

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 2181/Del/2022  
Assessment Year: 2016-17

Assistant Commissioner of Income Tax, Circle 10(1), New Delhi	<b>Vs.</b>	The Index Securities & Research Pvt. Ltd., Office No. 4, Basement-1, Plot No.4, Radisson Blue Hotel, Dwarka, Sector 13, New Delhi PIN: 1100 78
PAN :AAACI2919K		
<b>(Appellant)</b>		<b>(Respondent)</b>

Department by	S/Shri Salil Aggarwal, Sr. Advocate, Mahir Aggarwal, Uma Shankar & Madhur Aggarwal, Advs.
Assessee by	Shri Om Prakash, Sr. DR

Date of hearing	04.11.2025
Date of pronouncement	16.01.2026

**ORDER**

**PER VIMAL KUMAR, JUDICIAL MEMBER:**

The appeal filed by the Department of Revenue is against order dated 07.07.2022 of Learned Commissioner of Income Tax (Appeals)-27, New Delhi (hereinafter referred to as "Ld. CIT(A)") under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") arising out of assessment order dated 10.12.2018 of the Learned Assessing Officer/Assistant Commissioner of

Income Tax, Central Circle-18, New Delhi (hereinafter referred to as "Ld. AO") under Sections 147(3) of the Act for AY 2016-17.

2. Brief facts of the case are assessee company filed its return of income on 13.10.2016 declaring business loss of Rs.46,02,021/-. The case was selected for scrutiny and notice under Section 143(2) of the Act was issued on 25.09.2017. Notice under Section 142(1) of the Act along with questionnaire was issued on 13.09.2018 asking the assessee company to furnish certain details. In response to the above notice, Sh. Lalit JR Sharma, C.A. & A.R. of the assessee company appeared and furnished details which have been placed on record after examination. In this case, information has been received from DDIT(Inv.), Unit-5(4), New Delhi. During the course of inquiry in the case of Shri Surendra Kumar Jain, it has been found that he is an entry operator and has provided accommodation entries to various entities including assessee company. Appellant Company was issued show-cause-notice dated 30.11.2018. No response was filed by the assessee company. On completion of proceedings, Ld. AO vide order dated 10.12.2018, made addition of Rs.9,94,000/-, Rs.2,75,00,000/- and Rs. 11,55,000/- respectively.

3. Against order dated 10.12.2018 of Ld. AO, the appellant/assessee filed appeal before Ld. CIT(A) which was partly allowed vide order dated 07.07.2022.

4. Being aggrieved, Department of Revenue, preferred present appeal with following ground:

“1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the Assessing Officer as the commission income at 2% without appreciating that the material found during the course of search, post search investigation and assessment clearly established that the assessee is just into the business of providing accommodation entries in lieu of commission.?”

2) "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 2,75,00,000/- made by the Assessing Officer on account of disallowance of bad debts written off without appreciating that the loan which is not granted during regular course of business, can not be claimed as bad debt on its payments?"

3) That the appellant craves leave to add, alter, amend or forego any ground(s) of appeal raised above at the time of hearing.”

5. Learned Authorized Representative for the Department of Revenue submitted that Ld. CIT(A) erred in deleting the additions made by the Ld. AO as commission income @ 2% without appreciating that material found during the course of search, post search investigation and assessment clearly established that the assessee is just into the business of providing accommodation entries in lieu of commission. Ld. AO held that the assessee company was engaged in providing accommodation entries, as evidenced by the immediate debit of credited amounts in its bank account. Relying on market information indicating a standard commission of 2%, the Ld. AO estimated commission income of Rs.9,94,000/- on total transaction of Rs.4.97 crores.

**5.1 Presumption under Section 68 Appropriately Invoked:** The provisions of Section 68 of the Act cast A the initial burden on the assessee to explain the nature and source of any credit found in its books. The assessee failed to offer any satisfactory explanation, either during assessment or before the AO, regarding the genuineness of the underlying transactions. Mere reflection of entries in bank statements or in books does not ipso facto discharge this burden, particularly when the substance of transactions reveals a colorable device aimed at providing accommodation entries.

**5.2 CIT(A)'s Over-Reliance on Technicalities and Audited Financials is Misplaced:** The Ld. CIT(A) placed undue reliance on the audited financials and the status of the assessee as a registered NBFC to draw a conclusion of genuineness. However, merely being a registered entity or filing audited accounts does not preclude the possibility of being used as a conduit for providing accommodation entries, a fact that has been recognized in *NRA Iron & Steel Pvt. Ltd. v. PCI* (2019) 103 taxmann.com 48 (SC).

- Moreover, the nature of the financial transactions and the pattern observed were entirely inconsistent with ordinary lending activity expected of an NBFC, thereby justifying the AO's suspicion and assessment.

**5.3 Statements of Directors - Part of Evidentiary Matrix:**

- The Ld. CIT(A)'s outright dismissal of the statements of directors as "uncorroborated" is unwarranted. The statements recorded under oath form a relevant piece of evidence, particularly when considered along-with the transactional patterns and absence of actual business substance in the financial dealings.

- In this case, the directors' statements were not retracted and were not shown to have been obtained under duress. In absence of retraction, and in light of suspicious transaction patterns, such statements assume evidentiary value.

**5.4 Lack of Corroborative Evidence - A Flawed Conclusion:** The CIT(A) erred in holding that absence of documentary corroboration is fatal to the AO's case. It is well settled that direct evidence is rarely available in matters of clandestine transactions, and the AO is well within jurisdiction to make inferences based on circumstantial evidence, human conduct, and surrounding probabilities. Courts have time and again upheld additions based on circumstantial evidence, especially in tax evasion matters where concealment is deliberate.

**5.5 Alleged Absence of Transactions with KRBL - Irrelevant to AY 2016-**  
The CIT(A)'s finding that no direct transaction with KRBL Ltd. occurred during the year under appeal does not detract from the AO's independent finding that the assessee was operating as an entry provider. The present appeal concerns the assessee's own conduct and income for AY 2016-17, and not the affairs of KRBL or any specific counterparty. The absence of link with KRBL in this year is thus irrelevant.

6. Learned DR submitted that Ld. CIT(A) erred in deleting addition of Rs.2,75,00,000/- made by Ld. AO on account of disallowance of bad debts

written off without appreciating that the loan which is not granted during regular course of business.

**6.1 Failure to Satisfy Conditions Under Section 36(1)(vi):** The deduction of bad debts is governed by section 36(1)(vii), which mandates that for such claim to be allowable:

- The debt must have been taken into account in computing income of the assessee of any previous year; and
- It must be written off as irrecoverable in the books of account. In the instant case, the Assessee has not demonstrated that the amount of Rs.2,75,00,000/- was offered to tax in any prior assessment year. This is a precondition for claiming deduction under the said provision, and the onus lies on the Assessee.

**6.2 Lack of Verifiable Evidence and Non-Compliance:** Despite multiple opportunities, including notices dated 15.11.2018 and 30.11.2018, the Assessee failed to:

- Furnish names, PAN, addresses, bank details of debtors,
- Demonstrate that the debts were part of income in earlier years,
- Respond to the show-cause notice or appear during the assessment proceedings.

The failure to comply with statutory requisitions and provide verifiable documentation amounts to gross procedural default and justifies the disallowance, in accordance with section 143(3) read with section 144 of the Act.

**6.3 Debt Not Arising in the Course of Business Capital in Nature:** The AO has categorically found that no interest income or revenue recognition was made in respect of the said amount in any previous year. Therefore, the purported debt:

- Did not arise from the regular course of business;
- Does not satisfy the character of a trading loss;
- Is clearly capital in nature, and hence, not eligible for deduction under section 36(1)(vii).

6.4 **Inapplicability of Section 36(1)(vii)(d):** The Assessee has not claimed the benefit under section 36(1)(vii)(d), nor is it eligible, as it was inserted via the Finance Act, 2016 and became operative from 01.04.2017. Hence, the general provision under section 36(1)(vii) alone governs the issue, and the deduction has rightly been denied.

7. Learned Authorized Representative for the assessee submitted that Hon'ble Income Tax Appellate Tribunal, Delhi in ITA No.4224/Del/2019 titled as "Ankita Aggarwal Vs. ITO" in order dated 06.08.2024 by referring to the accommodation entries in favour of the assessee and granted relief to the assessee.

8. From examination of record in light of aforesaid rival contentions, it is amply clear that Ld. AO vide order dated 10.12.2018 under Section 143(3) of the Act made additions of Rs.9,94,000/-, Rs.2,75,00,000/- and Rs. 11,55,000/- respectively.

9. Ld. CIT(A) vide order dated 07.07.2022 set aside the additions of Rs.9,94,000/- and Rs.2,75,00,000/- and confirmed the addition of Rs.11,55,000/.

10. Ld. CIT(A) while deciding ground nos. 2 to 2.4 relating to addition of Rs.9,94,000/- in para nos. 6.3.2 to 6.6 held as under:

“6.3.2 After going through the records and submissions, following facts are observed about the business activities of the company:

6.3.2.1 The appellant company is NBFC (Non Banking Finance Company) registered with RBI as Non-Banking Financial Institution on 24th October 2001 having serial No. B-14.02140 and is engaged in the business of sale, purchase and trading of the shares and giving loans and advances. From the aforesaid business activities, appellant company had been showing substantial income in the current as well as preceding and subsequent assessment years.

6.3.2.2 During the year under consideration, the appellant company in its profit and loss account had disclosed a turnover to the tune of Rs. 2,93,52,352/-from interest on loan. After perusing the details of receipts/income it is noticed that there is interest earned from loans advanced amounted to Rs. 2,93,52,352/-.

6.3.2.3 Similar receipts have been observed during previous years as is evident from the following chart:

AY	Interest on Loans (in Rs.)	Total Revenue (in Rs.)
2012-13	5,89,39,650/-	6,04,96,306/-
2013-14	3,82,53,590/-	29,68,84,322/-
2014-15	2,51,34,354	25,59,76,464/-
2015-16	6,19,91,888/-	6,19,91,897/-

6.3.2.4 The books of account of the appellant had been regularly audited by the auditors. The appellant is duly filing its return of income and assessments have also been framed u/s 143(3)/153C for the various years. The aforesaid business activity of the appellant company has been accepted by the AO in earlier and subsequent years without any dispute in the assessment framed u/s 143(3)/153A of the Act:

A.Y.	Date of 143(3) order	Income assessed
2011-12	28.3.2013	Returned income plus 14A disallowance
2012-13	18.3.2015	Returned income accepted
2013-14	21.3.2016	Returned income accepted
2014-15	29.11.2016	Returned income accepted

All this facts clearly show that appellant was earning huge revenues on account of its business activity, these are audited results with all compliances of TDS on loan/FDR receipts and the business results were accepted in most of the years.

6.4 The A.O. received the Information and statements of directors of the appellant company, on the basis of which it was concluded that the directors Sh. Vinod kumar Taneja and Smt. Chanchal Taneja are only in name and do not know about the affairs of the company.

6.5 On perusal of the assessment order, it is observed that AO finally concluded that Sh. Sant Lal Aggarwal and Sh. Satish Kumar Pawa are actually operating the company.

6.6 On perusal of the share holding pattern of the appellant company, it is observed that Sh. Sant Lal Aggarwal, Sh. Satish Kumar Pawa and their family members are the major shareholders of the company. The directors Sh. Vinod kumar Taneja and Smt. Chanchal Taneja are minor shareholders in the appellant company. As per the concept of Corporate Governance, the shareholders and directors of a corporate entity are different and there is agency relationship between shareholders and directors of a corporate entity. Therefore all disclosure norms prescribed by shareholders, through board of directors, are to prevent any misuse of unlimited powers given to directors, at the cost of shareholders, in running the affairs of the company. In India, in the private corporate entities, there is complete control of shareholders over the directors of the company through direct intervention. In most of private limited companies, the directors are just trusted employees to work only at directions of shareholders and these directors are front executive to conceal the identity of real persons behind the corporate entity. If the affairs are managed by the majority shareholders and the directors just follow what they say

without applying their mind, it may be termed that they are paper directors, but it cannot lead to the conclusion that the company is a paper company providing accommodation entries. As is noted from the discussion in para 6.3.2 above, the company is doing real business and earning business receipts in crores from its activities. The fact that shareholders are running the company and directors are paper directors, who do not know the real affairs of the company, does not make it a paper company.

11. A Co-ordinate Bench of Income Tax Appellate Tribunal in ITA No.4224/Del/2019 titled as “Ankita Aggarwal Vs. ITO” in order dated 06.08.2024 in para nos. 12 to 18 held as under:

12. We have considered rival submissions and perused the materials on record. We have also applied our mind to the decisions relied upon by learned counsel for the assessee. As discussed earlier, the assessee has contested the additions relating to investment in shares of a company, named, Vidya Shankar Investments Pvt. Ltd. as well as unsecured loans availed from the M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Ltd. Observations of the Assessing Officer in the assessment order qua the additions made clearly indicate that his conclusion regarding the additions are primarily based on the information received from DCIT, Central Circle, through certain communications. Though, in the said communications, the concerned authority has stated that in course of search and seizure operation conducted in case of Jagat Group, certain incriminating materials were found indicating that M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Pvt. Ltd. are paper companies providing accommodation entries. However, the nature of the incriminating material has neither been discussed in detail, nor it is forthcoming whether such incriminating materials were forwarded to the Assessing Officer for his analysis.

13. In fact, in the assessment order, the Assessing Officer, except referring to the communications/letters from DCIT, Central Circle, has not discussed anything about the incriminating materials referred to in the said communications. It is quite clear from the observations of the Assessing Officer that he has treated M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Ltd. as paper companies/entities providing accommodation entries, mainly adopting the opinion expressed by DCIT, Central Circle in the communications sent to

the Assessing Officer. Interestingly, though, the assessee had invested in shares of M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Pvt. Ltd., however, the Assessing Officer has accepted the investments made in M/s Index Securities & Research Pvt. Ltd.

14. Surprisingly, while deciding the issue, learned first appellate authority has completely mixed up the facts and has concluded that the investments in shares of Index Securities & Research Pvt. Ltd. are non-genuine. Whereas, the issue relating to investment of shares in M/s. Index Securities & Research Pvt. Ltd. is not at all a subject matter of dispute before the first appellate authority, as, the Assessing Officer has not made any addition with regard to such investment.

15. Be that as it may, the issue which requires consideration is, whether the investments made in the shares of M/s. Vidya Shankar Investments Pvt. Ltd. as well as unsecured loans from M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Pvt. Ltd., are genuine or not. The Assessing Officer has questioned the genuineness of the aforesaid transactions primarily on the ground that both the aforesaid entities are paper companies providing accommodation entries. The acceptability of the aforesaid conclusion drawn by the Assessing Officer needs to be examined in the context of facts and materials brought on record.

16. As could be seen from materials on record, for the very same assessment year, proceedings under section 153C of the Act were initiated against both the entities. In the assessment order passed under section 143(3) read with section 153C of the Act on 28.03.2013, a copy of which is placed at page 134 of the paper book, it is observed that the Assessing Officer, while completing the assessment, has accepted the income computed by the assessee in the return of income and no adverse inference has been drawn. Similarly, in case of M/s. Index Securities & Research Pvt. Ltd., though, in the assessment completed under section 143(3) read with section 153C of the Act vide order dated 28.03.2013, the Assessing Officer has made addition of more than Rs. 50 crores, however, learned first appellate authority, while deciding the appeal filed by the concerned entity, deleted the addition.

17. The Revenue being aggrieved with the decision of learned first appellate authority preferred an appeal before the Tribunal. While deciding the appeal, the Tribunal in order dated 26.08.2016 passed in ITA

No. 430 to 432/Del/2014 upheld the decision of learned first appellate authority. It is noteworthy, the aforesaid decision of the Tribunal was challenged by the Revenue before the Hon'ble Jurisdictional High Court. However, in order dated 04.09.2017 passed in ITA No. 566/2017 and Ors., Hon'ble Jurisdiction High Court dismissed the appeals of the Revenue. It is further relevant to observe, in case of M/s. Vidya Shankar Investments Pvt. Ltd., relying upon the information gathered in course of search and seizure operation conducted in case of Jagat Group, assessments were completed in assessment years 2007-08, 2008-09 and 2009-10 making huge additions towards unexplained cash credit under section 68 of the Act by treating the share application money and share premium as bogus. While deciding the appeals of the assessee, learned first appellate authority deleted the additions. Being aggrieved, Revenue came in appeal before the Tribunal. While deciding the appeals of the Revenue, the Tribunal in ITA No.6569/Del/2013 and Ors., dated 28.09.2016 examined the issue in great detail and recorded the following findings:

“17. AO also proceeded on the premise that it is beyond comprehension to believe that a share having face value of Rs.10. has been sold for Rs.3.50 per share but has not preferred to bring on record any material that the aforesaid invoices are concerned/connected with the assessee company. Moreover, its accounts are not in dispute, because from the return filed by the assessee on 23.03.2009 qua AY 2008-09 and return filed by assessee on 04.09.2007 qua 2007-08, treated u/s 153C, it is clear that share capital amounting to Rs.77,50,000/- and share premium of Rs.6,97,50,000/- for AY 2007-08, share capital amounting to Rs.47,90,000/- and share premium of Rs.4,30,31,800/- for AY 2008-09 and Rs.97,40,000/- and share premium of Rs.8,75,97,500/- for AY 2009-10 tallied with Documents-II having been declared by the assessee even prior to the search and seizure operation.

18. Even otherwise, AO has not conducted investigation/inquiry regarding the transactions in question on the basis of which addition has been made nor the documents relied upon have ever been put to the assessee nor the same have even figured in the satisfaction note.

19. Now, the next question arises for determination in this case is:-

"as to whether the CIT (A) has erred in facts and law-in deleting the addition of Rs. 4,78,21,800/- qua AY 2007-08, Rs.7,75,00,000/- qua AY 2008-09 and Rs.9,73,37,500/- qua AY 2009-10, by treating the bogus share application money/share premium as unexplained cash credit?"

20. Undisputedly, the assessee company has supplied confirmation letter from the share applicants; copies of bank accounts of a day or week of the share applicants; copy of acknowledgement of ITRs and copy of balance sheets etc. for scrutiny by the AO, which the AO has declared ingenuine on the basis of conjectures and surmises inter alia that these documents do not prove the capacity of these persons to give the share capital/ share premium for investment; that these companies appear to be not doing any business and drawing such income to justify their investment, and that most of the investors sold their shares to the person connected or controlled by Shri Sant Lal Agrawal and Shri Satish Kumar Pawa at the price of 1/4th of the face value of the share.

21. When undisputedly AO has perused the relevant details pertaining to the share capital/share premium qua the year under assessments as furnished by the assessee company and has not minced a word to question the validity of those documents nor the AO has given any findings regarding the summons issued u/s 131 of the Act for personal deposition and furnishing of details by the investors in the assessee company. Even no statement of these investors was recorded by the AO.

22. So, when all the shareholders appear before the AO and filed confirmations, bank statements, copy of ITRs for the AY 2007-08 to 2011-12, copy of PAN, name of directors, copy of audited accounts, etc. to establish the investment made by them in the assessee's company, their identity cannot be questioned on the basis of conjectures and surmises. In the absence of any adverse material on record that cash receipt/deposits were noticed in the bank accounts of these companies in question, the capacity of these investors cannot be questioned. Moreover, the assessee company has received the subscription of these shareholders through banking transactions.

23. So, the assessee company has duly discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants who have subscribed to the shares during the years under assessment, u/s 68 of the Act, the assessee company cannot be faulted merely on the basis of conjectures and surmises particularly in the absence of any cogent material.”

18. The aforesaid decision of the Coordinate Bench has been confirmed by the Hon’ble Jurisdictional High Court. Thus, as could be seen from the facts discussed above, the genuineness of both the entities, viz., M/s. Vidya Shankar Investments Pvt. Ltd. and M/s. Index Securities & Research Pvt. Ltd. was tested not only before the departmental authorities, but before the Tribunal and Hon’ble Jurisdictional High Court as well. However, the allegation of the Assessing Officer regarding the genuineness of the aforesaid two entities could not be established. In fact, the Coordinate Bench, while deciding the appeal of Vidya Shankar Investments Pvt. Ltd. has given a categorical finding that the concerned entity was able to prove the genuineness of the share application money and share premium received from various persons.”

12. From perusal of above discussion and findings, it is evident on record that the assessee company was not a paper company. Therefore, finding of Ld. CIT(A) regarding deletion of addition of Rs.9,94,000/- are upheld.

13. Ld. CIT(A) while deciding ground no. 3 regarding disallowance of bad debts of Rs.2,75,00,000/- held that the assessee had provided documents and address as well as PAN of the parties in respect of whom he claimed bad debts. Therefore, the findings of Ld. CIT(A) regarding deletion of addition of Rs.2,75,00,000/- on account of disallowance of bad debts are upheld. Accordingly, Grounds of appeal nos. 1 and 3 are rejected.

14. In the result, the appeal filed by the Department of Revenue is dismissed.

***Order pronounced in the open court on 16<sup>th</sup> January, 2026.***

*Sd/-*

**(S RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

*Sd/-*

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Dated: 16<sup>th</sup> January, 2026.  
Mohan Lal

Copy forwarded to:

1. Applicant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi