

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

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

**ITA No.1238/KOL/2025
(Assessment Year: 2014-15)**

**Income Tax officer, Ward 9(1),
Kolkata**

5th Floor, room No.5/12/2B,
Aaykar Bhawan, P-7,
Chowringhee Square,
Kolkata-700069, West Bengal

(Appellant)

**Sanmukh Vincom Private
Limited**

15-2-380/382, Landmark Centre,
Shop No.3, Siddiamber Bazar,
Hyderabad, Telangana-500012,
Hyderabad

(Respondent)

Vs.

PAN No. AALCS9735Q

Assessee by : Shri Siddharth Jhajharia, AR
Revenue by : Shri S.B. Chakraborty, DR

Date of hearing: 02.12.2025
Date of pronouncement: 15.12.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 04.02.2025 for the AY 2014-15.

2. At the outset, we observe from the appeal folder that there is a delay of 36 days in filing the appeal by the department and in support of this a condonation petition has been filed explaining the delay. It was stated in the condonation petition that the delay has occurred due to obtaining the administrative approvals from the competent authorities, which took quite a long time and accordingly, the delay may be condoned. The Id. AR, on the other hand, did not oppose the

condonation of delay. Considering the reasons cited before us, we are inclined to condone the delay and admit the appeal for hearing.

3. The only issue raised by the Revenue in the various grounds of appeal is against the order of Id. CIT (A) deleting the addition of ₹4,88,00,000/- as made by the Id. AO on account of unexplained money u/s 69A of the Act.

3.1. The facts in brief are that the assessee filed the return of income on 29.11.2014, declaring the total income of ₹28,60,680/-. Thereafter, the Id. AO received information from the investigation wing that assessee is a beneficiary of suspicious transactions carried on National Spot Exchange Ltd. (NSE) platform. It was informed that the platform of National Spot Exchange Ltd. (NSE) was misused and exploited by brokers and traders to launder huge sum of black money. Accordingly, the Id. AO issued notice u/s 148 of the Act on 08.04.2021, on the basis of the credible information on record. Thereafter, in view of the decision of Ashish Agarwal (444 ITR 1), the notice u/s 148A(b) of the Act was issued to the assessee and thereafter, the order u/s 148A(d) of the Act was passed and finally, the notice u/s 148 of the act was issued on 27.07.2022. During the course of assessment proceedings, the Id. AO called for the information/ details from the assessee, which were partly filed. Finally, the Id. AO treated the total investment of ₹4,88,00,000/- reported by NSE out of which ₹1,50,000/- was invested during the current financial year and balance was carried forward from earlier years . The Id. AO noted that the assessee executed the transactions through PCS commodities Pvt. Ltd. on NSE platform. Finally, the Id. AO treated the said amount invested as unexplained money u/s 69A of the Act and added to the income of the assessee.

3.2. In the appellate proceedings, the Id. CIT (A) deleted the addition by observing and holding as under:-

"GROUND NO.-(iii):This ground of the Appellant is directly linked with the merits of the case, wherein it was urged that addition of Rs. 4,88,00,000/- made by the Id. Assessing Officer by wrongly treating outstanding receivables as investments made during the year without source, that too as an unexplained money u/s 69A of the Act, despite recording the said transactions in books of account, and thus addition is improper and Bad-in-Law.

Before arriving at the conclusion, it is pertinent to reproduce the provisions of Sec. 69A of the Act, which is the basis for making the impugned addition:

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."

As could be noticed from the aforementioned extract provisions of Sec. 69A of the Act comes into play only w.r.t. transactions not recorded in the books of account i.e, where an Assessee is found to be the owner of any money which is not found recorded in the books of account whereas, in the instant case, the Appellant company claims that the impugned transactions were recorded in Books of Account and all the transactions were executed through NSEL. This aspect was not disputed by Assessing Officer in which event there is no scope for invoking provisions of Sec. 69A of the Act and on this count alone the addition made by the Assessing Officer deserves to be cancelled and I direct accordingly.

Even otherwise the Assessing Officer appears to have been under impression that the expression 'CAS PRES CHQ' refers to cash transaction whereas this parlance is used by the banks to indicate that cheques deposited for clearance through banks. In other words all the transactions were routed through banking channel. The case of the Appellant company was that investments were made in the preceding financial year and the same were utilised by redeeming the maturity amount and thus there is sufficient source for making the investments. The explanation of the Appellant was not refuted by the Assessing Officer and it appears that explanations were not taken into consideration by the Assessing Officer; on the contrary the Assessing Officer appears to have laid much stress on the fact that trade on NSEL platform was terminated and therefore the investments to the extent of amount recoverable through NSEL platform needs to be treated as unexplained income u/s 69A of the Act. This highlights that more than the source of the investments, the focus is with reference to the amount not received by the Appellant- company on account of termination of trade at NSEL. Infact the Appellant - company clarified that several investors were affected because of certain irregularities committed by various traders which resulted in termination of activities carried on through NSEL and proceedings were initiated by NSEL in various

courts against the defaulters. Before the Assessing Officer a letter addressed by NSEL to the Appellant company dt.30.09.2021 bearing reference no.- NSEL/MD&CEO/20-21/0118-02526 was placed on record to state that by virtue of efforts made by NSEL several decrees were passed within the jurisdiction of Mumbai and efforts were made to recover complete amount, which in-turn shows that Appellant company is a bona-fide investor and merely because some traders had committed irregularities all the traders cannot be doubted on mere surmises.

The Appellant company further submitted that though there is sufficient time for passing the order, the Assessing Officer hurriedly passed order on dt. 25.05.2023, without properly addressing upon the material placed on record. Before me it was submitted that the Appellant -company cannot be expected to prove the negative unless there is sufficient material to indicate that the transaction is bogus and infact the Assessing Officer has committed an error in combining the issue of bona-fides of activity through NSEL and source of the investment, more particularly invoking the provisions of Sec. 69A of the Act overlooking the fact that transaction was routed through books of account and the expression 'CAS PRES CHQ' indicates that it was only a bank transaction and the letter addressed by NSEL dt.30.09.2021 shows that Appellant is a bona-fide investor and efforts were made by NSEL to recover the amount and thus the Assessing Officer had committed an error in making an addition arbitrarily on the premise that there was no source for investment as well as doubting the bona-fides of the investment and at the same time invoking provisions of Sec. 69A of the Act.

Having regard to the detailed factual matrix of the case, I am of the considered opinion that, the addition made by the Assessing Officer is not in accordance with law; firstly all the transactions executed through NSEL were recorded in the books of account maintained by the Appellant company and thus there is no scope for invoking provisions of Sec. 69A of the Act since the said section comes into play only with regard to the transactions not recorded in books of account; secondly, the Assessing Officer, rather than pointing out the investments made in this year, proceeded to take into consideration the investments not recovered on account of termination of NSEL activities which highlights that the focus is on the termination of NSEL activity on account of default of few investors overlooking the fact that the NSEL is making committed efforts to recover the amounts by approaching judicial forums and partly was able to recover the money and other matters were sub-judice as per the letter dt. 30.09.2021 addressed to Appellant company by NSEL. Thus, addition appears to have been made on mere surmises and suspicion, without properly appreciating the detailed material placed before the Assessing Officer. Infact elaborate submissions were also made in this regard whereas the Assessing Officer, even at this stage has not disputed the facts placed on record. In the backdrop of the aforementioned analysis the addition made by the Assessing Officer u/s 69A of the Act stands deleted. The ground no.-3 is allowed."

3.3. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) has recorded a finding of facts that the addition is made by the Id. AO by treating

the outstanding receivables in respect of earlier years as investment during the year without any source. The Id. CIT (A) recorded the finding that there is no scope for application of provision of Section 69A of the Act as the transactions were made in the earlier assessment years, whereas the provisions of Section 69A of the Act are applicable to only those transactions which are not recorded in the books of accounts, whereas the assessee has duly recorded these transactions in the books of account. The Id. CIT (A) also noted that the Id. AO has wrongly treated the expression 'CAS PRES CHQ' as cash transactions whereas this parlance is used by the banks to indicate that the cheques deposited for clearance through banks. The Id. CIT (A) thereafter noted that the assessee was a bonafide investor and try to recover the money through NSEL therefore the AO has committed error in making addition arbitrarily. Therefore, the Id. CIT (A) deleted the addition on two counts. One, the transactions were executed through NSEL were recorded in the books of account maintained by the assessee and there is no scope for invoking the provisions of Section 69A of the Act, because the section 69A of the Act is applicable in respect of transactions which were not recorded in the books of account. Secondly, the Id. AO wrongly observing that the investments were made during this year and proceeded to take into consideration the investment not recovered on account of termination of NSEL activities which highlights that the focus is on the termination of NSEL activity on account of default of few investors overlooking the fact that the NSEL is making committed efforts to recover the amounts by approving the judicial form and partly was able to recover the money and other matters were sub-judice as per the letter dated 30.09.2021, addressed to the appellant by NSEL. Therefore, we find that the Id. CIT (A) taken a correct view

of the matter by passing a very reasoned and speaking order which does not require any interference at our end. Accordingly, we uphold the appellate order passed by Id CIT(A) by dismissing the appeal of the Revenue.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 15.12.2025.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 15.12.2025

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,

True Copy//

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