

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRIPRADIP KUMAR CHOUBEY, JM**

**IT(SS)A No.160/KOL/2024  
(Assessment Year:2013-14)**

**IT(SS)A No. 16,22,23,24 & 422/KOL/2025  
(Assessment Years: 2014-15 to 2019-20)**

Manoj Kumar Khandelwal  
1<sup>st</sup> Floor, 68, Girish Park, North  
Kolkata, Kolkata-700006  
West Bengal

**Vs.**

DCIT  
Aaykar Bhawan Poorva, 110  
Shantipally, E.M. Bypass,  
Kolkata-700107, West Bengal

**(Appellant)**

**(Respondent)**

**PAN No. ABDPK4391E**

**Assessee by** : S/Shri S.M. Surana &  
Sunil Surana, Ars  
**Revenue by** : Shri Sanat Kumar Raha, DR

**Date of hearing:** 29.07.2025  
**Date of pronouncement:** 17.10.2025

**ORDER**

**Per Rajesh Kumar, AM:**

These are appeals preferred by the assessee against the orders of the Commissioner of Income-tax (Appeals)-27, Kolkata (hereinafter referred to as the "Ld. CIT(A)") for AYs2013-14 to 2019-20.

**A.Y. 2013-14**

**IT(SS)A No. 160/KOL/2024**

02. At the time of airing, the Id. Counsel for the assessee did not press Ground No. 1 and therefore, same is dismissed as not pressed.

03. The issue raised in Ground No. 2 to 8 is against the confirmation of addition of Rs. 5,00,00,000/- by Id. CIT (A) as made by the Id. AO

in the assessment framed comprising ₹4,91,96,000/- on account of unexplained income and ₹8,04,000/- in respect of undisclosed profit.

04. The facts in brief are that the assessee is engaged in the business of manufacturing and trading of paan masala products. A search and seizure action under Section 132 of the Act was conducted on Paras Paan Masala Group of Companies and key individuals on 11-07-2018, including assessee. During the course of the search, various documents were seized from the assessee with identification mark MKK/1, MKK/6, MKK/PD/1. During the course of the search proceedings, statement of the assessee was recorded under Section 132(4) of the Act. In the statement recorded, the assessee offered as undisclosed income of ₹20 crore in various assessment years the details where to are given on page no. 3 of the assessment order. The Id. AO stated at page no. 2 that the assessee was confronted with material found during the search investigation and consequently, he admitted to have generated huge sum of undisclosed and unrecorded income to different companies, which was the basis for making disclosure of income. The Id. AO noted from the Schedule no. 1 and 2 of page no. 3 of the assessment order that assessee has disclosed ₹5,08,04,000/- in F.Y. 2012-13, relevant to A.Y. 2013-14 and out of this undisclosed income, the assessee utilized ₹5,02,55,790/- during the year. The Id. AO further noted that out of ₹5,02,55,790/-, a sum of ₹4,96,12,000/- was infused in different companies of Paras Group in the guise of bogus share capital and ₹6,43,790 was utilized in miscellaneous expenses. The Id. AO thereafter noted that the assessee in the disclosure petition has shown income of ₹5 crore claimed to be earned from commission of the commodity profit during A.Y. 2013-14. Thereafter, the Id. AO noted that the assessee has alleged in the written submission dated 24-06-2021 that the disclosure was made

under pressure and without verification of books of accounts and seized documents and the same was retracted to the tune of ₹ 16.55 crores and only ₹3.5 crores was offered to tax. The Id. AO rejected the contention of the assessee. The Id. AO noted that ₹5,02,55,790/- was utilized during the year. Therefore, at least sum equal to or higher could not be denied as the assessee itself disclosed in Schedule No. 1 and 2 as extracted by AO on page No. 3 of the assessment that Rs. 5,02,55,790/- was utilized during the year and out of undisclosed income ₹5,08,04,000/- was generated from undisclosed profit/turnover/ receipt and commission income/commodity profit. The Id. AO finally noted that the assessee has failed to explain the source of income of ₹ 5 crore and therefore, treated the same as unexplained income under Section 69 of the Act by relying on the decision of B. Kishore Kumar vs. Deputy Commissioner of Income-tax, Chennai [2015] 62 taxmann.com 215 (SC)/[2015] 234 Taxman 771 (SC)[02-07-2015] and held that the same is liable to be added to the total income of the assessee under the head income from other sources. But since the assessee has already disclosed ₹8,04,000/- in the return for the relevant year, therefore only ₹4,91,96,000/- was added to the total income. The Id. AO also added Rs.8,04,000/- which the assessee has disclosed in the disclosure petition dated 3-12-2018 at the rate of 8% of total undisclosed turnover of ₹1,50,00,000/-.

05. In the appellate proceeding, the Learned CIT (A) confirmed the order of the Id. AO by holding that the incrementing documents seized during the course of search namely; MKK/1, MKK/6, MKK/PD/1, were confronted to the assessee and he admitted in the statement recorded u/s 132(4) of the Act that these were not disclosed in the books of accounts. The learned CIT (A) noted that the disclosures made by the assessee were retracted very late during the course of assessment

proceedings. The learned CIT (A) noted that assessee himself categorically admitted that he had infused his unaccounted money into various companies of the Paras Group in the guise of bogus share capital. The Id. CIT (A) also relied on various decisions while confirming the addition.

06. The learned AR vehemently admitted before us that during the course of search, though certain materials were impounded, but those cannot be described as incriminating material as there is no information contained in those seized documents. The learned AR has submitted that the statement was recorded under Section 132 / 131 of the Act under huge pressure and duress and he was not allowed to have any access of books of accounts maintained by the group. Therefore, he made a disclosure of Rs 20 crore in the group companies. The Id. AR has stated that the disclosure made by the assessee was retracted on 10-12-2018 after just 7 days and the finding of the Id. CIT (A) that retraction was made during the assessment proceedings is wrong and is against the facts on record. The learned AR has submitted that the learned AO relied primarily on the basis of statements of the assessee dated 11-07-2018 and 3-12-2018. The learned AO further submitted that the Id. AO extracted the annexure to this statement on page 3 of the assessment order and noted that assessee has disclosed ₹5,02,55,790/- as income on the basis of share capital introduced, of Rs 4,96,12,000 and miscellaneous expenses of ₹6,43,790. The learned AR further submitted that the said finding of the learned AO was in contraction to the fact noted by the AO himself that the share capital raised during the year was only ₹2,46,12,000 but since the disclosure made was higher the same was treated as undisclosed income. The learned AR also submitted that the learned AO added ₹8,04,000 as income in

respect of undisclosed turnover of Rs 1,00,50,000/- of the assessee. However, there were no documents seized during search to show the undisclosed business turnover nor any disclosure was ever made in the statement recorded under Section 132(4) of the Act.

07. The Id. AO further submitted that as per disclosure made on 03.12.2018, assessee has earned ₹5 crore from commission/commodity, however, there was no incriminating material for the same nor any said incriminating document was referred by the Id. AO in the assessment order. The learned AR submitted that the entire disclosure was linked to the share capital raised by the assessee during the year which was presumed to be ₹ 4,96,12,000 during the year whereas as a matter-of-fact actual amount was only ₹ 2,46,12,000. The learned AO submitted that no addition could be made on the basis of disclosure made by the assessee which was not based on incriminating documents. The learned AR further submitted that it was admitted that share capital raised by three companies was only ₹2,46,12,000/- during the year and the assessment of these companies were completed by the same AO u/s 153A of the Act on 03.06.2021 and the share capital raised was accepted as genuine. The learned AR referred to the assessment order enclosed at page no.85 to 87, 150/151, 245/246, in respect of these companies. The learned AR submitted that there is no observation of the learned AO that the share application was accepted because of the disclosure made by the assessee. The learned Authorized Representative further submitted that the decision relied on by the learned AO and the learned CIT (A) in the case of B. Kishore Kumar (supra) is not applicable since in that case the incriminating documents were found from the assessee and disclosure was made with reference to these incriminating materials, however, in the instant case, the addition was not made on the basis

of incriminating material or any such material was ever referred by the learned AO. The learned Authorized Representative submitted that the addition cannot be simply on the basis of statement recorded u/s 132(4) of the Act by relying on the decision of the Apex court in the case of *Metrani Vs CIT 287 ITR 209(SC)* The learned Authorized Representative also relied on the decision of the apex court in the case of *Pullangode Rubber Produce Co. Ltd. Vs. State of Kerala [1973] 91 ITR 18 (SC)[22-09-1971]*, wherein it has been held that it is always open up to a person who made the admission to show that the statement was incorrect and had material to substantiate so and therefore, Tribunal is not justified in making undue emphasis on the statement made by the assessee. The learned Authorized Representative also relied on the decision of Principal Commissioner of Income-tax, Delhi-2 vs. *Best Infrastructure (India) (P.) Ltd. [2017] 397 ITR 82 (Delhi)[01-08-2017]* and *CIT Vs. Shri Ramdas Motor Transport [1999] 238 ITR 177 (Andhra Pradesh)*. The learned Authorized Representative finally prayed that the addition has been made by the learned AO and confirmed by learned CIT (A) but there being no incriminating material except the statements which were retracted by the assessee as there was no corroborating material therefore order of learned CIT (A) may be set aside and the learned AO may be directed to delete the addition.

08. The learned DR on the other hand, heavily relied on the orders of the learned lower authorities and submitted that during the course of search several documents were found and impounded during the course of search and confronted to the assessee. The learned DR submitted that this is only on the basis of the said documents, the assessee made a disclosure of 20 crores in various companies of the group. The learned DR submitted that assessee has made disclosure

of ₹5 crores on 03.12.2018. The same was stated to have been earned from commission/ commodity trading. Therefore, the contention of the assessee cannot be accepted that disclosure was without any incriminating material and was only based upon the statement of the assessee. The learned DR, therefore prayed that the order of the learned CIT (A) may be upheld and the appeal of the assessee may be dismissed.

09. After hearing the rival contentions and perusing the materials available on record, we find that a search was conducted on the Paras Group of companies of which assessee was key personnel. The said search was conducted on 04.07.2018. During the course of search the some incriminating documents were seized which were confronted to the assessee while recording the statement u/s 132(4) of the Act on 11.07.2018 and 03.12.2018. We note that the assessee has made disclosure as claimed therein that ₹5 crores was earned from commission/ commodity profit. We note that the statement recorded during the course of search was retracted on 10.12.2018, immediately after 7 days before DIT (Investigation), claiming that the statement was made under undue pressure and duress. Now, after examining the assessment order and the appellate order, we observe that the addition has been made by the learned AO by relying on the statements recorded during the course of search without any reference to any incriminating material found during the course of search. Similarly, the learned CIT (A) relied primarily on the statement recorded during the course of search and have recorded a wrong finding that the disclosure made during the search on 03.12.2018, was retracted very late during the course of assessment proceedings, whereas the facts on record and as per the arguments of the learned Authorized Representative we observe that the same was

retracted just seven days after making i.e. on 10.12.2018, on the ground that the same has been made without examining the books of account and therefore devoid of any basis. We even note that the disclosures were linked to the share capital raised which were presumed to be ₹4,96,12,000/-, during the year whereas correct amount was ₹2,46,12,000/-. Therefore, this is also based on the wrong facts noted by the learned AO. In our opinion, the addition cannot be made on the basis of statement recorded on during the course of search which is retracted by the assessee. It was for the AO to establish that there was non disclosed income when there was no incriminating material found during the course of search. The case of the assessee is clearly covered by the decision of Hon'ble Apex Court in the case of PR Metrani Vs CIT(supra) wherein the scope of section 132, 132(4a), 132(5) and 132(B), was dealt with and it was held that while the statement rendered at the time of search u/s 132(4) of the Act might be used an evidence in any proceeding yet that had itself does not become sole material to raise the assessment when the assessee seeks to withdraw the same by producing the material evidence in support of such retraction. The case of the assessee is also squarely covered by the decision of Hon'ble Apex Court in the case of Pullangode Rubber Produce Co. Ltd. Vs. State of Kerala (supra), wherein the Hon'ble Apex court has laid down the principle of admission by the assessee wherein it has been held that it is always open to a person who made the admission to show that a statement to offer income is incorrect and had material to substantiate the same. The case of the assessee is supported from the decision of Hon'ble Delhi High Court in case of Principal Commissioner of Income-tax, Delhi-2 vs. Best Infrastructure (India) (P.) Ltd. (supra), wherein it has been held that the statement u/s 132(4) does not constitute

incriminating material. Considering the facts of the case in the light of the above decisions, we find that the order of the Id. CIT (A) is incorrect and cannot be sustained. Accordingly, we set aside the same and direct the Id. AO to delete the addition.

**A.Y. 2014-15 to 2019-20**

**IT(SS)A No. 16,22,23,24 & 422/KOL/2025**

010. The issues raised in these appeals are similar to one as decided by us in IT(SS)A No. 160/KOL/2024. Accordingly, our decision would, mutatis mutandis, apply to these appeals of assessee. Hence, the appeals of the assessee in IT(S)A No. 16,22,23,24 & 422/KOL/2025 are allowed.

011. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 17.10.2025.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 17.10.2025

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata