

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.712/Del/2019  
Assessment Year: 2011-12

DCIT, Central Circle-18, New Delhi	<b>Vs.</b>	Sh. Vinay Sharma, B-373, Swarnajyanti Puram, Ghaziabad
<b>PAN: BDQPS4406L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
C.O. No.60/Del/2019  
[Arising out of ITA No.712/Del/2019]  
Assessment Year: 2011-12

Sh. Vinay Sharma, B-373, Swarnajyanti Puram, Ghaziabad	<b>Vs.</b>	DCIT, Central Circle-18, New Delhi
<b>PAN: BDQPS4406L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
ITA Nos.716 & 717/Del/2019  
Assessment Years: 2011-12 & 2012-13

DCIT, Central Circle-18, New Delhi	<b>Vs.</b>	Sh. Dheer Chand Sharma, B-373, Swarnajyanti Puram, Ghaziabad
<b>PAN: BDLPS0502C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
C.O. Nos.64 & 65/Del/2019  
[Arising out of ITA Nos.716 & 717/Del/2019]  
Assessment Years: 2011-12 & 2012-13

Sh. Dheer Chand Sharma B-373, Swarnajyanti Puram, Ghaziabad	<b>Vs.</b>	DCIT, Central Circle-18, New Delhi
<b>PAN: BDLPS0502C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
ITA Nos.721 & 722/Del/2019  
Assessment Years: 2011-12 & 2012-13

DCIT, Central Circle-18, New Delhi	<b>Vs.</b>	Sh. Guru Prasad Sharma, B-373, Swarnajyanti Puram, Ghaziabad
<b>PAN: BDLPS0506G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
C.O. Nos.69 & 70/Del/2019  
[Arising out of ITA Nos.721 & 722/Del/2019]  
Assessment Years: 2011-12 & 2012-13

Sh. Guru Prasad Sharma, B-373, Swarnajyanti Puram, Ghaziabad	<b>Vs.</b>	DCIT, Central Circle-18, New Delhi
<b>PAN: BDLPS0506G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
ITA Nos.726 & 727/Del/2019  
Assessment Years: 2011-12 & 2012-13

DCIT, Central Circle-18, New Delhi	<b>Vs.</b>	Smt. Geeta Sharma, B-373, Swarnajyanti Puram, Ghaziabad
<b>PAN: BDNPS5808M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
C.O. Nos.74 & 75/Del/2019  
[Arising out of ITA Nos.726 & 727/Del/2019]  
Assessment Years: 2011-12 & 2012-13

Smt. Geeta Sharma, B-373, Swarnajyanti Puram, Ghaziabad	<b>Vs.</b>	DCIT, Central Circle-18, New Delhi
<b>PAN: BDNPS5808M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Deepanshu Mehta, Adv.
Department by	Sh. Pooja Swaroop, CIT(DR)

Date of hearing	26.06.2025
Date of pronouncement	30.06.2025

**ORDER****PER BENCH:**

The instant batch of fourteen cases involves the four assesseees herein, namely, Sh. Vinay Sharma, Sh. Dheer Chand Sharma, Sh. Guru Prasad Sharma and Smt. Geeta Sharma. The Revenues first and foremost appeal ITA No.712/Del/2019 with cross objection C.O. No.60/Del/2019 (for AY: 2011-12); and it's twin appeals each ITA No. 716 & 717/Del/2019; 721 & 722/Del/2019; 726 & 727/Del/2019 with cross objections C.O. Nos. 64 & 65/Del/2019, 69 & 70/Del/2019, 74 & 75/Del/2019 in assessment years 2011-12 and 2012-13; arise against the CIT(A)-29, New Delhi, taxpayer-wise orders, all dated 08.11.2018, in proceeding under section 153A read with section 144 of the Income Tax, 1961 (in short "the Act"); respectively.

Heard all these assessee's as well as department. Case files perused.

2. We are informed at the outset by both the parties that all these cases have emanated from the department's search action dated 23.08.2012 carried out in M/s. NKG Group of cases, including these four assesseees. And that all these fourteen cases

involving a common set of facts raising identical issue(s) therein.

We thus proceed to take up the Revenue's appeal ITA No.712/Del/2019 with Sh. Vinay Sharma's cross objection C.O. No.60/Del/2019 as the "lead" cases for the sake of convenience and brevity.

3. Learned CIT(DR) vehemently argues in this factual backdrop that the Assessing Officer's section 153A r.w.s. 144 assessment had rightly disallowed the assessee's various claims inter alia including bogus purchases of Rs.6,32,86,276/-, negating cash credits of Rs.6,31,87,950/-, added unexplained cash credits of Rs.14,21,22,719/- as well as protective addition of Rs.9,76,050/- with last head of section 37(1) business expenses disallowance of Rs.3,87,142/-; respectively as against the CIT(A)'s lower appellate discussion directing him to restrict the same @ 2.5% thereof since representing accommodation entries provided to M/s. NKG Infrastructure Limited in the form of sales; reading as under:

*"9. I have considered the facts and circumstances of the case, submission/rejoinder of the appellant and remand report/ order of the AO. I find that the appellant in his books of accounts has shown sale of building/earth material to M/s. NKG Industries Ltd., However, during the course of search operation on the premise of the appellant, no books of accounts, bills etc. were found. In fact, the premise was a residential premise from where no business activity was being carried out. In the case of M/s NKG Infrastructure Ltd., the AO himself treated the proprietorship concerns of the appellant as entry operators. It was mentioned that through RTGS/cheques the money was paid to the*

appellant and on the same day or next day the money was withdrawn in cash or through bearer cheques. Thereby, it was concluded that the appellant was working for M/s NKG Infrastructure Ltd. as entry provider. With the help of the appellant, M/s NKG Infrastructure Ltd. had inflated its purchases. The appellant was held to be an entry operator only. The modus operandi was that M/s NKG Infrastructure P. Ltd. had shown transactions of purchases with Sharma group of cases (including the appellant) but these transactions were not genuine. These transactions were used by M/s NKG Infrastructure P. Ltd. to inflate its purchases for which the bank accounts of all the Sharma group of cases (namely Guruprasad Sharma, Dheerchand Sharma, Vinay Sharma, and Geeta Sharma) were used. In these bank accounts money was transferred through cheques/RTGS but the same was withdrawn either by cash or through bearer cheques on the same day or next day. Thereby, it is clear that all the Sharma group of cases were used by M/s NKG Infrastructure P. Ltd. to get accommodation entries. This fact was also confirmed by Sh. Guruprasad Sharma and Sh. Dheechand Sharma under the statement recorded under section 132(4) of the IT Act. Further, the statement of Sharma's appear to be consistent with that of the statement given by the bank manager and handwriting expert. The statements given by the Sharmas mentioned the Person named 'Ramesh ji' who interacted with Sharmas on behalf of NKG and Statement of the Bank Manager of Mahamedha Urban Co-operative Bank revealed the name of "Basant Kumar" who operated the accounts of Sharmas. Handwriting expert's report also mentions of a similar handwriting found on the cheques. All these facts indicate that there was a single person or group of persons who signed the cheques for NKG,, deposited them in the bank of accounts of Sharmas and got the bearer cheques signed from Sharmas and later on withdrawn the money through bearer cheques or cash. In such cases under these facts, commission was being paid in lieu of the accommodation entries which varies person to person or transaction to transaction. However, after taking into account the relevant facts of the present case and in the interest of natural justice, I am of the view that in the facts of the present case, the rate of commission should be applicable at 2.5% on the total amount of the accommodation entries provided by the appellant to M/s NKG Infrastructure Ltd. in the form of sales. Therefore, the AO is directed to restrict the addition to 2.5% of the total accommodation entries provided by the appellant to the NKG group. Since, the credit entries are identifiable which were received from M/s NKG Infrastructure Ltd and the debit entries are also verifiable as the money received from M/s NKG Infrastructure Ltd. was immediately withdrawn and the same was finally reached back to M/s NKG Infrastructure Ltd., therefore, the additions made by the AO with regard to credit/debit entries of the bank statement of the appellant including the addition made under section 68 of the IT Act are not

*found to be sustainable. The other additions are also related to the transactions the appellant had with M/s NKG Infrastructure Ltd. and these are also related to the entries provided to the aforesaid person, therefore, the same are also directed to be deleted. To sum up, the AO is directed to restrict the addition @2.5% of the total accommodation entries provided to M/s NKG Infrastructure Ltd. in the form of sales. He is directed to calculate the same and make addition accordingly for all the assessment years.”*

It is in this factual backdrop that both the Revenue as well as the “lead” assessee Sh. Vinay Sharma herein have filed their above respective “lead” appeal and cross objections; as the case may be.

4. Learned counsel representing assessee has sought to buttress the point that once the Assessing Officer had treated him as an accommodation entry provider thereby adding all the foregoing entries as bogus, the CIT(A)’s action adding the above percentage of 2.5% representing the profit element therein, amounts to an enhancement under section 251(1)(a) of the Act which is not sustainable in law going by CIT Vs. Shapoorji Pallonji Mistry (1962) 44 ITR 891 (SC); CIT Vs. Sardari Lal & Co. (2001) 251 ITR 864 (Del.) and CIT Vs. Union Tyres (1999) 240 ITR 556 (Del.). He therefore vehemently presses the assessee’s cross objections that in case we do not agree to the foregoing legal argument, the impugned entries commission could not be allowed to exceed 0.15% to 0.5% margin only in such circumstances.

5. We have given our thoughtful consideration to the Revenue's and the assessee's foregoing vehement submissions reiterating their respective circumstances. We make it clear that learned counsel fairly admits during the course of hearing that all these assesseees are mere accommodation entry providers/name lenders having shown their respective bogus turnover(s) all along.

6. This being the clinching factual position, we hardly see any reason to express our agreement with the learned Assessing Officer's assessment findings treating all these bogus entries as liable to be added in entirety; be it credit side representing sales or debit side indicating purchases along with the other alleged business expenses. We wish to reiterate here at the cost of repetition that once this assessee as well as all the remaining taxpayers are found as bogus accommodation entries providers, all what will follow is that only the estimation profit element therein has to form subject matter of addition. We accordingly find merit in the learned CIT(A)'s action in principle directing the Assessing Officer to assess the assessee @ 2.5% on all these bogus accommodation entry transactions. The Revenue fails in its instant

sole substantive ground as well as the main “lead” appeal herein ITA No.712/Del/2019 in very terms.

7. Next comes the assessee Sh. Vinay Sharm’s cross objections C.O. No. 60/Del/2019 wherein his case is that the CIT(A)’s action directing assessment of profit element @ 2.5% amounts to an enhancement which is not sustainable in law since introducing altogether a new head of income. We find no merit in the assessee’s instant former argument as what all the learned CIT(A) has done is to treat all of the assessee’s foregoing transactions as bogus one being in the nature of accommodation entries which deserve to be assessed @ 2.5% only which, in our opinion, neither amounts to any enhancement nor a new head of income; as the case may be once the original disallowance/addition of the entire credit and debit side stands modified. This assessee’s instant former argument fails therefore.

8. Lastly comes equally important aspect of quantification of the impugned profit element in the assessee’s admitted accommodation entries. His case is that the same in any case could not be allowed to exceed 0.15% to 0.5% commission in light of various judicial precedents. We are of the considered view that



this is purely an estimation exercise not backed by any legal proposition so as to form a binding judicial precedent as per CIT Vs. B.R. Constructions (1995) 202 ITR 222 (FB)(AP). The Revenue also could not justify the impugned profit element adopted in the CIT(A)'s direction @ 2.5% once all what the assessee has done is to maintain some bogus transaction's books representing accommodation entries. We thus deem it a fit case to restrict the above profit element @ 2.5% to that @ 1% only with a rider that the same shall not be treated as a precedent. This assessee's cross objection C.O. No. 60/Del/2011 is partly accepted in very terms.

9. Both the CIT(DR) as well as these remaining assessee's are very fair during the course of hearing that all the remaining twelve cases involving the Revenue's six appeals and as the latter's many cross objections (supra) raise identical set of grounds. We thus adopt judicial consistency to dismiss these Revenue's six appeals ITA Nos. 716, 717, 721, 722, 726 & 727/Del/2019 are partly accepted the latter's as many cross objections in very terms.

No other ground or argument has been pressed before us.

10. To sum up, these Revenue's seven appeals ITA Nos. 712, 716, 717, 721, 722, 726 & 727/Del/2019 are dismissed and assessee's

as many cross objections C.O. Nos. 60, 64, 65, 69, 70, 74 & 75/Del/2019 are partly accepted; in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 30<sup>th</sup> June, 2025***

***Sd/-***  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 30<sup>th</sup> June, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi