

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं.7255/दिल्ली/2025 (नि.व. 2020-21)
ITA No.7255/DEL/2025 (A.Y.2020-21)

Deputy Commissioner of Income Tax,
348, ARA Centre, E2, Jhandewalan, New Delhi 110055

..... अपीलार्थी/Appellant

बनाम Vs.

Sephan Lubricants P. Ltd.,
M-10, Sec-5, Bawana Industrial Area,
New Delhi

PAN: AAOCS-1829-E

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by : Shri Manoj Kumar, Sr. DR
प्रतिवादीद्वारा/Respondent by : Shri Ankit Kumar, Advocate

सुनवाई की तिथि/ Date of hearing : 16/12/2025
घोषणा की तिथि/ Date of pronouncement : 16/12/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-29, Delhi [in short 'the CIT(A)'] dated 18.07.2025, for the Assessment Year 2020-21.

2. The appeal is time barred by 12 days. The Revenue has filed an application citing reasons causing delay in filing of appeal. After perusal of the same, I am satisfied that delay in filing of appeal is not intentional, the delay has been caused for the reasons stated in petition which appears to be bonafide. Thus, delay of 12 days in filing of appeal is condoned and appeal is admitted for decision on merits.

3. The facts of the case are that the assessee company filed its return of income for the assessment year under consideration on 05.02.2021 declaring total income of Rs.1,40,080/-. Information was received from the Investigation Wing pursuant to search conducted u/s. 132 of the Income Tax Act,1961(hereinafter referred to as 'the Act') on Galaxy Group and alleged entry operators, namely Shri Deepak Agarwal and Shri Himanshu Verma. Reassessment proceedings were initiated u/s. 147 of the Act against the assessee on the premise that the assessee has taken accommodation entry from above entry providers. The Assessing Officer (AO) alleged that the assessee has taken accommodation entry in the form of unsecured loan amounting to Rs.45,00,000/- from M/s Sarvottam Securities Pvt. Ltd., an entity stated to be controlled by Shri Himanshu Verma. Thus, the AO made addition of Rs.45,00,000/- u/s.68 of the Act and further made addition of Rs.1,35,000/- u/s.69C of the Act being alleged commission @3%. The assessment was completed determining total income at Rs.47,75,080/-. The assessee carried the issue in appeal before the CIT(A). After considering the assessment order, material placed on record and the submissions of the assessee, the CIT(A) deleted the additions. The CIT(A) recorded a categorical finding that the assessee has discharged the initial onus cast upon u/s.68 of the Act by furnishing complete details such as identity of the lender, confirmation, bank statements, audited financial statements and evidence of transactions through banking channels. The CIT(A) further held that the AO had not brought any independent material on record to establish that the funds routed to the assessee represented assessee's unaccounted money. The CIT(A) also observed that the addition was primarily based on general investigation reports and statements of third parties recorded during search proceedings in other cases, without providing opportunity of cross-examination to the assessee. It was held

that such third-party material, in absence of independent corroboration, cannot be the sole basis for making addition in the hands of the assessee.

3. Shri Manoj Kumar, representing the department vehemently supported the assessment order. He submitted that the CIT(A) failed to appreciate that Shri Himanshu Verma and Shri Deepak Agarwal are established accommodation entry operators. The accommodation entry was provided by said operators to the assessee through shell company having no real business activity.

4. Shri Ankit Kumar, appearing on behalf of the assessee supported the order of the CIT(A) and submitted that the Revenue has not been able to point out any infirmity in the factual findings recorded by the CIT(A). It was contended that the assessee had duly proved the identity, creditworthiness of the lender and genuineness of the transaction and that no evidence was brought on record by the Assessing Officer to show that the money had flown back to the assessee. The assessee has repaid entire loan amount, Rs.5,00,000/- were repaid during the year under appeal and remaining Rs.40,00,000/- were repaid in the following year before the date of search on Galaxy Group.

5. Both sides heard. The AO made addition of Rs.45,00,000/- alleging that the loan taken by assessee from M/s. Sarvottam Securities P. Ltd. was a bogus loan and that the assessee had taken accommodation entry against commission. In First Appellate proceedings, the CIT(A) has passed a detailed order deleting the additions. The CIT(A) held that the assessee has discharged the primary onus u/s.68 of the Act by furnishing requisite documentary evidence. The Revenue has not been able to controvert findings of CIT(A) with any cogent material. It is a well settled

law that once the assessee establishes the identity of the creditor, creditworthiness and genuineness of the transaction, the burden shifts upon the Revenue to prove otherwise. In the present case, except for relying upon investigation reports and statements recorded in the cases of third parties, the Assessing Officer has not conducted any independent enquiry to rebut the evidences furnished by the assessee. No material has been brought on record to demonstrate that the loan amount represented assessee's undisclosed income. The CIT(A) has rightly held that addition is based solely on third-party statements, without affording opportunity of cross-examination, hence, not sustainable in law. The Revenue has failed to demonstrate any perversity or factual error in the conclusions drawn by the CIT(A).

6. As regards the addition of commission u/s. 69C of the Act, the same being purely consequential to the addition u/s. 68 of the Act, the CIT(A) was justified in deleting the same once the primary addition was found to be unsustainable.

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

Order pronounced in the open court on Tuesday the 16th day of December, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 16/12/2025

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI

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| 1. | Date of dictation of Tribunal order direct on computer | 16.12.2025 |
| 2. | Date on which typed draft order is placed before the dictating Member | 16.12.2025 |
| 3 | Date on which typed draft order is placed before the other Member (in the case of DB) | |
| 4. | Date on which the approved draft order comes to P.S./Sr.P.S | |
| 5. | Date on which the fair Order is placed before the dictating Member for sign | |
| 6. | Date on which the fair Order is placed before the other Member for sign (in the case of DB) | |
| 7. | Date on which the Order comes back to P.S./Sr.P.S for uploading on ITAT website | |
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| 13. | Date on which the file goes to the Assistant Registrar for signature on the order | |
| 14. | Date on which the file goes to dispatch section for dispatch the Tribunal Order | |
| 15. | Date of dispatch of order | |
| 16. | Date on which file goes to Record Room after dispatch the order | |