

**IN INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI. KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1595/Bang/2024
Assessment Year : 2018-19

Mrs. Hanumanthaiah Nagarathna, No.288 11 8 th Main Road, Vijayanagar, Bangalore– 560 040. PAN :AUTPN 7907 L	Vs.	ITO, Ward – 3(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Madhukeshwar Hegde, CA
Revenue by	:	Ms. Neha Sahay, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	07.04.2025
Date of Pronouncement	:	22.04.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member :

This appeal is filed by the assessee against the Order of National Faceless Appeal Centre (NFAC) vide DIN and Notice No.ITBA/NFAC/S/250/2024-25/1066076044(1).

2. Briefly stated, the facts of the case are that the assessee filed return of income on 17.07.2018 declaring income of Rs.6,49,040/-. The case was selected for scrutiny for “Specific Information” has been received from other agency regarding “tax evasion”. Accordingly, notice under section 143(2) of the Act was issued on 30.09.2019 and subsequently, other statutory notices were issued to the assessee. From the reason for selection of scrutiny, it was

observed that the assessee is involved in claiming fictitious purchase resulting therein low income tax liability. As per the information received, the assessee had purchased goods worth Rs.61,31,632/- from five parties KK Enterprises, Anjali Enterprises, MM Traders, Sawan Impex and Shri Krishna Marketing and VA/GST was worked out on the above purchase at Rs.9,07,650/-. Accordingly, the gross purchase was shown at Rs.70,39,282/-. As per the reply of the assessee dated 23.10.2019, assessee has admitted that she has already paid amount of ITC of Rs.14,05,083/- on account of bogus ITC claim. It clearly shows that assessee is engaged in showing bogus purchase for claiming income tax credit. Therefore, the possibility of not showing of sales could not be ruled out. Accordingly, the entire bogus purchase of Rs.70,39,282/- was added back to the total income of the assessee. Further, there was total gross receipts of Rs.1,03,65,530/- for the Financial Year. From the sales register, it was seen that the total sales of the assessee for the year is Rs.1,17,70,619/- and not Rs.1,03,65,530/- as shown in the ITR. In this regard, a notice was issued to the assessee under section 143(2) of the Act to reconcile the differences. Assessee submitted reply on 08.02.2021 and submitted that total receipts amounting to Rs.1,17,70,620/- was received from sale of goods amounting to Rs.1,03,65,330/- and total duty tax and VAT/GST amounting to Rs.14,05,083/-. The AO further noted that the VAT and GST collected from the customer traders/business entities as they have already paid the VAT/GST at the time of purchase of goods/articles. Accordingly, as per discussion of para 3.1 of the Assessment Order, the AO added the entire amount of Rs.14,05,083/- as income of the assessee and resultantly the total income was determined at Rs.90,93,405/-.

3. Against the Assessment Order, assessee filed appeal before the CIT(A). The CIT(A) upheld the Assessment Order.

4. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel reiterated submissions made before the lower authorities and submitted that the assessee has made purchases and AO has not given proper opportunity to the assessee for reconciling the differences. In the case of the receipts which are not recorded in the books / sales has not been disclosed by the assessee Only the net profit can be added but not the entire receipts/sales. There is no dispute regarding purchase made by the assessee and requested and undertook that if a chance is given to the assessee, assessee would explain the entire case.

5. Learned DR relied on the Order of the lower authorities and submitted that assessee is involved in bogus purchase and claimed bogus ITC. The assessee has accepted and paid Rs.14,05,083/- ITC to the VAT/GST which clearly shows that the entire sales amount should have been added because it is receipt of the assessee which is not disclosed anywhere in the income tax return filed by the assessee. The assessee is unable to demonstrate that those sales/ receipts which are not recorded in the books have been utilised for the purchase of goods for such sales. Even during the course of assessment proceedings, assessee has not accepted any unaccounted turnover.

6. Considering the rival submissions, we noted that assessee is involved in bogus purchases and claimed bogus ITC which has been accepted by the assessee. The AO has added the entire sales/receipts as income of the assessee which are not recorded in the books of the assessee and involved in bogus claim of GST. Considering the prayer of the assessee and in the interest of justice, we are remitting this issue to the file of AO for a fresh consideration. Considering the Paper Books filed by the assessee containing 130 pages, AO is directed to give reasonable opportunity of being heard to the assessee and assessee is directed to substantiate the case and in case of failure, no second leniency shall be granted to the assessee.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Pronounced in the court on the date mentioned on the caption page.

Sd/-

(KESHAV DUBEY)
Judicial Member

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore,
Dated : 22.04.2025.
/NS/*

Copy to:

1. Appellant 2. Respondent 3. Pr.CIT 4.CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.