

**IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI
BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

**I.T.A. No. 6237/Mum/2025
ASSESSMENT YEAR: 2020-21**

Income Tax Officer Income Tax Office, Rani Mansion, Murbad Road, Kalyan(W), Mumbai-400093 (Appellant)	Vs.	Kala Eswaran Iyr A 001 103 Shiv Sudama Nandan CHS Plot RM 89 Milap Nagar, Dombivali-421203, Thane PAN: [AAHPI3840D] (Respondent)
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Assessee by	Shri Tanmay Phadke - Advocate
Department by	Shri Hemanshu Joshi- SR. DR

Date of Hearing	21.01.2026
Date of Pronouncement	09.02.2026

ORDER

Per: SHRI JAGADISH, A.M.:

1. This appeal filed by the Revenue is directed against the order of the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi, dated 17.06.2025 for the assessment year 2020-21, arising from the order passed by Ld. Assessing Officer (AO) under Section 143(3) r.w.s 144B of Income Tax Act.
2. The only issue arising for our consideration is whether the Ld. CIT(A) was justified in deleting the addition of ₹20,00,130/- made by the Assessing Officer under section 69A read with section 115BBE of the Income-tax Act, 1961.

3. Briefly stated, the assessee is an individual and a practising anaesthetist. The return of income was filed declaring total income of ₹48,87,520/-. The case was selected for complete scrutiny on the basis of information received from the Investigation Wing, Ahmedabad, consequent to a search conducted under section 132 in the case of Shri Sanjay Govindram Aggarwal alias Sanjay Tiberwal, who was stated to be engaged in providing accommodation entries. Relying upon Annexure-A forwarded by the Investigation Wing and the statement of the said person recorded during search proceedings, the Assessing Officer treated the assessee as a beneficiary of accommodation entries and made an addition of ₹20,00,130/- under section 69A of the Act.
4. Before us, the Ld. Departmental Representative supported the order of the Assessing Officer. It was submitted that the addition was based on credible information received from the Investigation Wing pursuant to a search under section 132 and on the statement of Shri Sanjay Tiberwal recorded on oath. It was argued that the Ld. CIT(A) erred in holding that the counter-party name and PAN were different, whereas the PAN mentioned in Annexure-A was the same as that of the assessee. It was further submitted that the Ld. CIT(A), being the first fact-finding authority, failed to exercise co-terminus powers to ascertain whether "Kala Enterprises" was a proprietary concern of the assessee and, therefore, the order of the Ld. CIT(A) is perverse and liable to be set aside.
5. Per contra, the Ld. Authorised Representative for the assessee submitted that the assessee had never entered into any transaction with Shri Sanjay Aggarwal/Tiberwal or his concerns and had consistently denied the alleged transactions during the assessment proceedings. It was submitted that the addition was made solely on the basis of third-party information and a statement recorded behind the

back of the assessee, without granting any opportunity of cross-examination. The Ld. AR drew our attention to the fact that the name appearing in Annexure-A was "Kala Enterprises" and not the assessee, and no material was brought on record by the Assessing Officer to establish any nexus between the assessee and the said concern. It was further submitted that the Assessing Officer failed to bring on record any evidence in the form of bank statements, dates of transactions, place of transactions or mode of receipt to establish that the assessee had actually received any accommodation entry. The Ld. AR thus supported the order of the Ld. CIT(A).

6. We have heard the rival submissions and perused the material available on record. We find that the entire addition has been made by the Assessing Officer solely on the basis of information received from the Investigation Wing and the statement of a third party recorded during search proceedings. The assessee has consistently denied having any such transactions and has also filed an affidavit to that effect. The Assessing Officer has not rebutted the affidavit nor carried out any independent enquiry to establish that the assessee was the beneficiary of the alleged accommodation entries.
7. We find that the Ld. CIT(A), after examining the assessment record, has recorded a clear finding of fact that the Assessing Officer did not bring any evidence on record in the form of date of transaction, place of transaction or bank details establishing any receipt of accommodation entries by the assessee. It has also been observed that the name mentioned in Annexure-A was "Kala Enterprises" and that the Assessing Officer failed to establish any connection between the assessee and the said concern. These findings have not been controverted by the Revenue by producing any cogent material before us.

8. It is well settled that an addition under section 69A cannot be sustained merely on suspicion or on the basis of unverified third-party information. The burden lies on the Assessing Officer to establish, by cogent evidence, that the assessee was in possession of unexplained money. In the present case, apart from the statement of a third party recorded behind the back of the assessee, no independent or corroborative evidence has been brought on record. Further, the denial of opportunity of cross-examination also vitiates the addition.
9. As regards the contention of the Revenue that the Ld. CIT(A) failed to exercise co-terminus powers, we are of the view that when the Assessing Officer himself has failed to conduct basic enquiry and the addition is found to be unsustainable on the material on record, the Ld. CIT(A) was justified in deleting the same rather than restoring the matter for a roving enquiry.
10. In view of the foregoing discussion, we find no infirmity in the order of the Ld. CIT(A). Accordingly, the deletion of the addition of ₹20,00,130/- is upheld.
11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 09/02/2026 at Mumbai.

Sd/-

**(ANIKESH BANERJEE)
JUDICIAL MEMBER**

Sd/-

**(JAGADISH)
ACCOUNTANT MEMBER**

Mumbai, Dated: 09/02/2026.
Ashwani Rao
Sr. Private Secretary

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)
ITAT, Mumbai