

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.1116/KOL/2024
(Assessment Year:2021-22)**

**Asst. Commissioner of Income
Tax, Circle-7(1), Kolkata
Aaykar Bhavan, P-7,
Chowringhee Square,
Kolkata-700069, West Bengal**

(Appellant)

PAN No. AAACU8901B

Vs.

**Urgaya Foods and Fees
Private Limited
12A, Dabgram Industrial
Centre, Fulbari, Near Krishna
Weight Bridge,
Jalpaiguri-743015
West Bengal**

(Respondent)

**Assessee by : Shri Amit Agarwal, AR
Revenue by : Shri Sailen Samadder, DR**

**Date of hearing: 07.01.2025
Date of pronouncement : 15.01.2025**

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 26.12.2023 for the AY 2021-22.

02. At the outset, we note that there is a delay of 81 days in filing the appeal. After hearing both the parties and after perusing the reasons as stated in the condonation petition duly supported with affidavit, the bench considered the delay to be attributable to the reasons which were cogent, bonafide and genuine. Accordingly, the delay for 81 days is condoned and appeal is taken for adjudication.



03. The only issue raised in the various ground of appeal is against the deletion of addition of ₹2,45,59,316/- by the Id. CIT (A) as made by the Id. AO u/s 68 of the Act in respect of bogus purchases.
04. The facts in brief are that the assessee has filed the return of income, declaring total income at ₹15,43,88,000/-, which was processed u/s 143(1) of the Act. The case of the assessee was selected for complete scrutiny and accordingly, statutory notices were duly issued and served upon the assessee along with questionnaire which were duly complied with from time to time during the assessment proceedings. Pertinent to note that the case of the assessee was selected for scrutiny on low turnover and high purchases. The Id. AO called upon the assessee to furnish the details of purchases along with necessary details as to names, addresses, bills, materials supplied and amount thereof along with stock register and books of accounts etc. According to the Id. AO, the assessee partly furnished the details of the purchases by not furnishing the E-way bills, details of stock register, the confirmation from the above Parties/suppliers, toll naka receipts to evidence the purchases and actual movement of goods, Production of parties and ledgers accounts of concerned parties in the books that the transactions were otherwise true, GST reconciliation of the parties/suppliers to prove the transactions, Transportation details. According to the Id. AO, the addresses given by the assessee of the suppliers were fake and they were not available on the said premises. Finally, after applying the decision of the Hon'ble Apex Court in the case of CIT VS. Durga Prasad More (1970) 821 ITR 540 (SC), the Id. AO concluded that apparent state of affairs is real unless the contrary is proved that there are reasons to belief that apparent is not real. The Id AR finally held that the purchases were not genuine as assessee had failed to corroborate the same with documentary evidences and



made an addition of ₹2,45,59,316/- thereby adding the entire purchases.

05. In the appellate proceedings, the Id. CIT (A) after taking into account the submissions and the contentions of the assessee allowed the appeal of the assessee by holding that the Id. AO has not considered the documents and information furnished by the assessee regarding identity, genuineness and creditworthiness of the creditors, whereas the assessee had duly discharged its onus cast upon him u/s 68 of the Act. The Id. CIT (A) after considering the submissions of the assessee which is reproduced from page no.4 to 23, observed that the assessee furnished all the information and evidences before the Id. AO and the Id. AO has not carried out any enquiry and finally directed the Id. AO to delete the addition.
06. After hearing the rival contentions and perusing the materials available on record, we find that in instant case, the Id. AO made the addition on account of bogus purchases to the tune of ₹2,45,59,316/- on the ground that the assessee failed to prove the creditworthiness and genuineness of the transactions / purchases as assessee has not produced E-way bills, copies of invoices, stock register proofs of payment etc. The Id. CIT (A) on the other hand recorded a clear cut finding of the fact that the assessee has produced before the Id. AO all the evidences and records to prove the identity and creditworthiness of the suppliers and genuineness of the transactions and therefore, discharged its onus cast upon it by the Act and the Id. AO has failed to carry out any meaningful enquiry into the evidences filed by the assessee. The Id. AR during the course of hearing submitted before us in respect of first supplier Shri Rajesh Kumar Proprietor of RK Traders, the assessee has furnished all evidences along with



confirmation of accounts from the supplier thereby furnishing the payment details, evidence of purchases such as purchase bills along with transport details, weighing slips, E-way bills, etc., Adhar of the supplier, extra of B2B entries in GSTR-2A of the assessee reflecting the transactions with the said supplier. We note that said supplier even responded to the notice issued u/s 133(6) of the Act and thus furnished all the evidences. The details are available in the paper book from page no.41 to 125. Similarly, in the case of Srawan Kumar Agarwal (Prop. Of Shyam Grain Agencies) ,all the evidences were filed before the AO which are available in the paper book from page no.135 to 248 of the Paper Book. Thus, it is evident from the above that AO instead of carrying out any meaningful enquiry into these transactions has merely concluded that the assessee has not filed any evidences before the Id. AO whereas as a matter of fact all materials/evidences were available before the Id.AO. The Id CIT(A) has minutely dealt with the all these evidences in the appellate order. Therefore, we do not find any infirmity in the order of the Id. CIT (A) . Accordingly, we upheld the order of the Id. CIT (A) by dismissing the appeal of the Revenue.

07. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 15.01.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 15.01.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

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