it was observed that as long as the satisfaction note and resultant additions rest on incriminating material pertaining to the assessment years in question, the requirements of section 153C stand satisfied.

#### 6. Rebuttal of Assessee's Argument

- The assessee's plea of "absence of incriminating material" is unsustainable, since the admission of Shri Himanshu Verma under section 132(4) directly implicates the assessee-company in the provision of accommodation entries.
- The law does not require the incriminating material to be in any particular format. A statement under oath recorded under section 132(4) itself is incriminating material in law.

Ground No. 7: That the Ld. AO has erred in not recording the satisfaction note qua the Assessee herein which has to be independent from the searched person and Ld. CIT(A) has erred in upholding the same.

#### DR's Contentions for Ground No. 7:

##### 1. Preliminary Submission

The present ground raised by the assessee challenges the validity of proceedings under section 1530 on the allegation that the Ld. AO failed to record an independent satisfaction qua the assessee. The Revenue respectfully submits that the contention is wholly untenable, being contrary to the settled law.

##### 2. Statutory Mandate under Section 1530

- Section 153C requires the AO of the searched person to be "satisfied" that any books of account, documents or assets seized belong to or pertain to a person other than the searched person.
- The requirement is substantive, but not hyper-technical. It suffices if the satisfaction is discernible from the assessment record and is based on incriminating material relatable to the assessee.
- The law does not mandate multiple or mechanically distinct satisfaction notes, existence of such satisfaction, based on seized material, is sufficient to confer jurisdiction.

##### 3. Revenue's Factual Position

- In the present case, the AO has duly recorded satisfaction based on seized documents which clearly pertained to the assessee.
- The satisfaction note forms part of the record and has been examined by the Ld. CIT(A), who found it to be in conformity with Section 153C.
- Thus, the allegation that no independent satisfaction was recorded is incorrect in fact.

##### 4. Judicial Precedents

- *Indian National Congress v. DCIT [2024] 160 taxmann.com 606 (Delhi HC)*  
*The Hon'ble Delhi High Court held that*

*"Satisfaction note merely forms foundation for initiation of action which would enable to evaluate whether an opinion has been validly formed and as long as it rests on incriminating material which pertains to assessment years in question, same would qualify requirement of section 153C."*

*This directly supports the Revenue's case. The AO's satisfaction in the instant matter is clearly rooted in incriminating material concerning the assessee.*

*Grounds of Appeal No. 9 & 10 are general in nature, devoid of specific factual or legal controversy and therefore, does not require any separate adjudication by this Hon'ble Tribunal*

*In view of the facts of the case, the detailed findings recorded by the Ld. AO, the well-reasoned order of the Ld. CIT(A), and the legal position settled by judicial precedents, it is most respectfully prayed that:*

- 1. The grounds raised by the assessee are devoid of merit, both on facts and in law;*
- 2. The additions of Rs. 25,91,654/-towards commission income and Rs. 13,29,719/-towards commission on sale of company, aggregating to Rs. 39,21,373/-, have been rightly made by the AO and confirmed by the CIT(A).*

- 3. The additions/disallowances made by the Ld. AO, as upheld by the Ld. CIT(A), are fully justified and based on cogent material, credible statements, and corroborative evidence,*

- 4. No infirmity, perversity, or illegality has been demonstrated by the assessee to warrant interference by this Hon'ble Tribunal; and*

- 5. Accordingly, all the grounds raised by the assessee may kindly be dismissed in toto and the appeal deserves to be decided in favour of the Revenue."*

7. Heard both the parties and perused the materials available on record. In the case of the assessee proceedings u/s 153C were initiated by recording satisfaction on 23.09.2021 which reads as under:

*Satisfaction Note for taking up the case of M/s Stercon Energy Pvt. Ltd.  
PAN:-AAOCS7746Q*

23.09.2019.

*A search and seizure action w/s 132(1) of the IT Act, 1961 was conducted on 13.04.2017 in the case of Mr. Himanshu Verma, M/s Global Impex Pvt Ltd, M/s Plus Finvest Pvt Ltd, M/s Volun Imports Pvt Ltd, M/s Advance Finvest Pvt, Ltd, M/s Advance Homes & Personal Care Pvt. Ltd, M/s Advance Surfactants Pvt. Ltd at C-48, Sudarshan Park, Moti Nagar, Now Delhi. Mr. Himanshu Verma is maintaining more than 200 shell companies/concerns for providing accommodation entries in lieu of commission during the search setion on Himanshu Verma & Others group, various incriminating documents pertaining to these 200 shell companies such as bill book, tally data ete were found and seized at C-48, Sudarshan Park, Moti Nagar, New Delhi. M/s Stercon Energy Pvt. Ltd. is one of the 200 shell companies/entities which is being controfted by Himanshu Verma for providing*

*accommodation entries in lieu of commission. This was confirmed by Mr. Himanshu Verma in his statement recorded during the course of search.*

*Further, on perusal of bank book of M/s Stercon Energy Pvt. Ltd., there is credit and debit entries in the following bank(s), which remains unexplained for A.Y. 2012-13 to A.Y. 2018-19.*

<i>Bank</i>	<i>Debit (In Rs.)</i>	<i>Credit (In Rs.)</i>
<i>Axis</i>	<i>244468644.00</i>	<i>244468644.00</i>
<i>HDFC</i>	<i>25972191.00</i>	<i>25972191.00</i>

*In view of the above, I am satisfied that it is a fit case for the initiation of proceedings of assessment u/s 153C/143(3) of the Act.*

*Issue notice u/s 153C of the IT Act, 1961.*

8.. From the perusal of the said satisfaction note, it can be seen that no reference is made by the AO of any incriminating material whatsoever found as a result of search in the case of third person and the proceedings were initiated u/s 153C solely on the averment made by Sh. Himanshu Verma that he was controlling and managing various company including the assessee for providing accommodation entries. It is further seen that in the statements as reproduced in the assessment order, it is stated by the Sh. Himanshu Verma no entry was provided by him on commission basis and the entry, if any, is routed was per his directions and he was in receipt of the commission for such entry and not by the assessee company. It is admitted fact that Sh. Himanshu Verma is controlling the assessee company, therefore, any commission receipt was his own income.

9. It is further seen that during the course of cross examination of Sh. Himanshu Verma before the AO, he accepted that shares of the assessee company were transferred by him after charging 1% commission on total capital. Since, the assessee is a artificial judicial person and cannot be transferred and its management can be transferred through transfer of its share which are held by the share holders and transfer of shares by the shareholders is their domain and the company has no control

over the same. Accordingly on the activity of transfer of shares carried by the share holders, if any commission is paid / received, said transaction is between the new shareholders and old share holder for which no addition could be made in the hands of the assessee company. Accordingly, we find no reason to make the addition of Rs.13,29,719 being 1% of the total capital in the hands of the assessee company which is hereby directed to be deleted.

10. With respect to the addition of Rs.25,91,654/- made by applying 4% of the commission rate on the total transactions of Rs.6,47,91,345/- in the bank accounts of the assessee, we find that this addition is made solely on the basis of the statement of Sh. Himanshu Verma wherein he admitted that he is controlling and managing the assessee company and providing accommodation entries to various persons by charging commission @ 4%. It is further seen that in preceding assessment years i.e. in Assessment Years 2012-13 to 2015-16 proceedings u/s 153C were initiated, however, no addition were made in the hands of the assessee company on the transactions carried by its bank account by holding the same as pertaining to Sh. Himanshu Verma. However, in the year under appeal though the share were transferred by Sh. Himanshu Verma but the facts remained that transactions in the bank account were carried were on the instructions of Shri Himanshu Verma and, therefore, the income, if any, accrued on account of commission, the same was received by Sh. Sh. Himanshu Verma and, thus, no addition could be made in the hands of the assessee company. Accordingly, we direct the AO to delete the addition of Rs. 25,91,654/- made in the hands of the assessee company.

11. Now coming to the issue of validity of the satisfaction note and initiation of the proceedings in the hands of assessee company based on such satisfaction note u/s 153C of the Act. Before us, the contention of the AR is that satisfaction note was

recorded without referring to any incriminating material and collectively in assessment order for Assessment Year 2012-13 to 2018-19 without identifying any incriminating material having entries for each individual assessment year. From the perusal of the satisfaction note so recorded as reproduced hereinabove, we find that the satisfaction note had the reference of gross amounts of credit entries in the bank accounts maintained by the assessee company which are disclosed bank account and cannot be held as incriminating material. Therefore, the entries contained therein cannot be held as unexplained. Moreover, we are in agreement with the contention of the AR that in the satisfaction note no year wise transactions were reported which could be held as incriminating for which the proceedings u/s 153C were initiated. Identical issue was came before the Co-ordinate Bench for consideration in the case of Super Bazar Stores Pvt. Ltd. in ITA 9757/Del/2019 wherein the Co-ordinate Bench after considering the facts has held that the satisfaction note so recorded is vague and non-descriptive and quashed the consequent orders passed u/s 153C of the Act. The relevant observations of the Co-ordinate Bench wherein the Co-ordinate Bench has followed the judgment of the jurisdictional High Court in the case of Saksham Commodity Ltd. vs. ITO reported 161 txmann.com 483 and made the following observations:

*“11. The assessee contends that 'satisfaction note' which is the first step for assumption of jurisdiction under s. 153C of the Act and provides foundation for conferment of jurisdiction is plagued with multiple legal infirmities. Viz:*

*[i] the 'satisfaction note' has been recorded by the AO of assessee collectively for the period AYs 2010-11 to AY 2015-16 without identifying the incriminating material in respect of any particular Assessment Year. Besides, the assessee company itself has come into existence by Certificate of incorporation dated 03.01.2013 and therefore, the company was not in existence in AY 2010-11 to AY 2012-13 covered in the 'satisfaction note,*

*[ii] the AO has thrown upon whole basket of six months without giving reference to any concrete incriminating material of a particular Assessment Year and without taking note of commencement of activities of assessee;*

*[iii] the act of the AO making sweeping averment in the 'satisfaction note that documents in the form of hard disks have bearing on determination of total income of Super Bazar Stores Pvt. Ltd. for AYs 2010-11 to 2015-16, is without legal foundation and without application of mind, as the AO has even failed to name the alleged documents and further failed to mention as to how it is related/pertained to a given AY covered in the 'satisfaction note';*

*[iv] the AO on receipt of material/documents from the AO of the searched person must necessarily apply his mind on the material received and ascertain precisely the specific year to which incriminating material relates. It is only when this determination/ascertainment is complete that the flood gates of an assessment would open qua those particular years. The issuance of notice cannot be an automated function unconnected to this exercise of analysis and ascertainment by the AO in the light of judgement rendered in the case of Agni Vishnu Feature Put.Ltd. vs DCIT (2023) 157 taxmann.com 242 (Madras). In the instant case, non-application of mind on material supplied to AO is obvious as the company itself was not in existence for sizable period covered in proceedings under s. 153C of the Act;*

*[v] the 'satisfaction note' is clearly very generic and devoid of any basic detail of the transaction in question.*

*12. We find ostensible potency in the plea of assessee towards allegation of legal infirmities in the 'satisfaction note'. The Hon'ble Delhi High Court in the case of Sakham Commodities Ltd. Vs ITO 161 taxmann.com 485 (Delhi) deftly expounded the imperatives of a 'satisfaction note', and observed that unearthing of incriminating material in respect of particular AY will not automatically confer jurisdiction to invoke section 153C of the Act in respect of all the AYs mentioned therein. The Hon'ble Delhi High Court further observed that discovery of material for a particular AY is not intended to trigger a chain reaction or have a water fall effect on all the AYs which can form part of the 'relevant AYs' under section 153C of the Act. The Hon'ble Delhi High Court underscored well settled distinction which the law recognizes between the existence of power and the exercise thereof and thus, held that unless the AO is satisfied that the material gathered can potentially impact the determination of total income, it will be abrupt exercise of powers in mechanically re-opening or assessing all over again of the AYs covered in the block that could possibly form part of block of relevant AYs. For holding so, the Hon'ble Delhi High Court relied upon the judgement delivered by the Hon'ble Supreme Court in the case of Sinhgad Technical Education Society wherein the Hon'ble Supreme Court held that the assessment under section 153C could be made only for the year to which material relates to and exercise of power under section 153C of the Act in respect of other AYs would not sustain. The Hon'ble Delhi High Court also noted that the AO is bound to ascertain and identify the AY to which the material recovered relates and relevant AYs which can then be subject to action under section 153C of the Act will have to be necessarily those in respect of which the assessment is likely to be influenced or impacted by the material discovered. The Hon'ble Delhi High Court went one step further to hold that where material discovered in the course of search has the potential of constituting incriminating material for more than one AYs, even in such a situation, it will be incumbent upon the AO to duly record reasons*

*that material is likely to be incriminating for more than one AY and thus, warranting the action under section 153C of the Act for years in addition to those to which material may be directly relatable. Thus, a nuanced application of mind and recording of reasons for drawing satisfaction as contemplated under section 153C of the Act qua different AYs is paramount. The Hon'ble Delhi High Court noticeably held that issuance of a notice under section 153C of the Act is clearly not intended to be an inevitable consequence to the receipt of material by the Jurisdictional AO and that the initiation of action under section 153C of the Act will have to be founded on a formation of opinion by the Jurisdictional AO that the material handed over and received pursuant to a search is likely to influence the determination of total income and would be relevant for the purposes of assessment/re-assessment in terms of section 153C of the Act.*

*13. The observation of the Hon'ble Delhi High Court noted above, clearly provides vehement support to the plea taken by the assessee on aspects of jurisdiction flowing from 'satisfaction note'. The 'satisfaction note' under scrutiny defies most of the parameters expected of him while drawing satisfaction. While exercising the power under section 153C of the Act, neither has the AO related the material found in the course of search with a particular AY while making a consolidated 'satisfaction note' for several years nor provided any requisite details of transaction to enable an independent person to ascertain and form any independent opinion on facts stated in Note that invocation of section 153C of the Act is indeed warranted in the facts of the case. The AO has not even bothered to relate the so-called documents etc. with the AYs covered. The assessee company was non-existent in AY 2010-11; AY 2011-12; AY 2012-13, which were also covered under s. 153C in a non-chalant manner. Mere drawing of a perfunctory satisfaction without meeting basic ingredients of providing some tangible & descript information and application of mind thereon has no standing in law and would not confer drastic jurisdiction of assessment u/s 153C of the Act on a person other than searched person. The jurisdiction assumed based on such lackadaisical 'satisfaction note' beset with vital infirmities cannot be countenanced in law. The objections raised on behalf of the assessee towards lack of jurisdiction based on a cryptic and non-descript satisfaction thus deserves to be sustained. While recording a consolidated 'satisfaction note' is not a bar in law per se as rightly contended on behalf of the revenue, but however, in the same vain, the documents/assets searched need to be specified against each year covered in the satisfaction note to depict application of mind and initiation of action under section 153C of the Act qua such assessment years. The AO has apparently failed to do so in the present case. As a corollary, the notice issued under section 153C of the Act and consequent assessment order passed under section 153C of the Act is vitiated in law and requires to be quashed.*

*14. In this view of the matter, the jurisdiction assumed under s. 153C based on vague and non-descript 'satisfaction note' is vitiated at the threshold. The consequence assessment order passed under s 153C thus has no force of law. The first appellate order passed on non-est assessment order is thus set aside and the AO is directed to restore the position claimed by the assessee and delete the additions made.*

*15. In the result, the appeal of the assessee is allowed.”*

12. As the facts of the present case are identical to the facts of the case of the Super Bazar (supra) wherein the Co-ordinate bench has held that when the satisfaction note has not spelt out the yearwise quantum of the income bases on the seized material, the consequent orders passed u/s 153 has not force in law. Thus, by respectfully following the judgment of Hon'ble Jurisdictional High Court in the case of Shaksham Commidity (supra) and further by Co-ordinate Bench of Tribunal in the case of Super Bazar (supra) we hereby allowed the legal grounds taken by the assessee and quashed the orders passed u/s 153C. The assessee succeeds on legal as well as on merits of the grounds taken before us.

11. In the result, the appeal of the assessee is allowed.

12. Now coming to the ITAT No. 5797/Del/2024 for Assessment Year 2017-18 and ITA No. 5796/Del/2024 for Assessment Year 2018- 19. Admittedly, the facts in both these years are common and identical to the facts involved in Assessment Year 2016-17 in ITA No. 5978/Del/2024.

13. Before us, both the parties has made the common submissions for all the three years, and, accordingly, by following the observations made while allowing the appeal of the assessee for Assessment Year 2016-17 in ITA No.5798/Del/2024, we hereby allowed all 1the grounds of the appeal taken by assessee in both the years and quashed the assessment orders passed. Accordingly, both the appeals are allowed.

14. In the final result, all these three appeals of the assessee are allowed.

Order pronounced in the open Court on 17.10.2025.

Sd/  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Dated:17.10.2025

PK/Sr. Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI