

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.1209/Del/2023
Assessment Year: 2012-13

Sh. Surendra Kumar Jain, 555, Double Storey, New Rajinder Nagar, New Delhi	Vs.	DCIT, Central Circle-32, New Delhi
PAN: AAHPJ8940K		
(Appellant)		(Respondent)

Assessee by	Sh. Nitish Dhawan, Adv. Sh. Amol Sinha, Adv.
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	04.11.2025
Date of pronouncement	04.11.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2012-13, arises against the Commissioner of Income Tax (Appeals)-30 [in short, the "CIT(A)"], Delhi's order dated 14.03.2023 passed in case no. 10547/2019-20, involving proceedings under section 147 r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It emerges during the course of hearing with the able assistance coming from both the parties that the learned lower authorities have *inter alia* treated an amount of Rs.160,49,00,000/- as the assessee's unexplained cash credits followed by 1.8% commission estimation thereupon; coming to Rs.2,88,88,200/-; respectively in assessment order dated 31st December, 2019 and upheld in the lower appellate discussion.

3. The Revenue vehemently argues in this factual backdrop that the learned Assessing Officer's detailed assessment discussion herein discussed the entire issue at length whilst concluding that the assessee, Sh. Surendra Kumar Jain, had carried out a complex web of providing accommodation entry(ies) with the help of directors/partners/proprietors without having carried out any actual business. It seeks to buttress the point that we ought to affirm both the impugned addition(s) of the accommodation entry transactions as well as the commission income thereupon have been rightly assessed in the assessee's hands.

4. We notice at this stage that what all the lower authorities have done is to assess the assessee on "protective" basis qua both the foregoing additions. We sought to inquire as to in whose hands the

corresponding substantive additions of the alleged accommodation entries had been made well before the impugned assessment or not.

5. We make it clear that the hon'ble apex court landmark decision in Lalji Haridas Vs. ITO (1961) 43 ITR 387 (SC) has settled the instant issue long back that when there arises a doubt in Assessing Officer's mind as to in whose hands a particular item of income has to be assessed; he could indeed frame a "protective" assessment so as to safeguard the interest of the revenue. A perusal of the assessee's instant appeal file suggests that no such "substantive" addition has either been discussed or made forming basis of the impugned protective assessment forming subject matter of challenge before us. Coupled with this case law DHFL Venture Capital Fund Vs. ITO (2013) 34 taxmann.com 300 (Bom.) has further settled the issue that the learned departmental authorities could not initiate section 148/147 proceedings against an assessee to protect the interest of the Revenue in such an instance. We thus find merit in the assessee's vehement contentions challenging both the impugned additions which are hereby deleted in very terms. Ordered accordingly

All other remaining pleadings between the parties stand rendered academic.

6. This assessee's appeal is allowed.

Order pronounced in the open court on 4th November, 2025

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th November, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi