आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE Dr. MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं / ITA No.2058/PUN/2025

निर्धारण वर्ष / Assessment Year: 2018-19

ACIT, Central Circle-1, Nashik	Vs	Yogi Cotex Private Limited, 4A, Vikas Centre, S V Road, Santacruz West, Mumbai-400054 Maharashtra PAN-AAACY5355P
Appellant		Respondent

Assessee by	:	Shri Vijay Mehta
Revenue by	:	Shri Bharat Andhale-Addl.CIT
Date of hearing	:	08.10.2025
Date of pronouncement	:	31.10.2025

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :-

This appeal at the instance of revenue is directed against the order of Ld. CIT(A) dated 30.06.2025 u/s 250 of the Income Tax Act, 1961 for A.Y. 2018-19 which is arising out of assessment order u/s 143(3) r.w.s.153B of the Act dated 31.12.2019.

2. 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) is correct in deleting the addition of Rs. 84,00,000/- on account of unexplained cash credit under section 68 of the Income Tax Act, 1961 made in the Assessment order without appreciating the facts as brought on record?

2. Whether on the facts and in the circumstances of the case and in law, the Ld CIT(A) is correct in ignoring the compelling

evidences in the form of whatsapp chats with clear pictures of Rs.10 and Rs. 5 notes given in the assessment order, which is known practice to transfer amounts in cash in "Hawala" transactions thereby bringing in unexplained cash credits?

3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in allowing telescoping benefit to the assessee, when no nexus of scrap sales declared by Param Tex fab P Ltd/ Prath Texfab P Ltd and the amount of Rs.84 lakhs brought in by cash through hawala route by the assessee company?

4. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in allowing telescoping benefit to the assessee, when the department proved with evidences that cash of Rs.84 lakhs was brought into the assessee company through hawala route, the onus shifts on the assessee to prove the nexus of scrap sales with the hawala money received, which the assessee failed to prove with any evidence including the production of persons involved in the hawala route to testify it was the scrap sales money of the group concerns which was brought through such illegal channel?

5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in allowing telescoping benefit to the assessee, by just believing the bald statement of the assessee without any tangible evidence for the nexus between the scrap sales and the money brought through hawala route?

6. The appellant craves leave to add, alter, modify, delete and amend any of the grounds, as per circumstances of the case.

3. Brief facts of the case are that the assessee is a Private Limited Company and search action u/s 132 of the Act carried out on 17.01.2018. The assessee filed the return of income on 20.09.2018 declaring income of Rs. 26,17,040/- which was subsequently revised on 30.03.2019 which included additional income of Rs. 81,01,600/- In the return assessee has declared additional income of Rs. 81,01,600/- on account of scrap sales not credited to P&L account. Ld. Assessing Officer (AO) after validly serving notice u/s 143(2) and 142(1) of the Act carried out the assessment proceedings and observed that a sum of Rs. 84,00,000/- is the unaccounted/unexplained cash

credit in the hands of assessee and for coming to this conclusion he did not considered the affidavit given by Shri Pushpak Bansal dated 16.03.2018 as an evidence since it was given after 2 months of the search action. Though it was claimed by assessee that the alleged sum is a part of the gross amount of disclosure of Rs. 5,00,01,614/- made by the assessee and other group Companies namely Param Tex Feb Pvt. Ltd. and Prath Tex Feb Pvt. Ltd. Ld. AO concluded the proceedings making addition of Rs. 84,00,000/- and assessed the income at Rs. 2,52,27,130/- Aggrieved assessee preferred appeal before Ld. CIT(A) who has granted the relief by giving telescoping benefit to the assessee.

4. Aggrieved revenue is now in appeal before this Tribunal. Ld DR supported the order of the Ld. AO. On the other hand Ld. Counsel for the assessee supported the finding of Ld. CIT(A).

5. We have heard rival contentions and perused the record placed before us. We observe that Ld. CIT(A) has deleted the impugned addition giving telescoping benefit against the gross amount of disclosure made by the assessee and group Companies observing as follows:-

> *4.3 I have considered the assessment order, submission of the appellant and the facts of the case. Briefly the facts are that a search and seizure operation under Section 132 of the Income-tax Act, 1961 was carried out on 17.01.2018 in the case of the Deesan Group of Companies, which includes the appellant, M/s. Yogi Cotex Pvt. Ltd. The search covered multiple office and*

residential premises of the group's directors and key personnel. During the course of the search, the Department seized a mobile phone belonging to Shri Harish Poojary, an employee of the group. On examination, certain WhatsApp conversations were between Shri Poojary and Shri Pushpak Bansal, group CFO. These chats specifically discussed cash transactions and deliveries, including references to a sum of Rs. 84,00,000/- being moved or transferred. The Assessing Officer (AO), relying on the contents of these electronic messages, the statements recorded under Section 132(4) from Shri Pushpak Bansal and Shri Harish Poojary, and absence of a credible explanation backed by documentary evidence from the assessee, concluded that the Rs. 84,00,000/- represented unexplained cash. Accordingly, the same was treated as unexplained cash credit under Section 68 of the Act and added to the appellant's total income.

4.4 During the course of appellate proceedings, the appellant submitted a detailed submission on the addition of Rs. 84,00,000/- made under section 68 of the Act. The appellant contended that for invoking section 68, a credit entry must exist in the books of account maintained by the appellant for the relevant previous year. In the present case, no such entry of Rs. 84,00,000/- was found or identified in the appellant's books during assessment proceedings. It was submitted that Section 68 cannot be triggered in the absence of such a credit

It was further argued that the addition was based solely on WhatsApp messages extracted from the mobile phone of a third-party employee, Shri Harish Poojary. The appellant submitted that WhatsApp messages are informal, non-auditable, and not maintained in the regular course of business, and therefore cannot be equated with Defective books of account' under the meaning and scope of Section 68.

The appellant further submitted that the group, in a spirit of full cooperation, had voluntarily disclosed Rs.5,00,01,614/- across various group entities under section 153A and 139(5), including Rs.81,01,600/- by the appellant itself for the year under consideration in its revised return filed on 30.03.2019. This disclosure related to unaccounted scrap sales, which were the claimed source of the funds referred to in the WhatsApp chats.

The appellant placed reliance on the affidavit of Shri Pushpak Bansal, filed during the post-search enquiry, which explained the movement of cash, its source being scrap sales, and its subsequent use for business purposes. The appellant contended that the AO dismissed the affidavit without due consideration, labelling it as self-serving, despite It being corroborated by documentary evidence and group disclosures,

It was further submitted that the impugned amount forms part of income already taxed in the hands of the appellant and other group companies, Accordingly, the addition of Rs. 84,00,000/- constitutes double taxation, which is impermissible in law, particularly when the source of income and its utilization are both duly disclosed and accepted by the department.

Lastly, the appellant submitted that the AO failed to conduct conduct any independent verification or inquiry to substantiate the allegation, No effort was made to trace the funds, identify recipients, verify bank accounts, or issue summons to concerned individuals. The AO, it was contended, relied entirely on WhatsApp chats and presumptive interpretation, without bringing any independent corroborative evidence on record.

4.5 The appellant has strongly contended that the addition of Rs. 84,00,000/- under Section 68 results in unjust double taxation, as the amount forms part of the aggregate sum of Rs. 5,00,01,614/- that was voluntarily disclosed and offered to tax by the Deesan Group across its constituent entities during the course of post-search compliance.

It was submitted that the group entities, including the appellant, had disclosed unaccounted income from scrap sales in their respective returns filed under Section 153A and/or 139(5), the particulars of which were also furnished to the Assessing Officer. A breakup of this disclosure included:

Yogi Cotex Pvt. Ltd-Rs. 81,01,600/-(AY 2018-19)
Param Tex Feb Pvt Ltd - Rs. 1,72,7,312-(AY 2017-18) and Rs. 25,72,250/- (AY 2018-19)
Prath Tex Feb Pvt. Ltd - Rs. 1,08,44,604/-(AY2017-18)

Cumulatively, these sums amount to Rs. 5,00,01,614/-, which were stated to be derived from out-of-bolos cash transactions, including scrap sales, and were voluntarily included in the respective returns of income, accompanied by computation statements and tax payments.

The appellant specifically argued that the Rs. 84.00 000-erred to in the Wasp chats between Shri Harish Poojaty and Son Pushpak Bansal orginates from the same corpus of cash already disclosed and taxed. Thus, any further addition in this regard would amount to taxing the same income wide-once in the hands of the entity declaring the scrap income, and again in the hands of the appellant on the alleged basis of cash movement.

Therefore, the appellant urged that any further addition based on the same stand documents would violate the settled principle of no double taxation"

The submission draws support from established judicial precedents, which have held that once unaccounted income is brought in the hands of one entity, its application or movement should not trigger a fresh addition in the hands or another entity

4.6 The appellant has invoked the wel-established judicial principle of telescoping, contending that the impugned addition at Rs.84,00,000/- under Section 68 of the Act is unwarranted, as the said amount is traceable to income already disclosed and taxed within the group, it is submitted that both the source (scrap sales) and the application (cash expenses) have been duly explained, forming part of a unified flow of unaccounted receipts and their subsequent utilization. Under the concept of telescoping, recognized in various judicial pronouncements, once an assessee explains that the income applied or invested in a certain transaction emanates from an income stream already assessed to tax, a separate or additional assessment is not to be made merely on the application of funds. This principle is grounded in the avoidance of double taxation,

especially in group cases where the generation of income and its application may occur across related entities.

4.6.1 in the instant case, the appellant has submits that the group entities collectively disclosed Rs. 5,00,01,614/- during the post- search proceedings, attributed to 4.6.2 The appellant has also placed reliance on several judicial precedents that affirm the availability of telescoping in cases involving intra-group fund flow and post-search disclosures, notably:

Kantilal & Bros v. ACIT (1995) 52 ITD 412 (Pune)

J.B. Educational Society v. ACIT (2014) 159-TTJ 236 (Hyd)

Rajni M. Patel v. DCIT (2015) 43 ITR (Trib) 628 (Ahd)

Jogmohan Singh Arora & Ors v. DCIT (ITAT Mumbai)

These cases collectively hold that once the generation of income is taxed, the application thereof-whether in the form of expenditure, investment, or cash movement should not again be subjected to addition, provided the link between the two is established.

4.6.3 In light of these submissions, it is the appellant's contention that the Rs. 84,00,000/- was merely a redeployment of funds already offered to tax, and hence, telescoping must be allowed to prevent duplication of tax liability.

4.7 Upon careful examination of the material on record, the assessment order, and the detailed submissions made by the appellant, I find merit in the appellant's contentions regarding both prior disclosure of income and the applicability of the telescoping principle.

It is not in dispute that the group entities, including the appellant, had voluntarily disclosed Rs. 5,00,01,614/- as income derived from scrap sales in the aftermath of the search proceedings conducted on 17.01.2018. These disclosures were duly reflected in their revised returns u/s 153A and 139(5), which have been accepted by the Department. The generation of income (through scrap sales) and its subsequent use or

movement form part of a single chain of transactions is already subjected to tax. The Assessing Officer has not brought on record any independent evidence to demonstrate that the Rs. 84,00,000/- represents a separate, undisclosed source of income outside the group's declared pool. Nor has the AO refuted the nexus between the disclosed scrap income and the impugned cash movement with any cogent material. Thus, on the facts of the case, the appellant appears to be eligible for telescopic benefit. However, as abundant caution, AO is directed to verify whether any telescoping was allowed in the case of any other group entity against the additional income of Deeshan Group and allow the set off against the addition of Rs. 84,00,000/- out of the available balance.

4.9 In view of the above findings, the appeal of the appellant is allowed subject to above verification.

6. The above finding of Ld. CIT(A) remains uncontroverted by Ld. Departmental Representative (DR) by placing any evidence/documents in support of the grounds of appeal raised by the Revenue. We find that Ld. CIT(A) has rightly observed that the alleged sum of Rs. 84,00,000/- which is in the nature of cash received by assessee from sale of scrap and not credited in the Profit and Loss Account is basically a part of total disclosure of Rs. 5,00,01,614/- made by the assessee and other group concerns separately offered during the A.Y. 2016-17 to 2018-19. Even Ld. AO in the case of another group concerns M/s Param Tex Feb Pvt. Ltd. in the A.Y. 2018-19 has accepted the additional income from unaccounted scrap sales as part of total disclosure made by the group concerns. Since the facts in the instant case are similar, we find that Ld. CIT(A) has rightly given the telescoping benefits to the assessee for the alleged sum against total disclosure made by the group concerns. We

therefore fail to find any infirmity in the finding of Ld. CIT(A) and the same needs no interference. Effective grounds of appeal raised by the revenue are dismissed.

7. In the result appeal of the revenue is dismissed.

Order pronounced on this 31st day of October, 2025.

Sd/-	Sd/-
(VINAY BHAMORE)	**(MANISH BORAD)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

पुणे /Pune; दिनांक /Dated: 31st October, 2025.
Neeta

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to:

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी "बेंच, पुणे /DR, ITAT, "B" Bench, Pune.
5. गार्ड फाइल /Guard File.

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव /Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे /ITAT, Pune