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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 23.05.2025

(17)

+ **ITA 137/2025 & CM APPL. 28221/2025**

PR. COMMISSIONER OF INCOME TAX, DELHI-7Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti
Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.Respondent

Through: None.

(18)

+ **ITA 138/2025 & CM APPL. 28223/2025**

PR. COMMISSIONER OF INCOME TAX, DELHI-7Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti
Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.Respondent

Through: None.

(19)

+ **ITA 139/2025 & CM APPL. 28225/2025**

PR. COMMISSIONER OF INCOME TAX, DELHI-7

.....Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti



Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.Respondent
Through: None.

(20)

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ITA 140/2025 & CM APPL. 28469/2025

PR. COMMISSIONER OF INCOME TAX, DELHI-7Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti
Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.Respondent
Through: None.

(21)

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ITA 141/2025 & CM APPL. 28474/2025

PR. COMMISSIONER OF INCOME TAX, DELHI-7Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti
Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.Respondent
Through: None.

(22)

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ITA 142/2025 & CM APPL. 28477/2025

PR. COMMISSIONER OF INCOME TAX, DELHI-7Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia, Mr. Gibran, Jr.SCs
& Mr. Nikhil Jain, Ms. Srishti



Sharma, Advocates for Income Tax
Deptt.

versus

THIRD GENERATION TRADERS PVT. LTD.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. The Revenue has filed the present appeals, *inter alia*, impugning a common order dated 20.09.2024 passed by the learned Income Tax Appellate Tribunal [ITAT] in a batch of appeals arising from separate orders passed by the Commissioner of Income Tax (Appeals) 29, New Delhi [CIT(A)], in respect of Assessment Years [AYs] 2012-13 to AY 2017-18. A tabular statement setting out the details of the present appeals for the respective AYs are as under:

Item Nos.	ITA Nos.	Assessment Years	Declared Income
17.	ITA No.2413/Del/2024	2012-13	Rs.1,02,560/-
18.	ITA No.2416/Del/2024	2015-16	Rs.3,49,901/-
19.	ITA No.2417/Del/2024	2016-17	Rs.3,49,901/-
20.	ITA No.2418/Del/2024	2017-18	Rs.54,888/-
21.	ITA No.2415/Del/2024	2014-15	Rs.1,96,570/-
22.	ITA No.2414/Del/2024	2013-14	Rs.1,19,060/-



2. The respondent [**Assessee**] filed its income tax returns for the respective assessment years declaring the income as noted above. On 17.12.2015, search and seizure operations were conducted at the residential premises of one Sh. Kaushal Kumar, who is stated to be an employee of one Sh. Anand Kumar Jain and one Sh. Naresh Kumar Jain [**Jain Brothers**] at his residence at H. No.151, Pocket-13, Sector-20, Rohini, Delhi. It is stated that during the course of the search, incriminating papers and documents were found pertaining to the Assessee. Based on the same, on 29.12.2017, the Assessing Officer [**AO**] of the searched person recorded his satisfaction that the documents found during the course of the search belonged to or contained information relating to the Assessee. Pursuant to the same, the AO issued a notice dated 30.12.2017 under Section 153C of the Act.

3. The Assessee responded to the said notices reiterating its returns of income. Thereafter, the AO issued notices under Section 142(1) of the Act and the assessment proceedings culminated in the assessment orders whereby the AO made an addition of the credits of the amounts received by the Assessee during the previous years relevant to AYs 2012-13 to AY 2017-18 under Section 68 of the Act on protective basis and also an addition in regard to commission income on substantive basis. The AO concluded that the Assessee was used as a conduit for routing accommodation entries. The Jain Brothers were using the Assessee as their vehicle routing funds to the ultimate beneficiaries. The amounts were credited in the accounts of the Assessee and thereafter paid to the other entities under the control of the Jain Brothers, which in turn had transmitted the same to the ultimate



beneficiaries. The Assessee was used to layer the funds, which were received in cash and introduced in other companies under the control of the Jain Brothers for onward payment to the ultimate beneficiaries.

4. In the aforesaid circumstances, the amounts, which were credited in the bank accounts of the Assessee were added as unexplained credits under Section 68 of the Act. The AO also reasoned that there would be commission charges payable on account of routing accommodation entries and accordingly, computed the Assessee's commission income at the rate of 0.25% and made the additions accordingly.

5. The Assessee appealed the said assessment orders before the CIT(A). The CIT(A) allowed the appeals principally on the ground that the Assessee was stated to be a shell company, therefore, did not have any real income. The CIT(A) also noted the substantive addition had been made in the hands of the beneficiaries. Once such addition had been made, the same amount could not have been added in the hands of shell companies.

6. The learned ITAT upheld the said decision. The relevant extract of the impugned order is set out below:

“8. As could be seen from the aforesaid observations of learned first appellate authority, since, the real beneficiaries, who have availed the accommodation entries were identified, the substantive additions have been made at their hands. That being the case, protective additions made at the hands of the assessee cannot survive.

9. While considering identical nature of dispute arising in the case of similarly situated companies, allegedly managed and controlled by Jain Brothers, the Coordinate Bench in the cases of DCIT Vs.



M/s. Shivji Garments Pvt. Ltd. (supra) and ACIT Vs. M/s. Zed Enterprises (P) Ltd. (supra) has upheld the decision of learned first appellate authority in deleting the addition. The factual position being identical in the present appeals, we do not find any infirmity in the decision of learned first appellate authority in deleting the additions. Grounds are dismissed.”

7. In the aforesaid context, the Revenue has projected a similar set of questions for consideration of this Court, albeit with varied amounts. We consider it apposite to set out the questions of law as projected in ITA No.137/2025 in respect of AY 2012-13. The same are set out below:

“A. Whether on the facts & in the circumstances of the case, the Hon’ble ITAT has erred in law & on facts by deleting the addition of Rs. 9,54,01,729/- made on account of undisclosed sources u/s 68 for unexplained entries in bank account ignoring the fact that assessee has failed to produce any concrete and any additional evidences in support of its contention?

B. Whether on the facts & in the circumstances of the case, the Hon’ble ITAT has erred in upholding the deletion of Rs. 2,38,504/- @ 0.25% made on account of unaccounted commission by the Ld. CIT(A) ignoring the fact that this commission charged @ 0.25% by the conduit concern i.e. the assessee company was used for running the business of facilitating accommodation entries was not disclosed?

C. Whether the Hon’ble ITAT was correct in ignoring the decision of the Hon’ble Apex Court in the case of Lalji Haridas vs. ITO (1961) 43 ITR 387 (SC), and judgment of Hon’ble Gujrat High Court in the case of CIT, Gujarat II vs. Surendra Gulab Chand Modi (1983) 140 ITR 517 (Guj), wherein it is held that protective assessment results in only a paper demand which is not enforceable as long as the assessment remains protective, hence no prejudice is caused to the assessee against such a Protective Assessment till such matters attain finality by the Hon’ble High Court or Hon’ble Supreme Court?”



8. The present appeals were listed on 09.05.2025 and this Court had noted that the assessment orders passed were vague and did not clearly set out the entries, which were held to be accommodation entries.

9. In view of the aforesaid observations, Mr. Rai, the learned counsel for the Revenue requested some time to examine the assessment records. He has now handed over a tabular statement indicating the credit and debit balances in the bank accounts of the Assessee during different financial years. The said tabular statement is set out below:

Sr No	Name of the Assessee/ Company	Bank Name	A/c no	FY	Credit Balance	Debit Balance
14	Third Generation Traders Pvt. Ltd.	HDFC Bank	1347847 0000061	2011-12	8,78,82,934.00	8,77,95,000.00
		HDFC Bank		2012-13	13,03,58,676.00	13,04,45,708.00
		HDFC Bank		2013-14	9,10,42,513.00	9,09,78,059.18
		HDFC Bank		2014-15	7,17,31,282.00	7,16,85,000.00
		HDFC Bank		2015-16	25,80,59,142.00	25,81,62,970.68
		HDFC Bank		2016-17	9,81,43,905.00	9,76,79,582.00
		HDFC Bank		2017-18	12,18,51,126.00	12,21,35,980.00

10. The above tabular statement clearly indicates that the Assessee's opening balances and closing balances are substantially the same. There is only a minor variation between the credit balance and the debit balance of



the Assessee in the bank account. This also supports our understanding of the assessment order, which although not clear, indicate that the Assessee was used as pass-through entity for extending accommodation entries to the ultimate beneficiaries.

11. It is also noted that no cash deposits are made in the bank accounts of the Assessee. The amounts received by the Assessee were from different entities, which according to the Revenue were also used for routing the undisclosed income of the beneficiaries.

12. It is the Revenue's case that the Jain Brothers were, at the material time, the accommodation entry operators who had introduced the funds and routed the same through banking channels to the ultimate beneficiaries. Apparently, the Jain Brothers also had done so on certain commission.

13. It is clear from the above, the commission for providing entries to beneficiaries would be the real income of Jain Brothers and there is no material to indicate that the Assessee had earned any commission income. This is so because, according to the AO, the Assessee company was a conduit operated by Jain Brothers.

14. It is also apparent that there was income in the hands of the Assessee and it was merely a conduit. The credit, which has been introduced in the books of the Assessee was matched by a debit to the other entities used to route the funds to the ultimate beneficiaries. In the aforesaid context the CIT(A) and the learned ITAT had held that the unexplained credits were liable to be taxed in the hands of the beneficiaries. And, since the same had



been done, there is no occasion of taxing the channels through which the amounts were routed.

15. We find no infirmity with the said view. No substantial questions of law arise for consideration. The appeals are accordingly dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 23, 2025/ 'A'

Click here to check corrigendum, if any