

**IN THE INCOME TAX APPELLATE TRIBUNAL GUWAHATI BENCH, GUWAHATI
(THROUGH VIRTUAL HEARING AT KOLKATA)**

**BEFORE SHRI GEORGE MATHAN, JM
AND
SHRI LAXMI PRASAD SAHU, AM**

**ITA No. 113/GTY/2023
(Assessment Year:2018-19)**

**DCIT, Central Circle-1,
Guwahati**
Room No.507, 5th Floor,
Aayakar Bhawan, G.S. Road,
Christian Basti, Guwahati-
781005, Assam

(Appellant)

Vs.

Ramswarup Bajaj
M.G. Road, Guwahati, Kamrup
(Assam)-781001, Guwahati

(Respondent)

PAN No. AESPB1565P

Assessee by : S/Shri Rohit Kapoor,
Virsa In Aggarwal, ARs
Revenue by : Shri Santosh Kumar Karnani, DR

Date of hearing: 09.02.2026
Date of pronouncement: 09.02.2026

ORDER

Per George Mathan, JM:

This is an appeal filed by the Revenue against the order of the Commissioner of Income-tax (Appeals), Central, North-East Region, Guwahati (hereinafter referred to as the "Ld. CIT(A)") in appeal no. CIT (A), Central NER, Guwahati/100060/2017-18 dated 07.06.2023 for the AY 2018-19.

2. Shri Rohit Kapoor & Virsa In Aggarwal, represented on behalf of the assessee and Shri Santosh Kumar Karnani, Sr. DR represented on behalf of the Revenue.
3. The Revenue has raised following grounds of appeal:-

"1. That on the facts of the case and in law, the Id. CIT (A) has erred by deleting the addition of ₹98,96,517/- on account of bogus unsecured loan in respect of which addition was made u/s 69A of the Income Tax Act, 1961 for the A.Y. 2018-19 on the basis of disclosure of addition income by the assessee himself.

2. That on the facts of the case and in law, the Id. assessee made disclosure of addition income of ₹98,96,517/- because of the fact that incriminating materials containing various transactions were found and seized during the search.

3. That on the facts of the case and in law, the Id. CIT (A) erred in ignoring / not taking sufficient note of the contents of the seized laptop marked as SH/LP/04, document marked as Annexure-A30 which contains unsecured loan transactions from different individuals along with the interest rate at which interest expense was paid as per the regular books of accounts and the 'jamakharchi' rate, i.e. the actual expense incurred in order to avail the entry of bogus loan. "

4. It was submitted by the Learned CIT DR that two additions were in dispute.

5. The first issue in regard to an addition of ₹98,96,517/- deleted by the Id. CIT (A) representing bogus unsecured loans.

5.1. It was a submission that no detail has been produced by the assessee before the Id. AO and the Id. CIT (A) has considered fresh evidence. It was a submission that the Id. CIT (A) came to a conclusion that the amounts related to the firm M/s Kishlay Snacks Products and not the assessee. It was a submission that in the course of search on the assessee and assessee has admitted that the money belongs to him. It was a submission that the addition as made by the AO and as deleted by the Id. CIT (A) may be reversed and the order of the AO restored on this issue.

5.2. In reply, the Learned AR drew our attention to page 67 and 68 and 69 of the Id. CIT (A), wherein in paragraph 3 to 5 the Id. CIT (A) has held as follows:-

"3. That, no enquiry seems to have been conducted by the Investigation wing (i.e. during the course of post search investigation) or by the AO (i.e. during the course of the assessment proceedings) with any of the party whose name was appearing in the aforesaid incriminating material as to the genuineness of the unsecured loans availed by

M/s Kishlay Snack Products. Thus, the impugned Assessment Order is bereft of any enquiry or verification of any nature whatsoever from the purported parties whose unsecured loans were considered by the AO as bogus.

4. That, the AO had himself averred that the unsecured loans availed by M/s Kishlay Snack Products were "jamakharchi entries". Thus, the AO ought to have considered these alleged bogus/jamakharchi loan transactions in the hands of M/s Kishlay Snack Products under Section 68 of the Act in each of the corresponding year (as per the Table supra) wherein the fresh/addition in the unsecured loans (as aforesaid) were raised.

5. That, there is no material on record which would even remotely prove that any adverse inference was drawn by the AO in the case of M/s Kishlay Snack Products in respect of the alleged bogus unsecured loans, as aforesaid, in its assessments which were also framed by the very same AO. It is pertinently noted that M/s Kishlay Snack Products was also subjected to the search and seizure action. Similarly, there is no material on record as to why the alleged bogus unsecured loans availed by M/s Kishlay Snack Products were not adversely considered in its hands."

5.3. It was a submission that the Learned AR vehemently supported the order of the Id. CIT (A). It was a submission that the monies belong to the firm M/s Kishlay Snacks Products and the assessee had nothing to do with the same. It was a submission that the amounts were shown in the accounts of M/s Kishlay Snacks Products and the addition, if any, should have been considered in the hands of M/s Kishlay Snacks Products and not in the hands of the assessee.

5.4. We have considered the rival contentions . A perusal of the facts of the present case clearly shows that in paragraph 9 at pages 68 and 69, towards the end of the paragraph, the Learned CIT (A), after considering the facts, has categorically recorded that 'even though the assessing officer has arrived at a correct conclusion, but he has failed to take the correct action on this correct conclusion, having held that the unsecured loans availed by M/s Kishlay Snacks Products were from bogus Jama Karchi parties, it was incumbent on the AO to have made the corresponding addition in this regard, in the hands of the person M/s Kishlay Snacks Products, who had availed these bogus unsecured loans'. Here, we would draw attention to the fact that the order of the Id. CIT (A) dated 7th June, 2023, the impugned assessment year i.e.

A.Y. 2018-19, when the order of the Learned CIT (A) was passed, time was very much available for taking remedial actions. But, instead of taking the remedial actions, the revenue proceeded with further appeal. The revenue has not been able to dislodge these specific findings of facts which have been recorded by the Learned CIT (A). The Learned CIT (A) has drawn the facts substantially from the assessment order itself. Thus, the Learned AO was very much aware of the facts which has been correctly interpreted by the Learned CIT (A) for deleting the addition. This being so, we find no reason to interfere in the findings of the Learned CIT (A) on this issue in so far as these loans have specifically been shown in the hands of M/s Kishlay Snacks Products.

6. The second issue raised in the appeal is against the action of the Learned CIT (A) in deleting the addition of ₹1,86,50,000 made on account of purchase of shares for the A.Y. 2018-19.

6.1. It was a submission that the Learned CIT (A) has deleted the addition without considering the facts in its correct perspective. The Learned Senior D.R. drew our attention to pages 80, 81 and 82 of the Order of the Learned CIT (A) to submit that the assessee in the course of the search had admitted to disclose partial transactions in so far as the assessee admitted that the transactions were with shell companies. It was a submission that even after these findings, the Learned CIT (A) has deleted the addition. It was a prayer that the Order of the Learned CIT (A) may be reversed and that of the AO restored. The Learned DR also drew our attention to pages 3 and 4 of the assessment order to submit that the AO has specifically brought out that these are Jama Karchi transactions and that the assessee had admitted to surrender of the amounts.

6.2. In reply, the Learned AR drew our attention to Para no. 18 of page 89 of the order of the Id. CIT (A). The Learned AR submitted that these transactions relate to the earlier assessment years and none of the transactions relate to the A.Y. 2018-19. It was a submission that on this ground that the Learned CIT (A) has deleted the addition

6.3. We have considered the rival contentions . A perusal of the Order of the Learned CIT (A) shows that the Learned CIT (A) has extracted details from the assessment order and has come to the conclusion that these shares were allotted by the company M/s Kishlay Foods Private Limited on 31st March, 2014. These shares were purchased on 1st February, 2017 and thereafter, had been sold on 15th March, 2017. Thus, clearly the transaction relates to the A.Y. 2017-18. The impugned A.Y. 2018-19. The revenue has not been able to point out how these transactions which relate to the A.Y. 2017-18, could be assessed in the impugned assessment year being 2018-19. As the revenue has not been able to dislodge these primary findings of facts by the Id. CIT (A), we find no error in the order of the Learned CIT (A), which calls interference on this issue. Consequently, the findings of the Learned CIT (A) on this issue stands upheld.

7. In the result, appeal of the revenue stands dismissed.

Order pronounced in the open court on 09.02.2026.

Sd/-
(LAXMI PRASAD SAHU)
(ACCOUNTANT MEMBER)

Sd/-
(GEORGE MATHAN)
(JUDICIAL MEMBER)

Kolkata, Dated: 09.02.2026

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

True Copy//

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata