

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.5719 to 5721/Del/2025**

**[Assessment Year :2010-11 to 2012-13]**

Asstt. Commissioner of Income Tax, CC-30, 3 <sup>rd</sup> Floor, ARA Centre, Jhandelwala Extension, New Delhi-110055	vs	Radhey Shyam Bansal, H. No. B-31, Swasthya Vihar, Laxmi Nagar, Nirman Vihar, New Delhi- 110092  <b>PAN: AAGPB1737M</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>		Shri Mahesh Kumar, CIT- DR
<b>Respondent by</b>		Shri Nitin Sharma, CA
<b>Date of Hearing</b>		24.12.2025
<b>Date of Pronouncement</b>		24.12.2025

**ORDER**

**PER MANISH AGARWAL, AM :**

The captioned appeals are filed by the revenue against the different orders of Ld. CIT(A)-31, New Delhi u/s 250 of the Income Tax Act, 1961 [“the Act”] all are dt. 30.05.2025 arising out of different assessment orders for various assessment years tabulated as below:

<b>Sr. Nos.</b>	<b>ITA Nos.</b>	<b>Asstt. Year</b>	<b>Assessment Order dated</b>	<b>Assessment Order under section</b>
1	5719/Del/2025	2010-11	30.03.2023	153A r.w.s. 254 of the Act
2.	5720/Del/2024	2011-12	30.03.2023	- do -
3.	5721/Del/2024	2012-13	30.03.2023	- do -

2. The issues in all these appeals being common, interlinked and related to the same assessee for various assessment years, therefore, all these appeals of the revenue have been heard together and accordingly, adjudicated by a common order.

3. All the three appeals filed by the revenue are barred by limitation by 16 days for which an application for condonation of delay is filed wherein it is stated by the AO that due to pre-occupation in time barring matters appeal could not be filed in time and requested for condonation of delay for which the opposite party has not objected. After considering the facts, we find that there is reasonable and sufficient cause for delay in filing the appeals and therefore, in the larger interest of justice, we condone the delay and admit all the three appeals for adjudication.

4. Briefly stated the facts are that assessee is a Chartered Accountant by profession and is practicing Chartered Accountant, rendering professional services including preparation and filing of income tax returns besides providing services related to accounting, auditing, and other allied matters. A search and seizure action u/s 132(4) of the Act was carried out on 11.04.2011 at his business premises. During the course of search and seizure operation various loose papers / documents were found and seized. Thereafter the assessment order was passed u/s 143(3) of the Act on 31.03.2014. The matter travelled upto the Tribunal and was remanded back to the file of the AO with the following observations:

*“13. We have considered the rival arguments made by both the sides, perused the orders of the Assessing Officer and the learned*

*CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the AO in the instant case made addition of Rs. 1, 68,42,943/- u/s 68 of the Act, since, the assessee could not explain the various credits appearing in the bank accounts of the assessee and could not establish the genuineness of the said transactions. Similarly, he also made addition of Rs.24,000/- being gift received by the assessee in cash, since the assessee could not produce the donor nor justify the occasion and the genuineness of such gift. We find the learned CIT(A) in the ex-parte order passed by him has sustained both the addition, the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the learned counsel for the assessee that since the learned CIT(A) has passed the exparte order and since the credits in the bank accounts of the clients of the assessee have been added to the total income of the assessee despite no incriminating material was found during the course of search and since there is double addition of the same credits in the hands of the assessee as well as in the hands of two other companies in spite of the assessee being a moderator/facilitator of accommodation entries, therefore, in the interest of justice, the matter shall be restored to the file of the Assessing Officer for denovo assessment.*

14. *We find some force in the above arguments of the learned counsel for the assessee. Admittedly, the learned CIT(A) has passed the ex-parte order due to non-appearance of the assessee despite number of opportunities granted by him but the assessee was seeking adjournment from time to time. It is to be noted that during the course of assessment proceedings also the assessee had not filed the requisite details to the satisfaction of the Assessing Officer for which huge additions have been made. However, it is seen that various additions have been made by the Assessing Officer which amounts to double addition of the same amount i.e. in the hands of the assessee as well as in the hands of two companies and other relatives. The submission of the assessee during the course of search in his statement recorded u/s 132(4) of the Act that he was a moderator or facilitator of accommodation entries and that only commission income should be considered as his income also has not been considered by the lower authorities. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one more opportunity to the assessee to substantiate his case and decide the issue as per facts and law. The AO while deciding the issue shall also keep in mind the decision of the Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla (supra). The assessee is also hereby directed to appear before the Assessing Officer and substantiate his case failing which the Assessing*

*Officer is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.”*

5. In set-aside proceedings, the AO without considering the submissions of the assessee, passed the assessment orders on 30.03.2023 for all the years again making the additions towards the bank deposits by treating the same as unexplained and further made other additions towards the cash found during the search etc.

6. Against the said orders, assessee filed appeals before Ld. CIT(A) who vide separate orders dated 30.05.2025 for all the three assessment years, allowed substantial relief to the assessee and uphold the additions by treating the assessee as moderator or facilitator of accommodation entries as admitted by assessee in his statements recorded u/s 132(4) and commission income @ 0.50% is applied on all the transactions appearing in the bank statements and loose papers which were alleged as the accommodation entries provided by the assessee.

7. Aggrieved by the order of Ld. CIT(A), revenue is in appeal in all the three assessment years before the Tribunal. The grounds of appeal taken in AY 2010-11 by the revenue reads as under:

*“1. Whether on the facts and in the circumstances of the case and in the provisions of the law, the Ld. CIT(A) is correct in allowing the appeal of the assessee and deleted the total addition amounting to Rs. 1,03,52,12,190/-without appreciating the facts of the case.*

*2. Whether on the facts and in the circumstances of the case and in the provisions of the law, the Ld. CIT(A) is correct in not considering search and seizure material for the bases of addition as incrimination material.*

3. *Whether on the facts and in the circumstances of the case and in the provisions of the law, the Ld. CIT(A) is correct in not considering the fact found by AO that assessee as a moderator or facilitator of accommodation entries had rotated his own funds in the disguise of multilayer transactions through shell accounts/entities operated by assessee himself.*
4. *Whether on the facts and in the circumstances of the case and in the provisions of the law, the Ld. CIT(A) is correct in not considering the fact that address of the most of the account holders were assessee residential address and most of the account holders are relative/friend of the assessee.*
5. *The grounds of appeal are without prejudice to each other.*
6. *The appellant craves to add, alter, or amend any/all of the grounds of appeal before or during the course of hearing of appeal.*

8 In other two Assessment Years, grounds of appeal taken by the revenue are the same except change in the figure of relief granted by ld. CIT(A) as agitated in ground of appeal No.1 by the Revenue.

9. Before us, Ld. CIT DR for the Revenue vehemently supported the order of the AO and submitted that the AO has acted in terms of the directions given by the Tribunal. Ld. CIT DR further submits that the assessee was filed to provide the details of the persons from whom the credit entries appearing in his bank account and also in the bank accounts of his relatives and companies whose accounts were managed and controlled by him thus the AO was justified in making the additions of the credit entries appearing in all these as the income of the assessee.

10. Ld. CIT DR further submits that there were undisclosed transactions found noted in the loose papers/documents seized during the course of search for which proper explanation was not furnished by the assessee and therefore, ld. CIT(A) was not correct in holding that all these transactions were carried out by the assessee as the facilitator of providing accommodation entries to various beneficiaries and earned only commission @ 0.50% on such transactions. He, therefore, prayed for the restoration of all the additions made by the AO.

11. On the other hand, ld. AR for the assessee supported the order of the ld. CIT(A) and submits that during the course of search, in the statements recorded u/s 132(4) of the Act, assessee himself has admitted that he was acted as moderator or facilitator of accommodation entries and earned commission income from such alleged accommodation entries. Ld. AR submits that ld. CIT(A) appreciated these facts and reduced the additions by computing the commission income of the assessee on such transactions @ 0.50% and he prayed for the confirmation of the order of Ld. CIT(A).

12. Heard the parties and perused the material available on records. From the perusal of the order of ld. CIT(A), it is seen that ld. CIT(A) made common observations for all the three assessment years while deleting/reducing the additions made by AO and followed the judgement of hon'ble Delhi high court in the case of ***CIT Vs. Kabul Chawla (2016) 380 ITR 573 (Del.)*** wherein the hon'ble jurisdictional high court has held that "*since no incriminating material was unearthed during the search, no addition*

*could have been made to the income already assessed.”* The said order of hon’ble jurisdictional high court in the case of Kabul Chawla (supra) stood confirmed by the hon’ble Supreme court in the case of **Pr.CIT Vs. Abhisar Buildwell Pvt. Ltd.** reported in **(2023) 149 Txmann.com 399 (SC)**. Ld. CIT(A) has further observed that assessee himself in his statements recorded u/s 132(4) of the Act, admitted working as mediator or facilitator for providing accommodation entries to various beneficiaries after charging commission @ 0.50% and thus the ld. CIT(A) upheld the income of the assessee as commission on all these transactions of accommodation entries against the gross value of transactions as done by the AO by holding the same as undisclosed income of the assessee. The relevant observations of ld. CIT(A) in para 11 to 61 of the order at pages 71 to 94 are reproduced as under:

*“11. For the sake of simplification and clarity, the appeals for all years are being adjudicated upon on the basis of different categories of additions identified on the basis of common issues.*

***Issue-1: Addition of credit appearing in various bank accounts***

12. *As regards this issue, the AO made addition of credit appearing in various bank accounts in para 4.14 of the order, with respect to such additions, the appellant submitted response bifurcating the addition in 4 different categories:*
- a. *Credits appearing in the bank account of the appellant;*
  - b. *Credits appearing in the bank accounts of the appellant’s clients, relatives, or friends;*
  - c. *Credits appearing in the bank accounts of companies having no relation with the appellant and no documents related with these companies were found from the premises of appellant; and*
  - d. *Credit appearing in the bank accounts of company having no relation with the appellant, however, list of shareholder and financial statement were found from the premises of appellant.*

**a. Credits appearing in the bank account of the appellant**

13. ....

14. *The explanation filed by appellant for each credit entry, summary of receipts, computation of income and return of income has been pursued. From his submission it is evident that the appellant had considered credit appearing in his bank account for computation of income and considering the taxability of such receipts in his bank account, filed return of income. Accordingly, I find that the action of the AO in making the additions in the assessment order of credit entries appearing in bank of the appellant leads to double taxation of the same income which is not permissible in law. It is trite that the same income cannot be subjected to tax twice. Hence, I find that the additions made by the AO on account of credit entries appearing in bank of the appellant in para 4.14 of the order are not sustainable in the eyes of law and therefore are liable to be **deleted**. I hold accordingly. Thus, the additions so made by the AO in the assessment order are deleted. I hold accordingly. Thus, the additions so made by the AO in the assessment order are deleted to the following extent.*

*Deletion of addition on account of credit entries appearing in bank of the appellant:*

Assessment Year	Amount
AY 2012-13	4,96,456
AY 2011-12	22,70,258
AY 2010-11	2,71,906
AY 2009-10	6,04,455
AY 2008-09	15,52,134
AY 2007-08	3,09,124
AY 2006-07	1,19,909

**b. Credits appearing in the bank accounts of the assessee's clients, relatives, and friends**

15-18 .....

19. *Upon careful consideration of the observations of the AO and the submission filed by the appellant, it is seen that the AO made the additions of credit appearing in bank of Spouse, Daughter, Son, Mama, Brother-in-law, etc. of the appellant. On perusal of bank statements of these persons, no substantial cash is suggested to be deposited in such bank account. Even in some of the cases, the additions made by AO is of Rs. 15, Rs. 132, Rs. 141, Rs. 319. It is not abnormal that bank details of family members, relative, clients*

*are kept by a Chartered Accountant for return filing purposes. No material on record including copy of panchnama, Inventory of Documents seized during search or observation of AO in the assessment order suggest that the appellant is having access over these account by keeping cheques, cheque books or blank signed forms. Moreover, provision of section 68 of the Act are not applicable in instant matter, as no sum is credited in books of accounts of the appellant. Accordingly, I hold that the action of the AO in making the additions in the assessment order of credit entries appearing in bank of the relative, family members, clients, friends of the appellant will lead to double taxation of same income in hand of respective persons and the appellant. Hence, the additions made by the AO on account of credit entries appearing in bank of the relative, family members, clients, friends of the appellant in para 4.14 of the order are not sustainable in the eyes of law and therefore are liable to be **deleted**. I hold accordingly. Thus, the additions so made by the AO in the assessment order are deleted to the following extent:*

*Deletion of addition on account of credit entries appearing in bank of the relative, family members, clients, friends of the appellant.*

S. No.	Person Name and relation with appellant	AY 2006-07	AY 2007-08	AY 2008-09	AY 2009-10	AY 2010-11	AY 2011-12	AY 2012-13
1.	Seema Bansal Spouse	2,47,039	2,94,151	2,98,234	17,25,653	7,27,949	4,36,754	7,23,919
2.	Nitansha Bansal Minor Daughter	-	-	-	20,452	26,056	82,119	-
3.	Nitish Bansal	-	-	-	18,419	25,962	1,06,976/-	-
4.	R.S. Bansal and Sons HUF	2,85,512	1,75,669	16,48,275	3,33,753	1,75,562	3,43,811	-
5.	Ginori Singhal & R.S. Bansal Joint Account	3,99,273	51,254	4,69,692	2,67,484	1,007	1,179	34,459
6.	Sanjeev Gupta Brother-in-Law	1,00,831	64,170	40,307	89,661	40,729	319	-
7.	Prem Kumar Singhal Mama	37,861	55,838	720	98,507	40,633	705	-
8.	Prem Kumar Singhal HUF of Mama	30,767	35,685	20,313	66,129	40,500	1,408	-
9.	Aditya Kumar Ex	12,520	31,050	1,09,594	55,591	45,716	664	-

	Employee							
10.	Anil Kumar Gupta Friend	6,476	5,228	382	12,668	440	455	-
11.	Sanjay Kumar Ex Employee	11,252	40,104	699	132	3,994	141	
12.	Vijay Singhal Ex Tenant	-	-	-	-	-	-	-
	Total	11,31,531	7,53,164	25,88,216	27,80,210	11,28,548	9,74,531	7,58,378

**c. Credits appearing in the bank accounts of companies having no relation with the appellant and no documents related with these companies were found from the premises of the appellant**

20. to 23. ....

24. Upon careful consideration of the observations of the AO and the submission filed by the appellant, it is seen that the AO has made addition of credit appearing in bank accounts of M/s Wizard Realcon Pvt Ltd, M/s Wizard Developers Pvt. Ltd, M/s Leo Sales Company Pvt Ltd and M/s Anubhav Buildmart Pvt Ltd in the hand of the appellant. No material on record including copy of panchnama, Inventory of Documents seized during search or observations of the AO in assessment order to suggest that the appellant is having access over these companies by keeping cheques, cheque books or blank signed forms. Moreover, provision of section 68 of the Act are not applicable in instant matter as no sum is found credited in the books of the appellant and any sum credited in the books of account or bank accounts of these companies cannot be deemed to be credited in books of account of the appellant, as provision of section 68 of the Act does not provide any such deeming fiction. As directed by Hon'ble ITAT in its order that decision of Hon'ble Delhi High Court in the case of **Kabul Chawla** (supra) is required to be kept in mind during the fresh assessment proceedings. However, no reference to the decision of Hon'ble Delhi High Court in the aforementioned case **Kabul Chawla** (supra) is given by the AO in the assessment order.

25. Keeping in view the facts of the case, direction of Hon'ble ITAT and decision of Hon'ble Delhi High Court in case of **Kabul Chawla** (supra) wherein it has been held that "since no incriminating material was unearthed during the search, no additions could have been made to the income already assessed", I hold that the action of the AO in making the additions in the assessment order of credit entries appearing in the bank account of the companies without having any incriminating material on record is against the direction of Hon'ble ITAT and decision of Hon'ble Delhi High Court in the case of **Kabul Chawla** (supra). This view of Hon'ble Delhi High Court has been affirmed

by Hon'ble Supreme Court in the case of **Pr. CIT vs Abhisar Buildwell Pvt Ltd. (2023) 149 taxmann.com 399 (SC)**. Hence, the additions made by the AO on account of credit entries appearing in bank companies namely M/s Wizard Realcon Pvt Ltd, M/s Wizard Developers Pvt Ltd, M/s Leo Sales Company Pvt Ltd and M/s Anubhav Buildmart Pvt Ltd in para 4.14 of the assessment order are not sustainable in the eyes of law and as such are liable to be deleted. I hold accordingly. Hence, the additions so made by the AO in the assessment order, the details of which are given in the table below, are hereby **deleted**.

*Deletion of addition on account of credit entries as discussed above*

S. No.	Name	AY 2009-10	AY 2010-11	AY 2011-12	Total
1.	Wizard Realcon Private Limited	23,78,22,407	13,78,22,407	2,32,45,552	31,79,37,031
2	Wizard Developers Private Limited	16,63,89,015	2,20,73,454	12,94,74,562	39,21,73,658
3	Anubhav Buildmart Private Limited	24,90,57,709	22,44,54,832	17,84,92,886	65,20,05,472
4	Leo Sales Company Private Limited	10,21,36,476	30,57,88,690	86,76,237	41,66,01,403
	<b>Total</b>	<b>75,63,05,607</b>	<b>68,25,22,675</b>	<b>33,98,89,237</b>	<b>177,87,17,519</b>

**d. Credit appearing in the bank accounts of company having no relation with the appellant, however, list of shareholder and financial statement were found from the premises of appellant**

26 to 29 .....

30. Upon careful consideration of the observations of the AO and the submission filed by the appellant, it is seen that the AO has made addition of credit appearing in bank of M/s Gurudev Financial Services Private Limited in hand of the appellant. No material on record including copy of *panchnama*, Inventory of Documents seized during search or observation of AO in the assessment order suggest that the appellant is having access over these companies by keeping cheques, cheque books or blank signed forms. Moreover, provision of section 68 of the Act are not applicable in instant matter as no sum is found credited in books of the appellant and any sum credited in books of account or bank account of these companies cannot be deemed to be credited in books of account of the appellant, as provision of section 68 of the Act does not provide any such deeming fiction. As directed by Hon'ble ITAT in its order that decision of Hon'ble Delhi High Court in the case of **Kabul Chawla** (*supra*) is required to be kept in mind during the fresh assessment proceedings. However, no reference to the decision of Hon'ble

Delhi High Court in the aforementioned case **Kabul Chawla** (*supra*) is given by the AO in the assessment order.

31. Keeping in view of facts of the case, direction of Hon'ble ITAT and decision of Hon'ble Delhi High Court in case of **Kabul Chawla** (*supra*), I hold that the action of the AO in making the additions in the assessment order of credit entries appearing in the bank account of the companies without having any incriminating material on record is against the direction of Hon'ble ITAT and decision of Hon'ble Delhi High Court in the case of **Kabul Chawla** (*supra*). Hence, the additions made by the AO on account of credit entries appearing in bank account of the company namely M/s Gurudev Financial Services Private Limited in para 4.14 of the assessment order are not sustainable in the eyes of law and as such are liable to be deleted.
32. However, the fact that the appellant during the course of search operation in his statement accepted that he is engaged in business of providing accommodation entries as moderator or facilitator cannot be ignored. The relevant extract of the statement is reproduced:

*Q7 Please explain in detail about business of accommodation entries & also give detail about commission earned on this business.*

*Ans. I provide some entries to my clients such as Share Capital & bill of expenses on which 0.10% of the amount provided as entry is earned as commission.*

33. From the fact that the appellant was a moderator or facilitator of accommodation entries and list of shareholders of M/s Gurudev Financial Services Private Limited was found from the premises of the appellant, it emerged that the appellant had worked as moderator or facilitator for providing the share capital is accommodation entries.
34. Further, the Hon'ble ITAT in its order dated 03.09.2021 observed that

*“The submission of the assessee during the course of search in his statement recorded u/s 132(4) of the Act that **he was a moderator or facilitator of accommodation entries and that only commission income should be considered as his income also has not been considered by the lower authorities**”.*

35. Accordingly based on the fact of the case and direction of the Hon'ble ITAT, commission income on credit appearing in bank of

M/s Gurudev Financial Services Private Limited is required to be added in hand of the appellant. Hon'ble ITAT in the case of **Manoj Kumar Jain vs. DCIT Central Circle Ghaziabad ITA No. 554/Del/2017** for AY 2012-13 adopted rate of 0.5% commission income on accommodation entry. The relevant extract of order of Hon'ble ITAT as contained in Para 18 thereof is reproduced as under:

*“The coordinate Benches of the Tribunal under identical circumstances are adopting the rate of commission varying from @ 0.15% to 0.5%. Considering the totality of the facts of the case we direct the AO to adopt the profit rate of 0.5% as commission on such accommodation entry...”*

36. Thus, based on the fact of the case and decision of Hon'ble ITAT in matter of **Manoj Kumar Jain** (*supra*), commission income @0.50% on credit appearing in bank of M/s Gurudev Financial Services Private Limited is required to be added in hand of the appellant.
37. Accordingly, the additions so made by the AO in the assessment order are required to be modified to the following extent:-

S. No.	Assessment Year	Addition Made by the AO	Commission income @ 0.50% requested to be added
1.	AY 2007-08	97,16,700	48,584
2.	AY 2008-09	69,18,500	34,593
3.	AY 2009-10	11,90,000	5,950
4.	AY 2010-11	39,53,038	19,765
5.	AY 2011-12	40,38,139	20,191
6.	AY 2012-13	2,07,07,655	1,03,538
	Total	<b>4,65,24,032</b>	

38. Considering the aforesaid facts, direction of Hon'ble ITAT, decision of Hon'ble Delhi High Court in case of **Kabul Chawla** (*supra*), I find that the additions made by the AO in the assessment orders for the above mentioned for assessment years are required to be restricted to commission income @0.50% since the appellant is engaged in business of providing accommodation entries as moderator or facilitator of such accommodation entries. I hold accordingly. Hence, the AO is directed to restrict the additions only to the income on account of commission @0.50% as mentioned in the table above. These grounds may be treated as **partly allowed**.

**Issue-2: Additions on the basis of seized pocket dairies (Annexure-A6, A7, A8 and A9)**

39. With respect to these additions, the AO has observed as under:-

*“On these issues the undersigned has gone through the findings of the then AO in the Assessment order of the assessee dated 31.03.2014 and found it correct. The same is hereby repeated. During search, diaries were found and seized as Annexure-A6 to A-9. In this regard, assessee was asked to explain and substantiate the entries therein. In this regard, reply of the assessee has been gone through, but the contention of the assessee is not acceptable due to following reasons:*

- (i) On these diaries the Years of 1999 to 2001 are mentioned at 1<sup>st</sup> pages of each dairy as a strategy any to mislead the department. Since the assessee is a chartered accountant & very well knows the taxation authorities can tax only up to earlier 6 years and may ignore the documents having dates beyond 6 years. Although he knows there is no requirement of keeping records beyond 6 years so he could not have kept these if these would actually been 12 years old”*
- (ii) On page 12 of A-9 the date of 31/03/2011 is specifically mentioned but at 1st page of diary A-9 also the year mentioned as 1999 which proves that the year mentioned at 1st pages are incorrect.*
- (iii) On 1st page of A-8 the year is mentioned as 01.04.2001 to.....*

*This dairy has 3 written pages. The entries have been made below the figure 1-4 to 9-4 and thereafter below 11-4 there was no entry. 1-4 apparently can be understood to be fate because at 1st Page 01-04-2001 to ... is written. The date is taken as 1<sup>st</sup> April but year mentioned on cover is not correct due to following reasons:*

*In all the 3 written pages entries have been made below dates up to 9-4. Apparently, this dairy is a daily ledger A/c and is opened starting from 1<sup>st</sup> Dairy of financial year & daily transactions are mentioned below this date and the same process will follow for the entire financial year. On 3rd page although daily ledger a/c was opened mentioning date 11-4 but no entry was made below this.”*

*The reply of the assessee is not convincing as despite opportunities of being heard given, the assessee could not explain the entries therein except stating the dairies are rough and not relatable to any transactions either in the bank or in books of accounts. The seized material has been gone through. The content*

*of the dairy narrate a true transaction and it cannot be said a rough calculation.”*

40. The appellant in this regard has submitted that the during the course of search operation dated 11.04.2011 some pocket dairies seized from the premises of the appellant. The appellant has duly explained the period to which such pocket dairies pertain and content of these dairies. The appellant, in his statement recorded during the search, specifically clarified as follows:

*“A-6 relates to year 01.04.2000 to 31.03.2001*

*A-7 relates to 01.04.1999 to 31.03.2000*

*A-8 relates to 01.04.2001 to 09.04.2001*

*A-9 is a rough diary with some addresses, phone numbers and amounts”*

41. The appellant further stated that-

*“In all these pocket dairies, some calculations are noted. I do not remember such calculations at this time. I have never stated that the written figures are in lakhs. I always write the actual figures. None of the amounts mentioned in these dairies were received in or paid from my bank account.”*

42. The appellant further submitted that the AO has not provided any working or justification explaining how the figures forming the basis of the addition have been arrived at. The total considered by the AO from Annexure(s) is also factually incorrect and unsupported by any computation or reconciliation.

43. The appellant without prejudice to the above, also submitted that-

*“alternative contention that even the addition of alleged commission income based on the impounded pocket diary (Annexure A8) ought not to be made in the hands of the assessee. At no stage—either during the original assessment proceedings or during the remand proceedings— the Learned Assessing Officer did not undertake any independent verification or inquiry to substantiate the actual receipt of alleged commission income. Accordingly, no addition on account of commission income should be made in the hands of the assessee based on the said pocket diary”*

44. The fact that appellant during the course of search operation in his statement accepted that he is engaged in business of providing accommodation entries as moderator cannot be ignored.

45. During the course of original assessment proceedings, the AO vide notice dated 17.01.2014 in Q3 observed that

*“During the course of search at your office of at 308, S-524, Vikas Marg, Shakarpur, New Delhi certain Pocket diaries were found and seized as Annexure A-6 to A-9. There are no. of transactions written on these diaries. You accepted during search that these transactions are the reference from client for accommodation entries...”*

46. Further, the Hon’ble ITAT in its order dated 03.09.2021 observed that-

*“The submission of the assessee during the course of search in his statement recorded u/s 132(4) of the Act that **he was a moderator or facilitator of accommodation entries and that only commission income should be considered as his income also has not been considered by the lower authorities”.***

47. Accordingly based on the facts of the case and direction of the Hon’ble ITAT, only commission income on transaction appearing on pocket diaries Annexure-A6, A7, A8 and A9 is required to be added in hand of the appellant.
48. The Hon’ble ITAT in the case of **Manoj Kumar Jain** (*supra*) for AY 2012-13 adopted rate of 0.5% commission income on accommodation entry as discussed above.
49. Thus, based on the fact of the case and decision of Hon’ble ITAT in matter of **Manoj Kumar Jain** (*supra*) Commission income @0.50% on transaction appearing on pocket diaries Annexure-A6, A7, A8 and A9 is required to be added in hand of the appellant.
50. Accordingly, the additions made by the AO in the assessment order(s) are required to be modified year wise to the following extent:-

S. No.	Assessment Year	Pocket Dairy Annexure	Addition Made by the AO	Commission income @ 0.50% to be added
1.	AY 2010-11	Annexure-A7	4,42,47,594	2,21,238
2.	AY 2010-12	Annexure-A6	8,63,52,412	4,31,762
3.	AY 2011-12	Annexure-A9	28,97,989	14,490
4.	AY 2012-13	Annexure-A8	77,20,890	38,604

51. Considering the aforesaid facts, direction of Hon’ble ITAT and decision of Hon’ble Delhi High Court in case of **Kabul Chawla** (*supra*), I find that the additions made by the AO in the assessment orders for the above mentioned for assessment years

are required to be restricted to commission income @0.50% since the appellant is engaged in business of providing accommodation entries as moderator or facilitator of such accommodation entries. I hold accordingly. Hence, the AO is directed to restrict the additions only to the income on account of commission @0.50% as mentioned in the table above. These grounds may be treated as **partly allowed**.

**Issue-3: Addition on the basis of seized loose sheet (Annexure-A4)**

52. With respect to this issue, the appellant has submitted that during the course of the search operation conducted on 11.04.2011, certain loose sheets were seized from the premises of the appellant. These loose sheets were subsequently compiled and labelled as Annexure-A4. The appellant contended that these loose sheets are mere dumb documents and bear no relation to any transactions of the appellant. It was further submitted that these loose sheets may contain rough working notes prepared for the purpose of consultancy or could have been brought by clients seeking professional advice. The description of some of the pages of Annexure-A4 is as follows.

**Pages 21 to 25 of Annexure-A4 (Addition INR 23,07,00,000)** contain name of certain companies purportedly giving share application money to other companies. With respect to these loose sheets, the assessee submitted that these documents were brought by clients for seeking professional advice and for the purpose of filing relevant forms with the Registrar of Companies. The assessee further submitted that he has no involvement or connection whatsoever with the transactions reflected in these loose sheets.

**Page 15 and 16 of Annexure-A4 (Addition INR 2,06,00,000)** contain names of certain firms along with month and year references, accompanied by tentative figures. The assessee submitted that these loose sheets were brought by clients for seeking professional advice based on preliminary or tentative figures. The assessee further clarified that these documents have no connection or relevance to his own transactions or accounts.

**Page 26 and 27 of Annexure- A4 - (Addition INR 1,65,00,000/-)** The loose sheets contain certain working notes, with only the day and month mentioned (ranging from 02/03 to 31/03), but no year is indicated on these documents. The assessee submitted that these sheets represent rough working notes and are not related to any transactions of the assessee. Furthermore, the assessee submitted that these loose sheets do not pertain to the assessment year 2012-13, as the search

*operation was conducted on 11.04.2011. Consequently, it is not possible for documents bearing dates in March of the financial year 2011-12 to have been seized from the assessee during the search.*

53. The fact that the appellant during the course of search operation in his statement accepted that he is engaged in business of providing accommodation entries as moderator or facilitator cannot be ignored.

54. Further, the Hon'ble ITAT in its order dated 03.09.2021 observed that-

*“The submission of the assessee during the course of search in his statement recorded u/s 132(4) of the Act that **he was a moderator or facilitator of accommodation entries and that only commission income should be considered as his income also has not been considered by the lower authorities**”.*

55. In view of the foregoing and based on the facts and circumstances of the case in the light of directions of the Hon'ble ITAT, commission income on transaction appearing on loose sheet forming part of Annexure-A4 is required to be added in hand of the appellant.

56. The Hon'ble ITAT in the case of **Manoj Kumar Jain** (*supra*) adopted rate of 0.5% commission income on accommodation entry as discussed above.

57. Accordingly based on the fact of the case and decision of Hon'ble ITAT in matter of **Manoj Kumar Jain** (*supra*), commission income @ 0.50% on transaction appearing on entries in Annexure -4 is required to be added in hand of the appellant. As a result, the additions made by the AO in the assessment orders are required to be modified to the following extent:-

S. No.	Assessment Year	Loss Sheet Annexure-4A	Addition Made by the AO	Commission income @ 0.50% to be added
1.	AY 2010-11	Page no.21-25	23,07,00,000	11,53,500
2.	AY 2011-12	Page no.15-16	2,06,00,000	1,03,000
3.	AY 2012-13	Page no.26-27	1,65,00,000	82,500

58. Considering the aforesaid fact, direction of Hon'ble ITAT and decision of Hon'ble Delhi High Court in case of **Kabul Chawla** (*supra*), I find that the additions made by the AO in the assessment orders for the above mentioned for assessment years are required to be restricted to commission income @0.50% since the appellant is engaged in business of providing

accommodation entries as moderator or facilitator of such accommodation entries. I hold accordingly. Hence, the AO is directed to restrict the additions only to the income on account of commission @0.50% as mentioned in the table above. These grounds may be treated as **partly allowed**.

**Issue-4: Addition of cash amounting to Rs. 38,00,00 found from the premises of the appellant**

59. With respect to the aforesaid issue, the AO has made the following observations:

*“In the assessment proceedings, the assessee replied over this issue that cash amount of Rs. 30,00,000/- was sale consideration of premises E-371, IInd Floor, Nirman Vihar-110092 and balance of Rs. 800000 was cash in hand on date of search”*

*“In response to the Show cause notice dated 22.03.2023 the assessee has submitted similar reply as given earlier. The assessee has not submitted any evidences in support of his claim that the amount was towards sale consideration of assessee premises E-371 IInd Floor, Nirman Vihar, Delhi- 110092 received by virtue of sell and purchase dated 20.03.2011 and balance Rs. 8,00,000/- was cash-in-hand. Therefore, the amount of Rs. 38,00,000/- is added as his undisclosed income as unexplained money u/s 69A of the Income Tax Act for the AY 2012-13.”*

60. The appellant has submitted that out of the total amount of Rs. 38,00,000/-, an opening cash balance of Rs. 8,00,000/- was held as cash in hand as on the relevant date. The remaining amount of Rs. 30,00,000/- was received as advance against the sale of property. In support of the opening cash balance, the appellant furnished the statement of affairs reflecting cash in hand as of 31.03.2011. Additionally, for the cash received during the year, the appellant submitted a copy of the agreement to sell.
61. The explanation filed by the appellant for cash found during the course of search operation has been pursued. From these documentary submissions such as agreement to sale, statement of affairs for FY 2011-12 filed by the appellant during the course of assessment and statement of appellant recorded during the course of search operation, it is evident that the appellant had received cash amounting to Rs. 30,00,000/-. No cogent explanation for the said amount of cash has been furnished by the appellant except arguments which have already been submitted by him before the AO during the assessment proceedings and the same had been duly considered by the AO while framing the assessment order. The argument of the appellant that the same was an advance against the sale of

property is not acceptable in the facts and circumstances of the case since the appellant was dealing in cash as an entry operator and was receiving his amount of commission etc. in cash only. Therefore, I do not find any merit in the arguments of the appellant that the said cash was an advance against the sale of property. Accordingly, I hold that the action of the AO in making the additions in the assessment order of cash found during the search amounting to Rs. 30,00,000 in para 7.2 of the order are clearly sustainable in the eyes of law and as a result the addition so made by the AO on this count is justified. For remaining cash of Rs. 8,00,000, the appellant as submitted that it is opening cash in hand. In support of the submission, the appellant filed a copy of statement of affairs during the course of assessment. In statement of affairs as at 31.03.2011 closing cash balance of Rs. 5,90,758 is reflected. Accordingly, the explanation of the appellant for opening cash balance to the extent Rs. 5,90,758 is acceptable.

62. Accordingly, the additions so made by the AO in the para 7.2 of assessment order for unexplained cash found during the course of search operations is **confirmed** to the extent of Rs. 32,09,242/- (the difference of opening balance 5,90,758 and cash found amounting to Rs. 38,00,000). Thus Ground for AY 2012-13 of the appeal is partly allowed. The addition in para 7.2 assessment order is modified, and AO is directed to restrict the addition to Rs. 30,09,242/- on account of unexplained cash. This ground may be treated as **partly allowed**.

13. As could be seen from the observations made by Id. CIT(A), as reproduced above, that he has reduced /deleted the additions solely on the basis of the statements of the assessee recorded u/s 132(4) of the Act wherein the assessee himself has admitted that he was working as mediator for providing accommodation entries to various beneficiaries and charged commission on such transactions. The Id. CIT(A) has bifurcated the additions in following categories

- A. Credits appearing in the bank account of the appellant;
- B. Credits appearing in the bank accounts of the appellant's clients, relatives, or friends;

C. Credits appearing in the bank accounts of companies having no relation with the appellant and no documents related with these companies were found from the premises of appellant;

and

D. Credit appearing in the bank accounts of company having no relation with the appellant, however, list of shareholder and financial statement were found from the premises of appellant.

15. In category “A”, addition was made by AO for the entries appearing in the bank account of assessee which were treated as unexplained credits however, ld. CIT(A) observed that all these entries were duly recorded in the books of accounts and were considered in computing the total income declared in the return of income filed. However, before us, revenue has not been able to controvert this finding of ld. CIT(A) and moreover when these entries have already been part of the total income, any further addition tantamount to double addition of an income. Accordingly, order of ld. CIT(A) on this issue is upheld.

16. With respect to the additions covered under category “B”, ld. CIT(A) has observed that no document or evidence was found because of search, suggesting that assessee has any control over these accounts. Since it is a matter of fact that no adverse material was found and merely the assessee was introducer at the time of opening of these account, AO alleged that these accounts were managed and controlled by the assessee without having any

evidence in his possession in support of such allegation, we are of the view that ld. CIT(A) has rightly deleted the addition made for the credit entries in these accounts vide para 19 of his order, which order is hereby upheld.

17. Regarding category “C & D” above, though no incriminating material was found as a result of search and thus no addition is required to be made in the hands of the assessee. However, since the assessee himself had admitted that he was facilitator / mediator, and managed and controlled the bank accounts of these companies for providing accommodation entries on commission basis, therefore, his income is limited to the commission received from the beneficiaries of such transactions. It is further seen that ld. CIT(A) has relied upon the judgement of coordinate bench of ITAT Delhi in case of **Manoj Kumar Jain Vs. DCIT CC Ghaziabad** in **ITA NO. 554/Del/2017** wherein the coordinate bench has confirmed the addition of commission @ 0.50% on the credit entries appearing the bank account of M/s Gurudev Financial Services Pvt. Ltd. In the instant case also, credits appearing in the bank account of the said company are accepted by the assessee as managed and controlled by him for providing accommodation entries. Thus, following the judgment of coordinate bench in the case of Manoj Kumar Jain (supra), ld. CIT(A) has confirmed the addition as commission @ 0.50% on the transactions appearing in the bank account of companies which are managed and controlled by assessee for providing accommodation entries. In view of these facts and by following the judgement of coordinate bench of ITAT, Delhi

benches, we confirmed the findings given para 32 to 37 of the order as reproduced above.

18. Now coming to the additions made on the basis of the seized material, i.e. pocket diaries marked as Annexure A-6, A-7, A-8 and A-9, we find that in these diaries various transactions of accommodation entries provided by the assessee to various beneficiaries are found noted. AO has made the addition for the gross value of such transactions by holding the same as undisclosed income of the assessee however, ld. CIT(A) restricted the same to the extent of the commission income @ 0.50 % on the gross value of such transactions for all the years before us. As observed above, assessee in his statements recorded u/s 132(4) of the Act has accepted that he has earned commission on such transaction, therefore, we find no error in the order of ld. CIT(A) who has rightly reduced the addition to the extent of commission @ 0.50% earned by the assessee on such transactions.

19. In view of above discussions, we do not find any reason to interfere in the order of ld. CIT(A) who has passed a reasoned order after considering the facts and the order of hon'ble **Supreme Court** in the case of **Abhisar Buildwell** (supra) and of the order of jurisdictional high court in case of **Kabul Chawla** (supra) and further followed the judgement of coordinate Delhi bench of ITAT in case of **Manoj Kumar Jain** (supra) and confirmed the additions on account of commission earned by the assessee on such transactions of providing accommodation entries. Accordingly, we

uphold the order of ld. CIT(A). All the grounds of appeal taken in all the three appeals are thus dismissed.

20. In the result, all the three appeals filed by the revenue for AY 2017-18 to 2019-20 are dismissed.

Order pronounced in the open Court on 24.12.2025.

Sd/-

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**Date:- 02.01.2026**

*\*PK, Sr.P.S\**

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ASSISTANT REGISTRAR  
ITAT, NEW DELHI