

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

I.T.A. No.: 271/KOL/2025

Assessment Year: 2012-13

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| Raju Mandol (Appellant) | Vs. | ITO, Ward-43(3), Kolkata (Respondent) |
| PAN: APVPM1229B | | |

Appearances:

Assessee represented by : None.

Department represented by : Pampa Ray, Sr. DR, JCIT.

Date of concluding the hearing : 19-August-2025

Date of pronouncing the order : 12-November-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Addl/JCIT(A)- 10, Mumbai [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2012-13 dated 09.12.2024.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that the Ld. CIT (A) erred in deciding the appeal ex-parte without allowing the appellant any proper opportunity of being heard.

2. For that the appellant craves leave to produce additional evidences in terms of Rule 46A of the Income Tax Rules 1962.

3. For that the order passed by the Ld. CIT (A) is bad in law since the Ld. CIT (A) has not decided the issues ground wise in respect of the grounds raised by the appellant in the Memo of Appeal.

4. For that the Ld. CIT (A) is bad in law since the order passed is not any speaking order nor the Ld. CIT(A) has looked into the assessment records



and relevant materials to conclude that the order of the Ld. AO cannot be interfered with.

5. For that on the facts and in the circumstances of the case the order passed by the Ld. CIT (A) is not maintainable.

6. For that the order of the Ld. AO be modified and the assessee be given relief prayed for.

7. For that the assessee craves leave to add, alter or amend any ground before or at the time of hearing.”

3. Brief facts of the case are that the assessee is an individual and had filed his return of income showing total income of ₹40,120/- as income from business. As per the information available with the Revenue, during the year under consideration, the assessee was the proprietor of M/s. Shree Ganesh Enterprises and had maintained a bank account with the State Bank of India from which transactions were made to the tune of ₹2,14,61,508/- from Everest Trading Company. Accordingly, a notice u/s 148 of the Act was issued, in response to which the assessee filed another return of income disclosing total income of ₹57,780/-. Subsequently, notices u/s 143(2) and 142(1) of the Act were also issued but the assessee did not comply with the notices, the transactions were held to be bogus as the assessee could not produce any documentary evidence in support of the transactions and were treated as accommodation entries and the income of ₹10,73,075/- was ascertained to have been earned on the accommodation entries based on the commission rate of 5% on the total transactions. The Assessing Officer (hereinafter referred to as Ld. 'AO') therefore, assessed the total income of the assessee at ₹11,30,855/- u/s 143(3) r.w.s. 147 of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who issued notices for hearing to the assessee in response to which the assessee filed submissions. The Ld. CIT(A) considered the submissions and dismissed the appeal of the assessee as per his findings as under:



“5.1 The assessment in this case was reopened on the basis of information received from the investigation wing that the appellant maintained a bank account with SBI wherein huge transactions to the extent Rs. 2.14 Cr were done. There were huge RTGS received and immediately transferred

5.2 The A.O. treated the transactions as bogus transactions of providing accommodation entries and taxed 5% as commission which the appellant would have earned.

5.3 The onus was on the appellant to submit the copy of bank statement with narration of each and every entry. However, the appellant did not submit any evidence to establish that the transactions done through the impugned bank account were not accommodation entries. The appellant was also asked to submit his submission if any. However, the appellant did not respond.

5.4 The onus was on the appellant to establish that the transactions in the impugned bank account was genuine transactions by producing confirmations from the respective parties and also explaining the purpose of these transactions. The onus was on the appellant to adduce the evidence to establish the nature of transactions.

If the transactions were for sale and purchases of goods, the appellant was required to bring the evidence of delivery of goods received and given for purchase and sale respectively. The appellant was required to produce the corresponding lorry receipt for delivery of goods. However, the appellant did not discharge the onus cast on him.

Under these circumstances, I have no hesitation to conclude that the appellant was engaged in providing accommodation entries and the A.O. rightly computed the commission income on such bogus entries.

5.5. In view of the above, all grounds of appeal are dismissed.

6. In view of the above, the appeal of the appellant is dismissed.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. None appeared on behalf of the assessee and, therefore, the appeal was heard with the assistance of the Ld. DR. The Ld. DR submitted that the transactions were treated as bogus and 5% commission on such transactions was added by the Ld. AO. On account of non-furnishing of the confirmations from the respective parties and explaining the purpose of these transactions in the bank account during the course of the appeal before the Ld. CIT(A), the addition was confirmed *ex parte*.



6. We have considered the submissions made and have also gone through the facts of the case. Since there was no proper compliance before both the Ld. AO as well as before the Ld. CIT(A), in the interest of justice and fair play it was considered by the Bench that the order of the Ld. CIT(Appeals) may be set aside the case and the issue may be restored to him so that a proper opportunity of being heard may be provided. Thus, after examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 12th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 12.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Raju Mandol, Ground Floor, 167, Chittaranjan Avenue, Kolkata, West Bengal, 700007.**
2. **ITO, Ward-43(3), Kolkata.**
3. Addl/JCIT(A)-10, Mumbai
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata