

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / IT(SS)A No. 14 & ITA Nos. 513, 514, 515, 516 & 517/RPR/2024
(निर्धारण वर्ष Assessment Year: 2017-18, 2014-15, 2015-16, 2016-17, 2018-19 & 2019-20)

Sarthak Ispat Pvt. Ltd., Udaya Society, Vivekanand Ashram, Raipur, 492001, C.G.	v s	Assistant Commissioner of Income Tax, Central Circle-2, Raipur
PAN: AALCS5029H		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	None
राजस्व की ओर से /Revenue by	:	Shri S. L. Anuragi, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	13.01.2025
घोषणा की तारीख /Date of Pronouncement	:	16.01.2025

आदेश / ORDER

Per bench:

The captioned appeals are filed by the assessee against the separate orders passed by the Commissioner of Income Tax (Appeals), Raipur-3, [in short "Ld. CIT(A)"] u/s 250 of the Income Tax Act, 1961 (in short "the Act"), which in turn arises from the orders of the Assistant Commissioner of Income Tax, Central Circle-2, Raipur, (in short "Ld. AO"), u/s 153A. The details of impugned appellate order along with the orders of Ld. AO's are tabulated as under:

Sr. No.	IT(SS)A & ITA Nos.	Assessment Year	CIT(A) order u/s 250 IT Act, 1961 dated	AO's order u/s 153A dated
01.	ITA No. 513	2014-15	08.08.2024	30.09.2021
02.	ITA No. 514	2015-16	08.08.2024	30.09.2021
03.	ITA No. 515	2016-17	08.08.2024	30.09.2021
04.	IT(SS)A No. 14	2017-18	07.08.2024	30.09.2021
05.	ITA No. 516	2018-19	07.08.2024	30.09.2021
06.	ITA No. 517	2019-20	07.08.2024	30.09.2021

2. At the outset, it would be pertinent to mention herein that these group of appeals are being fixed for hearing on various occasions i.e., on 28.10.2024, 09.12.2024, 23.12.2024, 08.01.2025, 10.01.2025 and finally on 13.01.2025. During the aforesaid date of hearing, the assessee was represented by Shri Subhash Agrawal, Advocate on 28.10.2024, but the case was adjourned for certain reasons like to obtain a report from the Ld. AO and to production of assessment records etc. On next date of hearing dated 09.12.2024, Shri Mahesh Jain, employee of the company put up an appearance to adjourn the matter with written request, therefore, the case was adjourned to 23.12.2024. Again, on 23.12.2024 when the matter was fixed up for, no-one has put up an appearance on behalf of the assessee, however, certain connected issues are fixed for hearing on 13.01.2025, therefore, the matter are adjourned on 08.01.2025. When the matter was called for hearing on 08.01.2025, it is observed that no-one on behalf of the

assessee has available to represent the case, neither any application for adjournment has been filed before us, therefore, considering the past record, which reveals that the matters has been going on since 28.10.2024 and had been adjourned on three occasions, it was initially inclined to dispose of the appeal after hearing the Ld. CIT-DR i.e., the respondent / revenue and perusing the orders of the lower authorities. However, shri S. L. Anuragi, Ld. CIT-DR at the threshold has informed us that certain other connected matters of the assessee company/ appellant are fixed for hearing on 10.01.2025. We, thus, in the backdrop of the aforesaid facts had deemed it fit to take up the matters a/w. the remaining appeals on the same date i.e., on 10.01.2025. Further, before parting, it is directed that the matter on the next date of hearing would not be adjourned any further and in case of non-representation of either of the parties, the appeal would be proceeded with. Thereafter, the cases are adjourned to 10.01.2025. On next date of hearing i.e., on 10.01.2025, the assessee was represented by Ms. Divya Jindal, ACA, who instead of arguing the matter had requested for adjournment, which was granted with the following noting in the order sheet:

“The matter was fixed for hearing on the first occasion i.e., on 28.10.2024, wherein, the same was adjourned for 09.12.2024, on which date, the Ld. Authorized Representative (for short “AR”) for the assessee had requested for an adjournment. Thereafter, the matter was fixed for hearing on 23.12.2024 wherein, the Ld. CIT-DR had sought for some time to place on record a report of the A.O. and call for the assessment records, and accordingly, the mater was adjourned to 08.01.2025. On

08.01.2025, as neither the assessee/ authorized representative of the assessee has put up an appearance nor any application for adjournment was filed before us, therefore, considering the past record which revealed that the matter had been going on since 28.10.2024 and had been adjourned on three occasions, the same was adjourned to 10.01.2025 with a specific mention that no further adjournment would be allowed in case of non-representation of either of the parties. As on date i.e., on 10.01.2025, when the matter was called for hearing, Ms. Divya Jindal, ACA, Ld. AR for the assessee had placed on record an adjournment application dated 09.01.2025 (filed on the same date) submitted that the matter be adjourned for at least 1 or 2 months, inter alia, the matter has been going on since long and had been adjourned for one or the other reason, therefore, we are not inclined to accept the assessee's request for adjournment of the matter for a period of 1 or 2 months and, thus, fix the same for hearing on 13.01.2025. It is clarified that no further adjournment will be permitted and the matter in absence of representation of either of the parties would be proceeded with and disposed of. The case is adjourned to 13.01.2025."

3. On the next hearing dated 13.01.2025, again there was no representation on behalf of the assessee, neither any application of adjournment was placed on record, therefore, the matter was taken up for hearing and adjudication. After hearing the Ld. CIT-DR and on perusal of the material available on record the cases are taken up for adjudication.

4. On perusal of the case records, it is noticed that the appeal filed by the assessee is barred by limitation on account of delay in filing of appeal by 35 days has pointed out by the registry. In this regard, an application for

condonation of delay in furnished by the assessee, the same is culled out as
under:

BEFORE THE INCOME TAX APPELLATE TRIBUNAL

Raipur Bench

In the matter of:

Sarbhak Ispat (P) Ltd.

ITA (SS) A /RPR/2024

..... Appellant

vs.

ACIT, Central Circle -2, Raipur

.....Respondent

In the matter of:

An application for condonation of delay
in filing appeal before the Ld. Tribunal
against the order of the Ld. CIT(A),
Raipur-3, dated 08.08.2024 relevant to
AY: 2014-2015.

1. That an order was passed u/s 250 of the Act by the Ld. CIT(A), Raipur-3 for the A.Y.: 2014 – 2015 on 08.08.2024 in connection with an appeal filed against assessment order u/s 153A dated 30.09.2021.
2. That the last day filing the appeal was on or around 07.10.2024.
3. That the appeal was filed on 05.12.2024.
4. That there is a delay of around 60 days.
5. **The delay is explained hereunder –**
 - a) That an assessment u/s 153A was completed vide an order dated 30.09.2021 for the assessment years 2011-12 to 2019-20.
 - b) That thereafter, appeals in relation to all the above-mentioned years were filed before the Ld. CIT(A), Raipur 3 which were dismissed by him by passing exparte orders.
 - c) That though appellate orders in connection with all the above-mentioned years were passed by the Ld. CIT(A), the accountant who was deputed to find out the status of pending appeal matters, inadvertently downloaded only the orders in connection with A.Ys: 2011-2012, 2013-2014 and 2017-2018. Accordingly, he informed the office of Sri Subash Agarwal, Advocate to proceed with filing of
Sarbhak Ispat Pvt. Ltd.

appeals before the Hon'ble Tribunal against the above-mentioned three assessment years.

- d) That the said appeals were prepared by Shri Subash Agarwal, Advocate and were deposited before the Hon'ble Tribunal on 03.10.2024 and fixed for hearing on 09.12.2024.
- e) That at the time of preparation of the cases for representation before the Hon'ble Bench in respect of the above-mentioned appeals, Sri Subash Agarwal, Advocate noticed that the Ld. CIT(A) also disposed off appeals in connection with the remaining years other than A.Ys: 2011-2012, 2013-2014 and 2017-2018.
- f) That then said Advocate discussed the matter with the assessee's representative and advised them to file appeals immediately against those orders.
- g) Then after receipt of approval from the assessee, Sri Subash Agarwal prepared the appeals for the remaining years and finally the same were filed on 4.12.2024 with a delay of around 59 days.
- h) Thus, there is a reasonable cause for not filing appeal within time and it is humbly prayed that the delay of around 59 days may please be condoned and the case of your petitioner be heard on merit.

In the circumstances, your petitioner prays that the delay in filing appeal before this Ld. Tribunal may kindly be condoned and the appeal be heard on merits or such order/orders be passed as this Ld. Tribunal deems fit and proper.

I for this kind act out of kindness, your petitioner as in duty bound shall ever pray.


Director/Auth. Signatory

cc: Raipur
e: 06/12/24

Signature

5. Considering the facts and reasons for delay as explained in the aforesaid condonation petition by the assessee, which are confronted to the other side i.e., Ld. CIT-DR, on perusal of the same, we find substance in the request of the assessee, thus, being delay on account of justifiable reasons, we find it appropriate to condone the delay of 35 days involved in ITA No. 513/RPR/2024 for the AY 2014-15. The delay in the other appeals in ITA No. IT(SS)A No.14/RPR/2024 (0 days), ITA No. 514(35 days), ITA No. 515(35 days), ITA No. 516(35 days) & ITA No. 517/RPR/2024 (35 days) are also observed to be on account of similar reasons, therefore, the same are also allowed for adjudication with condonation of delay.

6. It is noticed that there are the common, interconnected and identical issues involved in the captioned appeals arising from the orders of Ld. AO passed on an even date, having common findings. The orders passed by Ld. AO u/s 153A are assailed by the assessee before the Ld. CIT(A), which are decided by the First Appellate Authority, offering analogous observations *qua* the issues having common facts and circumstances except the *quantum* involved therein. Having matching issues in the case of aforesaid single assessee for different assessment years, thus, for the sake of convenience and brevity, these appeals are heard together and considered for adjudication.

7. First, we shall be taking up **ITA No.513/RPR/2024 for AY 2014-15** as the lead case to decide the issues raised therein by the assessee, which contains all the issues to cover the grounds raised in the remaining appeals. Thus, our observations and decision in ITA No.513/RPR/2024 shall apply *mutatis mutandis* to the identical / common original as well as additional grounds raised by the assessee in the remaining appeals.

8. Grounds of appeal and additional grounds of appeal raised by the assessee in **ITA No. 513/RPR/2204 for AY 2014-15** are as under:

1. For that, on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in passing an ex-parte order.
2. For that, the assessment order dated 30.09.2021 passed u/s 153A is bad in law and is liable to be quashed.
3. For that, on the facts and in the circumstances of the case, the Ld. CIT(A) ought to have applied a reasonable G.P rate as against the G.P rate of 8% applied by the A.O. on undisclosed sales, thereby, wrongly confirming the addition of Rs.44,78,935/- over and above declared G.P. of Rs.74,64,891/- in the return filed u/s 153A.
4. For that, on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the disallowance of Rs.6,34,30/- made by the A.O. on account of alleged commission @ 1% of the alleged undisclosed sale.
5. For that the Ld. CIT(A) ought to have directed the A.O. to compute proper interest u/s 234A, 234B and 234C as per law.

6. The appellant craves leave to add further grounds of appeal or alter the grounds at the

Additional grounds of appeal in ITA No. 513/RPR/2024

BEFORE THE INCOME TAX APPELLATE TRIBUNAL

'DB' BENCH; Raipur

In the matter of:

Sarthak Ispat (P) Ltd.

..... Appellant

Vs.

ACIT, Central Circle – 2, Raipur

.....Respondent

In the matter of:

ITA No. 513/RPR/24 for A.Y: 2014-15

Application for admission of Additional Grounds of Appeal

1. This application of the petitioner/appellant most respectfully prays for admission of the following additional grounds of appeal which are purely legal in nature.
2. The additional grounds of appeal raised now are as follows –
 1. For that the A.O. was not justified in passing a consolidated / common order for A.Y.: 2011 – 2012 to 2019 – 2020 in violation of the mandate of sec. 153D of the Act, thereby, vitiating the entire proceedings and demand raised for the instant year.
 2. (a) For that the assessment framed and/or demand raised for the instant year is vitiated in law and is nullity for want of prior approval of the approving authority.
 - (b) Without prejudice to the above, the assessment framed and / or demand raised is vitiated in law and is nullity inasmuch as approval has been granted in a manner which is not in consonance with law.

3. That the additional grounds of appeal are purely legal in nature and as per various Supreme Court's decisions, the same can be raised at any stage of proceedings including before the Hon'ble ITAT.

4. In this regard reliance is placed on the decision of the Hon'ble Supreme Court in the case of *National Thermal Power Co. Ltd. 229 ITR 383*, where it is held that a question of law arising from the facts which are on record in the assessment proceedings can be raised for the first time even before the Tribunal.

5. That the issues raised are covered by the Ground Number 2 raised in the Memorandum of Appeal but specific grounds are being raised as Additional Grounds Appeal as a matter of abundant precaution.

The appellant prays before your Honours that the aforesaid additional ground of appeal may please be admitted.

And for this act of kindness, your petitioner as in duty bound shall always pray.

Date: 12/12/24

9. At the very beginning of the hearing, Ld. CIT-DR submitted that the issues in the aforesaid appeals of the assessee for AY 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 & 2019-20 are common and identical. A chart showing the nature of additions along with quantum in the respective

assessment years has been placed before us for the sake of reference and clarity, the same is culled out as under:

Sarathak Ispat Pvt. Ltd.

Addition on a/c of Share Capital/ Share Premium	Addition on a/c of 3% G.P. rate difference	Commission @ 1%	G.P addition @ 8% of total expenditure	Addition during scrutiny assessment u/s 144 r.w.s. 14-7
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Para wise Addition as under:-

A.Y	As per para No. 4.20	As per para No. 5.10	As per para No. 6.3	As per para No.7.3	As per para No. 9	Total Addition
2011-12	32,500,000	3,643,972	0	0	48,347,607	84,491,579
2012-13	34,500,000	846,449	0	0	0	35,346,449
2013-14	21,100,000	30,675,207	694,878	0	0	52,470,085
ITAS13/RPR/2024 2014-15	-	4,478,935	63,430	0	0	4,542,365
ITAS14/RPR/2024 2015-16	-	51,216	0	0	0	51,216
ITA 515/RPR/2024 2016-17	-	35,446	0	0	0	35,446
ITSS(A) 14/RPR/2024 2017-18	-	280,497	0	0	0	280,497
ITAS16/RPR/2024 2018-19	-	52,491	0	0	0	52,491
ITAS17/RPR/2024 2019-20	0	0	0	3,445,970	0	3,445,970

Submitted to the Hon'ble Bench during hearings on
13/01/2025.

[Signature]
13/01/2025
CIT (DR)

10. The brief facts of the case as reiterated, are that the assessee is a Pvt. Ltd. company engaged in the business of Iron and Steel. A Search & Seizure Action u/s 132 was conducted on the business and residential premises of Sarthak Group of cases along with the assessee in present case on 26.11.2019. Consequently, assessment proceedings u/s 153A are initiated by issuance of notice on 25.01.2021. In response, assessee furnished necessary replies, submissions to the queries raised by the Id. AO. After deliberations the assessment was culminated by the Ld. AO by assessing the income of the assessee with certain additions, extracted from the assessment order, as under:

Year wise Assessed Income:-

A.Y.	Section	Returned Income (Rs.)	Addition	As per para No.	Set of unabsorbed Loss	Assessed Income (Rs.)
2011-12	153A	0	83,820,441	4.2, 5.10, 9	0	83,820,441
2012-13	153A	0	35,346,449	4.2, 5.10	0	35,346,449
2013-14	153A	820560	52,470,085	4.2, 5.10, 6.3	24900879	28,389,766
2014-15	153A	6079700	4,542,365	5.10, 6.3	0	10,622,065
2015-16	153A	0	51,216	5.10.	0	51,216
2016-17	153A	3195013	35,446	5.10.	0	3,230,459
2017-18	153A	0	280,497	5.10.	0	280,497
2018-19	153A	0	52,491	5.10.	0	52,491
2019-20	153A	22418260	3,445,970	7.3	0	25,864,230

11. Aggrieved with the aforesaid additions, assessee preferred an appeal before the Ld. CIT(A) but was unsuccessful in absence of representation before the First Appellate Authority, wherein the appeal of assessee is dismissed after due deliberations at length on the findings by Ld. AO based on material available before Ld. CIT(A), considering the merits of the issues.

12. Dissatisfied with the decision of Ld. CIT(A), now the matter has been assailed by way of appeal before us.

13. We shall be taking up ground wise grievances raised by the assessee and our adjudication thereto, as under:

14 **Additional Ground No. 1: Challenging the validity of consolidated / common order for AY 2011-12 to 2019-20 in violation of mandate of section 153D of the Act.**

14.1 On this issue, as per the application for admission of additional ground, the contention raised by the assessee was that the consolidated approval granted under section 153D is not in the manner in consonance with the law. It is contended that the assessment framed / the demand raised for

instant year is vitiated in law and is nullity for want of prior approval of the approving authority.

14.2 On this issue, Ld. CIT-DR submitted that the additional ground raised by the assessee shall not be admitted, as the additional ground should only be for the issues raising the question of law where it is necessary to consider that question to correctly assess the tax liability of an assessee. Whereas in present case the issue raised does not constitute any question of law, which is necessary to assess the tax liability of the assessee. Ld. Sr. DR placed her reliance on the judgment in the case of **Checkmate Services (P.) Ltd. Vs ADIT, CPC reported in (2024) 164 taxmann.com 498 (Ahd. Trib.), dated 16.07.2024**, while dealing with such an objection by the department, the tribunal has held as under:

16. The Hon'ble Supreme Court held in that case the Tribunal has jurisdiction to examine a question of law which arises from facts as found by the authorities below. The Court further held that the question of law may be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. Thus, it is clear from this decision that any question of law may be allowed to be raised only in order to correctly assess the tax liability of the assessee. So far as the correct assessment of the tax liability in this case is concerned, the issue involved in this case is already settled by the decision of Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd. (supra) and the grounds taken by the assessee on the merits of the case stand dismissed. Therefore, we are inclined to agree with the submission of the Revenue that this is not a fit

case where the legal grounds as raised by the assessee are relevant to consider the question of correct assessment of tax liability of the case. The only objective of the assessee behind raising these legal grounds is to obviate the correct tax liability. Nevertheless, since the issue of limitation and natural justice, while processing the return, has been raised in the legal grounds, we deem it proper to consider these grounds on merits as well.

14.3 We have considered the rival submissions, perused the material available on record and the case law relied upon by the revenue. As in the case referred to by the Ld. CIT-DR, the issue raised under additional ground was also covered by certain legal grounds by the assessee, therefore, those are dealt with separately, whereas the issue in present case has been decided by the coordinate bench of ITAT, Raipur in a recent decision in the case of ***Panchsheel Solvent Pvt. Ltd., Rajnandgaon Vs. ACIT, Central-2, Raipur in ITA no. 2,3,4,5 & 6 /RPR/2024 dated 26.12.2024, wherein the findings of Tribunal are as under:***

7.4 *Regarding additional ground no. 1 & 2 in ITA No. 5/RPR/2024 for AY 2013-14, raised by the assessee challenging the validity of assessment order passed u/s 153A r.w.s. 143(3) and approval u/s 153D, stating that the order of assessment and approval are granted under a combined / consolidated order and combined / common approval is not in accordance with the mandate of law prescribed under the impugned sections of the Act. We do not find any substance in the contentions raised by the assessee, as the issue is covered by the observations of Hon'ble Jurisdictional High Court in the case of **Hitesh Golecha Vs. ACIT, Central Circle-1, Raipur, TAXC No.76/2024, dated 10.04.2024.***

- 7.5 *The Hon'ble High Court in its aforesaid order, after deliberating upon the similarly worded approval granted by the Jt. CIT, Range Central, Raipur, had observed, that as the A.O. in the case before them had obtained a prior approval of the Jt. CIT, therefore, the mandate of Section 153D of the Act was duly complied with. It was further observed by the Hon'ble High Court that in a given case, it cannot be presumed on the mere say of the assessee that no application of mind was there while granting the approval. The Hon'ble High Court had further observed that the language used in the letter granting the approval revealed the subjective satisfaction that was arrived at based on the documents that were produced before the Jt. CIT. It was further observed, that on a perusal of the language of the approval letter, it cannot be presumed that there was no application of mind as the approval need not be a detailed assessment order. The Hon'ble High Court after pressing into service Section 114 of the Evidence Act had observed that in case where the official act had been done in accordance with official procedure, then it would lead to presumption that due diligence was followed.*
- 7.6 *As the facts involved in the present case remains the same as were there before the Hon'ble High Court in the case of **Hitesh Golecha Vs. ACIT, Central Circle-1, Raipur (supra)**, wherein the Hon'ble High Court had looked into the similarly worded approval granted by the Jt. CIT, Range-Central, Raipur and had rejected the assessee's claim that the said approval was granted without application of mind by the latter, therefore, we respectfully follow the same.*
- 7.7 *Accordingly, as the Jt. CIT, Range-Central, Raipur vide letter dated 16.12.2016 marked as F.No.Jt.CIT(C)/RPR/153D/2016-17/361 (copy placed before us) had, inter alia, granted the approval in the case of the assessee for the year under consideration, i.e. A.Y. 2013-14, therefore, we, in terms of our aforesaid observations finding no merit in the contentions advanced by the Ld. AR, thus, reject the same. The validity of combined / consolidated assessment order, therefore, also acceptable following the analogy drawn in the case of **Hitesh Golecha (supra)**. Thus, the additional ground of appeal 1 & 2 raised by the assessee are dismissed in terms of our aforesaid observations.*

14.4 Respectfully following the decision in the aforesaid case, wherein a view has been formed by us, which is duly supported by the principle laid down by Hon'ble Jurisdictional HC, vide judgment in the case of **Hitesh Golecha vs. ACIT, Central Circle-1, Raipur, TAXC No.76/2024, dated 10.04.2024**, therefore, we are inclined to follow a view adopted by us, which in absence of any further clarification or any decision contrary to the aforesaid decision by any higher forum i.e., by the Hon'ble Apex Court, cannot be deviated. Under such circumstances, we do not find any substance in the **additional ground** raised by the assessee, thus, we **dismiss** the same.

15. Ground No. 1 & 2: That the order passed by Ld. CIT(A) dated 07.08.2024 on ex parte basis, and the assessment order dated 30.09.2021, passed by the Ld. AO u/s 153A was bad in law and liable to be quashed.

15.1 As there was no submission by the assessee before us on the aforesaid issues to substantiate, that how the order passed by the Ld. Appellate Authority and Ld. AO are not in accordance with the mandate of law, we, therefore, do not find any substance in such contentions raised by the assessee in **ground no. 1 & 2** of the present appeal, accordingly, the same therefore, are **dismissed** being bereft of merits.

16. Ground No. 3: Regarding confirmation of addition of Rs. 44,78,935/- made by the Ld. AO on account of unaccounted income of the assessee by estimating the Gross Profit of the assessee at 8% of the unaccounted sales.

16.1 On this issue while making the addition Ld. AO has observed that in view of submissions of the assessee, incriminating documents/ loose papers / data found from laptop, hard disk and other digital evidence found and seized from the various premises, statement recorded during the search and seizure proceedings and post search investigation, the GP rate @5% on unaccounted sale and purchase was offered by the assessee company, but not acceptable. Therefore, the rate of GP is taken at 8% on the total unaccounted sale of the assessee and the same is treated as unaccounted income of the assessee for respective assessment years, as under:

AY	Unaccounted Sales (A)	GP on Sale (B)	Total Unaccounted profit (A* B)	Declaration of the assessee	Addition
2011-12	72,841,269	8%	5,827,302	2,183,330	3,643,972
2012-13	16,920,113	8%	1,353,609	507,160	846,449
2013-14	799,298,672	8%	63,943,894	33,268,687	30,675,207
2014-15	149,297,831	8%	11,943,826	7,464,891	4,478,935
2015-16		8%	136,576	85,360	51,216

	1,707,205				
2016-17	443,080	8%	35,446	-	35,446
2017-18	3,506,208	8%	280,497	-	280,497
2018-19	656,132	8%	52,491	-	52,491
TOTAL	1,044,670,510		83,573,641	43,509,428	40,064,213

16.2 Aggrieved with the aforesaid additions, assessee preferred an appeal before the Ld. CIT(A), however, assessee remain absent before the Ld. CIT(A) on various occasions, when the matter was fixed for hearing. Ld. CIT(A) thereafter had deliberated on the issue in absence of any representation on behalf of the assessee based on material available on records. The observation

of the Ld. CIT(A) after deliberating upon the merits of the issues are that *“I find that Ld. AO is justified in assessing the total income of the appellant as discussed above, when repeated opportunity in this regard was provided clearly shows that the appellant is not interested in pursuing the appeal. In this circumstance, I have no option but to confirm the addition made by the Ld. AO and dismissed the grounds of appeal of appellant.”*

16.3 Aggrieved with the aforesaid decision with the Ld. CIT(A), assessee preferred an appeal before this tribunal, which is under consideration before us.

16.4 Ld. CIT-DR, on the issue of addition by the Ld. AO by estimating the profit on unaccounted sale @8%, had submitted that the assessee remains non-responsive before the First Appellate Authority, as also before the Tribunal during the proceedings in the present case. It seems that the assessee has no plausible explanation as to why the estimation of profit on unaccounted sale should not be 8% and the same shall be taken at 5% as declared by the assessee. In absence of any response by the assessee, Ld. CIT(A) had rightly decided the issue after thoroughly deliberating upon the merits of the issue. In view of such facts and circumstances, the order Ld. CIT(A) deserves to be sustained.

16.5 We have considered the submissions of the revenue and material available on record. On perusal of the orders of revenue authorities, it is observed that the assessee had objected to the addition by estimation of GP @8%, whereas the assessee had declared the GP at 5%. Ld. AO had not found the estimation of 5% to be justifiable, therefore, the same has been raised by another 3%. The issue has been challenged by the assessee before the Ld. CIT(A), however, there was no representation by the assessee on 06 occasions when the appeal was fixed for hearing. Under such circumstances, we do not find any extraneous exercise of powers by the Ld. CIT(A), whereas Ld. CIT(A) was compelled to decide the appeal based on facts on record available before him after deliberating thoroughly at length on the merits of the issue, to rest the prolonged litigations pending before him. As the conduct of assessee before us is also observed to be evasive and of a non-compliant, as the group matters of the assessee were fixed for hearing on various occasion, but the assessee remains non-responsive or has represented only for seeking of adjournments for one or another reasons, which are not found to be reasonable. We, thus, in terms of aforesaid observations are of the considered opinion that there was no infirmity in the order of Ld. CIT(A) in confirming the addition made by the Ld. AO in absence of any plausible explanation by the assessee to dislodge the same. We, thus, uphold the order of Ld. CIT(A), with no interference on our part. In result, **ground no. 3** of the assessee stands **dismissed**.

17. Ground No. 4: Regarding disallowance of Rs. 63,430/- by Ld. AO on account of commission @ 1% on undisclosed sale, confirmed by the Ld. CIT(A).

17.1 On this issue, the facts are culled out from the order of Ld. CIT(A), which reads as under:

6.Ground No. 2 :- During the search & seizure the data backup of Laptop it is found that M/s Sarbhak Ispat Pvt. Ltd has provided sales bills during the F.Y. 2012-13 and 2013-14 and after receiving funds through RTGS returned cash after deduction VAT to the various parties. Part of such sales bills have been confronted to Shri Vijay Garg and Shri Chaitanya Garg during the search proceedings wherein they have admitted that these bills had not been accounted for. The statement of Vijay Garg and Chaitanya Garg has already been part of original appraisal report. The details of sales bill are as under:-

Name of the party	Period	Qty.	RTGS Received	Cash paid
Reghuveer	01.09.2012to 19.09.2012	194.820	58,61,039	59,49,880
Rooplaxmi	01.10.2012to 04.10.2012	197.615	59,50,973	56,97,084
Rooplaxmi	05.10.2012to 08.10.2012	236.090	71,26,327	68,22,400
Rooplaxmi	08.10.2012to 10.10.2012	118.570	35,81,093	34,28,413
Raghuveer	29.11.2012	103.110	31,06,895	29,39,447
Hi-Tech	05.10.2012to 19.10.2012	131.320	44,96,543	36,20,000
Mahamaya Rolling Mills	05.10.2012to 07.10.2012	100.63	34,43,086	33,70,490

Prakash Industries Ltd.	01.04.2013 to 02.04.2013	32.130	8,87,008	8,44,770
Prakash Industries Ltd.	18.04.2013 to 25.04.2013	172.600	46,60,152	44,41,578
Prakash Industries Ltd.	26.04.2013 to 31.07.2013	31.010	7,95,843	6,88,338
Hi-Tech Abrasive Ltd	29.11.2012 to 01.12.2012	48.920	14,54,414	13,71,700
Prayash Steel	22.11.2012 to 27.11.201	48.42	8,00,000	13,27,475
Rooplaxmi	01.11.2012 to 14.12.2012	246.965	74,86,985	31,36,712
Rooplaxmi	01.01.2013 to 07.01.2013	199.720	62,44,081	59,46,744
Hanumant Ingot Pvt.Ltd.	01.12.2012 to 13.12.2012	101.210	30,44,841	28,99,850
Rooplaxmi	01.03.2013 to 25.03.2013	311.050	88,37,428	84,58,680
Vinayak Impex	06.02.2013 to 07.02.2013	27.235	8,03,282	7,60,264
Drolia Electrosteel Pvt.Ltd.	11.03.2013 to 22.03.2013	200.640	53,25,999	50,72,379
Balbeer Rolling Mills Ltd	19.03.2013	46.520	18,02,055	18,06,700
Lakshmi Chand Ispat	09.05.2013	3.245	1,22,727	1,22,727

Total				6,87,05,631
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During the assessment proceeding the assessee company was asked to explain as to why in absence to justified explanation with documentary evidence, and show cause why in absence of proper explanation and reconciliation with books of accounts, the above cash transaction should not be treated as your unaccounted cash transaction and added back to the total income for respective year.

In reply the assessee submitted that all the above transaction are not related to the regular books of accounts. All the above transactions are duly part of the accounted sales as per the audited books of accounts and the respective taxation on the same had been duly paid with, sir, addition of the same of the same again will lead to double taxation and will not prevail justice for the assessee.

The contention of the assessee has been considered however it is not acceptable. As per incriminating document it reveals that assessee has involved in providing bogus sale bills in lieu of commission. Further assessee has returned the same amount in cash to above mentioned parties. Therefore, in view of the incriminating documents and discussion above 1% of total transaction against the bogus sales of **Rs. 83,43,003/- and commission income is addition of Rs. 63,430/-** is made to the total income of the assessee for A.Y. 2014-15.

17.2 Aggrieved with the aforesaid addition, assessee preferred an appeal before the Ld. CIT(A), however, assessee remained absent before the Ld. CIT(A) on various occasions, when the matter was fixed for hearing. Ld. CIT(A).

Thereafter, Ld. CIT(A) had deliberated on the issue in absence of any representation on behalf of the assessee based on material available on records. The observation of the Ld. CIT(A) after deliberating upon the merits on the issue are that *“I find that Ld. AO is justified in assessing the total income of the appellant as discussed above, when repeated opportunity in this regard was provided clearly shows that the appellant is not interested in pursuing the appeal. In this circumstance, I have no option but to confirm the addition made by the Ld. AO and dismissed the grounds of appeal of appellant.”*

17.3 Aggrieved with the aforesaid decision with the Ld. CIT(A), assessee preferred an appeal before this tribunal, which is under consideration before us.

17.4 Ld. CIT-DR, on the issue of addition by the Ld. AO on account of commissioner @1% on bogus sales transacted by the assessee during the year under consideration, had submitted that the assessee remains non-responsive before the First Appellate Authority as also before the Tribunal, it seems that the assessee has no plausible explanation on the issue. Therefore, in absence of any response by the assessee, Ld. CIT(A) had rightly decided the issue after thoroughly deliberating upon the merits of the issue, in view of such facts and circumstances, the order Ld. CIT(A) deserves to be sustained.

17.5 We have considered the submissions of the revenue and material available on record. On perusal of the orders of revenue authorities, it is observed that the assessee had objected to the addition on account of commission @1% on the bogus sale of Rs.63,43,003/-, which works out at Rs.63,430/-. All such transactions are held to be bogus sale transactions on the basis of incriminating material impounded during the search & seizure action conducted on the premises of the assessee and a commission of 1% is added to the income of the assessee. Though the assessee during the assessment proceedings submitted before the Ld. AO that all the transactions of RTGS are part of regular books of accounts of the assessee accounted for a sale and as per audited books of accounts, the tax on such transactions are being offered, therefore, it would not be justifiable to assessee the same income again. On this issue, Ld. AO had made exhaustive exercise to find out cash payments by the assessee against the RTGS received from various parties, he consider the contentions of the assessee but are not found acceptable for the reason that the assessee is involved in providing of Bogus Sales bills in lieu of commission, therefore, in light of incriminating documents commission @ 1 % was added to the income of the assessee. The issue has been challenged by the assessee before the Ld. CIT(A) however, there was no representation by the assessee on 06 occasions, when the appeal was fixed for hearing. Under such circumstances, Ld. CIT(A) was compelled to decide the appeal based on facts

on record available before him after deliberating thoroughly at length on the merits of the issue. As the assessee's conduct before us is also observed to be evasive and of a non-compliant as the group matters of the assessee were fixed for hearing on various dates but the assessee remains non-responsive or has represented only for seeking of adjournments. We, thus, in terms of aforesaid observations are of the considered opinion that there was no infirmity in the order of Ld. CIT(A) in confirming the addition made by the Ld. AO in absence of any plausible explanation by the assessee to dislodge the same. Further, we observe that the assessee's involvement in providing of Bogus Sales bills in lieu of commission was never disputed by the assessee, therefore, receipt of commission by the assessee on such bogus transactions cannot be doubted, therefore, the finding of Ld. AO that the assessee has received a commission from such transactions found to be of material substance. We, thus, in terms of such observations do not find any perversity in the decision of Ld. CIT(A), so we uphold the same. In result, **Ground no. 4** of the assessee, therefore, stands **dismissed**.

18. Ground No. 5: This ground regarding computation of interest u/s 234A, 234B and 234C is consequential in nature, the same therefore, needs no separate adjudication, the Ld. AO is directed to compute the taxes and interest thereon as per the applicable provisions of Income Tax Act, 1961.

19. Ground no. 6: This ground is general and academic in nature, which in absence of any further advancement of contentions, has been rendered as infructuous, thus, dismissed.

20. In result, **ITA No. 513/RPR/2024** for the AY 2014-15 by the assessee stands **dismissed** in terms of our aforesaid observations.

ITA No. 514, 515, 516, 517 & IT(SS)A No. 14/RPR/2024:

21. All the aforesaid appeal are instituted with common grounds, challenging the justification of order by Ld. CIT(A), legality of order u/s 153A passed by the Ld. AO, calculation of interest u/s 234A, 234B, 234C along with the issue on merits regarding enhancement of estimation of income i.e., GP @ 8% as per Ld. AO, instead of GP @ 5% declared by the assessee, which are identical to the grounds of appeal decided by us in ITA No. **513/RPR/2024** for AY 2014-15, therefore, our decision therein shall apply *mutatis mutandis* to the grounds of appeal raised in these appeals, accordingly, all the appeals of assessee in **ITA No. 514, 515, 516 & 517/RPR/2024** and **IT(SS)A No. 14/RPR/2024** are **dismissed** in terms of our observations in **ITA No. 513/RPR/2024**.

22. In combined result, **IT(SS)A No. 14 & ITA No. 513, 514, 515, 516 & 517 RPR 2024** filed by the assessee are rendered as **dismissed**, in terms of our aforesaid observation.

Order pronounced in the open court on 16/01/2025.

Sd/-

(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

रायपुर/Raipur; दिनांक Dated 16/01/2025

Vaibhav Shrivastav

Sd/-

(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Sarthak Ispat Pvt. Ltd.
2. प्रत्यर्थी / The Respondent- ACIT, Central Circle-2, Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur