

**IN THE INCOME TAX APPELLATE TRIBUNAL “CUTTACK BENCH”,  
CUTTACK**

**(VIRTUAL HEARING AT KOLKATA)**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 463/CTK/2024  
(Assessment Year 2019-20)**

**Dargahi Prasad Shaw,**  
Vedvyas, Odisha - 769041 ..... **Appellant**  
[PAN: ADGPS1691C]

**vs.**

**CIT,**  
**Bhubaneshwar, Odisha - 751002** ..... **Respondent**

**Appearances by:**

Assessee represented by : Manoj Kumar Sultania, AR

Department represented by : Sanjay Kumar, CIT, DR

Date of concluding the hearing : 24.04.2025

Date of pronouncing the order : 02.05.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER**

1. The present appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereinafter “the Act”), passed by the Ld. Commissioner of Income Tax (Appeals), Bhubaneshwar-2 [hereafter “the Ld. CIT(A)”] vide order dated 05.11.2024, for AY 2019-20.

1.1 In this case, search and seizure operation was carried out in the business premises of one M/s Sunayana Metal Industries Ltd. (SMIL), on 03.12.2020. The Ld. AO made an addition of Rs. 5,54,247/- u/s 69C of the Act on account of alleged undisclosed purchases made from M/s SMIL.

1.2 Aggrieved with this action, the assessee approached the Ld. CIT(A) where also he could not succeed since the Ld. CIT(A), relied on the

documents extracted on page 3 of the impugned order to infer that the impugned transaction was indeed recorded in the books of M/s SMIL and not in the books of the assessee. Thereafter, the Ld. CIT(A) has refused to treat the impugned documents as a “dumb document” and has confirmed the action of Ld. AO.

2. Aggrieved with the action of Ld. CIT(A), the assessee has approached the ITAT with the following grounds:

*“1. Addition of Rs. 5,54,247/- as unexplained expenditure u/s 69C of the Income Tax Act, 1961 is unjustified and against the principles of natural justice.*

*2. That the appellant seeks leave of urging other grounds, if any, at the time of hearing.”*

2.1 Before us the Ld. AR pointed out that the so-called incriminating document could be clearly seen at page 57 of the paper book, where the names of one Vinod Babu under the head “Name of the Party” and under the head “Account” name of one Bharose Babu is written. It has been averred that neither of these two persons have any connection with the assessee and hence this document has no significant whatsoever for the assessee.

2.2 The Ld. DR relied on the orders of authorities below.

3. We have heard the rival submissions and gone through the documents before us. We find that both the authorities below have depended on the assessee to disprove the alleged transactions recorded in the sheet of incriminating paper. It is seen that no attempt has been made to verify whether the Truck Nos. etc mentioned in the said document factually indicate real transactions or not. Thus, a situation has arisen where the department has been found to be utilizing a document recovered from a third party, which is being used against the assessee and the onus has been cast on him to disprove the transactions in the impugned document. Both the authorities below have mechanically relied on the extant provision of the Act and held the assessee to be responsible for the said transaction without verifying whether this transaction took place at

all or not, especially when the assessee is denying of having anything to do with two names mentioned in the said document. In such a situation the benefit of doubt clearly deserves to be given to the assessee. Hence the impugned addition made cannot be sustained and is directed to be deleted.

4. In result, appeal of the assessee is allowed.

Order pronounced on 02.05.2025

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice President**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 02.05.2025  
AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Dargahi Prasad Shaw
2. CIT, Bhubaneshwar, Odisha
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches