

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA Nos. 728 , 729 & 730 /Chd/ 2025
निर्धारण वर्ष / Assessment Years : 2013-14, 2015-16 & 2017-18

The DCIT, Central Circle-2, Ludhiana	बनाम	Nice Exports Private Limited A-15 A Phase, Focal Point Ludhiana
स्थायी लेखा सं. / PAN NO: AADCN2487Q		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Sudhir Sehgal, Advocate and
Shri Nitin Mahajan, C.A
राजस्व की ओर से/ Revenue by : Shri Rajat Kumar Kureel, CIT, DR

सुनवाई की तारीख/ Date of Hearing : 05/01/2026
उदघोषणा की तारीख/ Date of Pronouncement : 14/01/2026

आदेश/Order

PER LALIET KUMAR, J.M:

The above appeals have been filed by the Revenue against separate appellate orders of the Ld. CIT(A)-5, Ludhiana, dated 27.02.2025 pertaining to the Assessment Years 2013-14 and 2015-16 and dated 27.02.2024 pertaining to the Assessment Year 2017-18.

2. Since the issues involved in all the above appeals are common and the appeals were heard together, the same are being disposed of by this consolidated order for the sake of convenience and brevity.

3. We shall take up the Revenue's appeal in ITA No. 728/Chd/2025 pertaining to the Assessment Year 2013-14 as the lead case for the purpose of adjudication, wherein the Revenue has raised the following grounds:

1. *Whether upon facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.4,43,96,119/- made on account of unexplained credits u/s 68 r.w.s 115BBE of the I.T. Act, 1961 even though the assessee has failed to prove genuineness of transaction?*

2. *The appellant craves leave to add, amend, modify, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of appeal.*

4. Briefly, the facts of the case are that the Assessing Officer made an addition of Rs . 4,43,96,119/- under section 68 of the Income-tax Act, 1961, treating certain foreign remittances as unexplained cash credits. The addition arose from receipt of 11 wire transfers aggregating to USD 7,98,872 from a Canadian entity, namely M/s Goel Foreign Exchange, during the period November 2012 to January 2013. According to the AO, the assessee claimed these receipts as sale proceeds of exports made to parties in Bangladesh. In contrast, the remittances were received from a third party in Canada, with whom no export transaction had, admittedly, taken place.

4.1 The AO's action was principally based on information received from the Enforcement Directorate, which suggested that the telegraphic transfers were "arranged" through intermediaries and were not genuine trade receipts from the actual buyers. The AO further observed that the assessee failed to comply with RBI Circular No. 70 dated 08.11.2013, which required third-party payments for exports to be supported by a firm irrevocable order and a tripartite agreement. Despite repeated opportunities, no such tripartite agreement was produced. The AO also noted that no separate ledger account for the Canadian entity was maintained, and that the assessee could not demonstrate how the accounts of the Bangladesh buyers were squared up.

4.2 The AO held that the documents furnished, including letters from the Bangladesh parties, were unreliable, lacking official seals and exhibiting inconsistencies. Reliance was also placed on the statement of the Chief Manager of Karnataka Bank (AD Branch), who stated that the bank lacked an independent mechanism to verify the genuineness of the foreign entities. On these premises, the AO concluded that the assessee failed to establish the nature and source of the credits and, accordingly, added the entire amount under section 68.

5. Against the order of the AO the Assessee went in appeal before the Ld. CIT(A), the Ld. CIT(A) deleted the addition. It was observed that the assessee duly recorded the impugned receipts as export sales in its audited books of account and that the AO had accepted the corresponding sales while computing the returned income. Once the sales were received, the same receipts could not again be treated as unexplained credits, as this would amount to impermissible double taxation.

5.1 On the legal objection relating to the absence of a tripartite agreement, the CIT(A) placed reliance on RBI Circular No. 100 dated 04.02.2014, which relaxed the earlier requirement and vested discretion in the Authorized Dealer banks to accept third-party payments on being satisfied about the genuineness of the transaction. In the present case, Karnataka Bank Ltd., the AD bank, had issued a certificate confirming that it had verified the relevant documents, including shipping bills and FIRC's, and was satisfied that the remittances represented genuine export proceeds in respect of exports made to Bangladesh. The sworn statement of the Chief Manager was also relied upon to the effect that the bank had accepted the remittances after due verification.

5.2 The CIT(A) further noted that the AO neither pointed out any specific defect in the books of account nor rejected the same under section 145(3). As regards the information from the Enforcement Directorate, it was held that the alleged violation pertained to routing of remittances through the Asian Clearing Union, which at best constituted a technical or regulatory issue and did not, by itself, render the receipts non-genuine for the purposes of the Income-tax Act.

6. Against the order of the Ld. CIT(A) the Revenue preferred in appeal before the Tribunal.

7. The Ld. DR strongly supported the order passed by the Assessing Officer and submitted that the Ld. CIT(A) erred in deleting the addition of Rs.4,43,96,119/- made under section 68 of the Act. It was contended that the

assessee failed to discharge the primary onus cast upon it to satisfactorily explain the nature and source of the impugned foreign remittances received from M/s Goel Foreign Exchange, Canada.

8. The Ld. DR submitted that, admittedly, no exports were made to the Canadian entity from whom the remittances were received. The assessee's explanation that the amounts represented third-party payments against exports allegedly made to Bangladesh parties was a mere afterthought and remained unsubstantiated. It was argued that the Enforcement Directorate, during its investigation, had categorically found that the telegraphic transfers were "arranged" through intermediaries, which seriously impaired the genuineness of the transactions.

9. The Ld. DR further submitted that the Assessing Officer rightly relied upon RBI Circular No. 70 dated 08.11.2013, which mandated the existence of a firm irrevocable order and a tripartite agreement in cases of third-party payments for exports. Despite repeated opportunities granted by the AO, the assessee failed to furnish any such tripartite agreement. According to the Ld. DR, non-compliance with the mandatory RBI guidelines itself rendered the transactions suspicious and incapable of acceptance as genuine export receipts.

10. It was also contended that the assessee did not maintain any ledger account of M/s Goel Foreign Exchange in its books of account, nor was it able to demonstrate the manner in which the export receivables from the Bangladesh parties were squared up. The Ld. DR emphasized that the letters produced from the Bangladesh entities were unreliable, lacking official stamps, signatures, and uniformity, thereby failing the test of authenticity.

11. The Ld. DR placed reliance on the statement of the Chief Manager of Karnataka Bank (AD Branch), who admitted that the bank had no independent mechanism to verify the genuineness of the foreign remitter or the underlying transactions. It was argued that mere acceptance of

remittances by the bank could not substitute the statutory requirement under section 68, which squarely lies upon the assessee.

12. The Ld. DR submitted that the Ld. CIT(A) erred in placing reliance on RBI Circular No. 100 dated 04.02.2014, as the impugned transactions pertained to the earlier period, i.e., FY 2012–13, when Circular No. 70 was very much operative. The retrospective application of the subsequent circular, according to the Ld. DR, was legally impermissible.

13. In conclusion, the Ld. DR submitted that the assessee had failed to establish the identity, creditworthiness, and genuineness of the transactions, and therefore the Assessing Officer was fully justified in invoking section 68 of the Act. The Ld. DR accordingly prayed that the order of the CIT(A) be set aside and that of the Assessing Officer be restored.

14. The Ld. AR, on the other hand, strongly supported the order of the Ld. CIT(A) and submitted that the addition made under section 68 was wholly misconceived and unsustainable in law. It was submitted that the foreign remittances in question were duly recorded as export sales in the audited books of account of the assessee, which were accepted by the Assessing Officer without any adverse finding or rejection under section 145(3) of the Act.

15. The Ld. AR contended that once the sales were accepted and the corresponding income was brought to tax as business income, the same receipts could not again be treated as unexplained cash credits under section 68, as such an approach would result in impermissible double taxation. It was submitted that section 68 cannot be invoked in isolation without rejecting the books of account or disputing the recorded sales.

16. Addressing the issue of third-party payments, the Ld. AR submitted that there is no prohibition under the Income-tax Act against receipt of export proceeds from a third party. It was argued that RBI Circular No. 100 dated 04.02.2014 clarified the regulatory position and vested discretion in Authorized

Dealer banks to accept such payments upon being satisfied about the genuineness of the transaction. The Ld. AR submitted that this circular was clarificatory in nature and, therefore, applicable to the year under consideration.

17. The Ld. AR drew attention to the certificate issued by Karnataka Bank Ltd., the Authorized Dealer, as well as the sworn statement of its Chief Manager, wherein it was categorically stated that the bank had verified the shipping bills, FIRC's, and other export documents and was satisfied that the remittances represented genuine export proceeds against exports made to Bangladesh. It was submitted that once the competent banking authority had accepted the remittances, the AO could not disregard the same on mere suspicion.

18. The Ld. AR further submitted that the Assessing Officer failed to point out any discrepancy in the quantitative details, shipping bills, customs clearance, or realization of export proceeds. The alleged deficiencies in the letters from the Bangladesh parties were purely subjective and did not negate the existence of actual exports, which stood independently evidenced by statutory export documentation.

19. With regard to the Enforcement Directorate's findings, the Ld. AR submitted that the issue related to routing of remittances through the Asian Clearing Union mechanism and, at best, constituted a technical or regulatory infraction under FEMA/RBI norms. It was argued that no adverse inference could be drawn under the Income-tax Act unless it was demonstrated that the receipts represented undisclosed income of the assessee, which was not the case here.

20. In conclusion, the Ld. AR submitted that the assessee had fully discharged the onus cast upon it by explaining the nature and source of the receipts, and that the Assessing Officer had failed to bring any cogent material on record to controvert the same. The Ld. AR therefore prayed that

the order of the Ld. CIT(A) be upheld and the appeal filed by the Revenue be dismissed. The Ld. AR had also filed the written submission which is placed on record.

21. The core issue which requires our examination is whether the consideration received by the assessee from a third party situated in Canada can be said to have a direct nexus with the exports admittedly made by the assessee to buyers located in Bangladesh, and further, whether receipt of such consideration from a third party is legally permissible under the Indian Contract Act, 1872. In the event such a mode of payment is permissible, the further question that arises is whether the assessee has discharged the onus of establishing privity of consideration and privity of contract by producing reliable and cogent evidence.

22. Under the scheme of the Indian Contract Act, 1872, it is a settled principle that consideration for a contract need not necessarily flow from the promisee alone. Section 2(d) of the Contract Act explicitly recognises that consideration may move from the promisee or any other person. Thus, in law, payment of consideration by a third party does not, per se, invalidate a contract or render the transaction non-genuine, provided there exists a valid underlying contractual relationship and the payment can be linked to the obligations arising therefrom.

23. Applying the above legal principle to export transactions, it follows that receipt of sale consideration from a third party, instead of the overseas buyer, is not prohibited either under the Contract Act or under the Income-tax Act. What is, however, required to be demonstrated is the existence of a clear nexus between (i) the export contract entered into with the overseas buyer, (ii) the goods exported pursuant to such contract, and (iii) the consideration received from the third party on behalf of, or in connection with, such buyer.

24. In the present case, it is an admitted position that the exports were made to parties situated in Bangladesh and that the goods were physically

exported out of India, as evidenced by shipping bills, customs clearance documents, and export invoices. The Assessing Officer has not disputed these exports. The consideration, however, was received from M/s Goel Foreign Exchange, Canada, who was not a direct contracting party to the export invoices.

25. The onus, therefore, lay upon the assessee to establish that the consideration received from the Canadian entity was in discharge of the liability of the Bangladesh buyers and that the payment had a direct and proximate nexus with the export transactions. This nexus could be established by demonstrating either a contractual arrangement, an authorization, or a commercial understanding whereby the third party made payment on behalf of the buyer, and that such payment was accepted as full or partial discharge of the buyer's obligation.

26. On examination of the record, we find that the assessee has produced contemporaneous export documentation, FIRC's, and certification from the Authorized Dealer bank confirming that the remittances were received against specific export shipments made to Bangladesh. The Authorized Dealer bank, after verifying the shipping bills and export documents, accepted the remittances as export proceeds. This evidences privity of consideration, since the payment received has been linked by the banking channel to the export transactions.

27. As regards privity of contract, while the assessee may not have produced a formal tripartite agreement, the absence of such an agreement is not fatal in law. Privity of contract can also be established by the conduct of the parties and the surrounding commercial circumstances. In the present case, the exports were completed, the sale consideration was realised through normal banking channels, and the buyers' liability stood discharged upon receipt of the third-party payment. The Revenue has brought no material on record to show that the Bangladesh buyers disputed the transaction or that the assessee retained any unrealized export receivable.

28. Once it is demonstrated that the export obligation was fulfilled, the sale consideration was realized, and the buyer's account stood squared up, the mere fact that the payment emanated from a third party does not sever the contractual nexus. In commercial transactions, particularly in cross-border trade, third-party payments are not uncommon and must be tested on the touchstone of substance rather than form. Even the subsequent RBI Circular support the case of the assessee. By the said circular the requirement of tri parte agreement have been dispense with and therefore the Revenue is not right in insisting on existence / production of the tri parte agreement.

29. In the absence of any evidence to show that the consideration received was unconnected with the exports or represented the assessee's own undisclosed funds routed through banking channels, we are unable to accept the Revenue's contention that the privity of consideration and contract was not established. The assessee has discharged the initial onus by placing on record documentary evidence linking the remittances to the export transactions, and the Revenue has failed to rebut the same with any cogent material.

30. Accordingly, we hold that receipt of consideration from a third party against exports made to Bangladesh was legally permissible, that a clear nexus between the exports and the consideration received stands established, and that the assessee has sufficiently demonstrated privity of consideration and privity of contract for the purposes of the Income-tax Act.

31. In the light of the above the present appeal of the Revenue is dismissed.

32. Both the parties fairly submitted that the facts and circumstances of other two appeals i.e ITA No. 729 and 730/ Chd/2025 are exactly identical to the Appeal in ITA No. 728/Chd/2025 and similar contentions raised therein may be considered, therefore, our findings and directions given in ITA No.

728/Chd/2025 shall apply *mutatis mutandis* to these two appeals which are accordingly dismissed.

33. In the result, all the above appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 14/01/2026.

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य / JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar