

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.403/Ind/2023 (AY:2009-10)
ITA No.404/Ind/2023 (AY:2010-11)

Kishan Ram Vishnoi 22, Indus Muskan, Phase-III, Ayodhya Nagar, Bhopal	<u>बनाम/</u> Vs.	ITO -3(1) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN:AFFPB2178E		
Assessee by	Shri Ashish Goyal and Shri N.D. Patwa, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	09.06.2025	
Date of Pronouncement	10.06.2025	

आदेश / O R D E R

Per B.M. Biyani, AM:

The captioned two appeals are filed by assessee against two separate orders of first-appeal, both dated 24.08.2023 and both passed by learned Commissioner of Income-tax (Appeals), Delhi ["CIT(A)"], which in turn arise out of respective assessment-orders dated 31.03.2014 passed by ITO-3(1), Bhopal ["AO"] u/s 147 r.w.s. 143(3) of the Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2009-10 and 2010-11.

2. Since these appeals relate to the same assessee, are represented by same counsels and the controversy for adjudication is also identical; they

were heard together at the request of parties and are being disposed of by this consolidated order for the sake of convenience, brevity and clarity.

3. The grounds raised in these appeals are identical except change of figures, hence the grounds of first appeal being **ITA No. 403/Ind/2023** are only re-produced below for reference:

"01. That on the facts and circumstances of the case, Hon'ble CIT-Appeals has erred on facts and in law in sustaining the Addition of Rs. 4,06,884/- out of the Total Additions of Rs. 50,86,050/- proposed by the Id. A.O. on account of Non Genuine and Bogus Purchase Bills. Therefore, above Additions of Rs. 4,06,884/- deserves to be deleted.

02. The Hon'ble CIT-Appeals has erred on facts and in law in holding that delivery challans of Goods together with Transportation Receipts asked by the Id. A.O. were not produced by the Appellant during the course of the Assessment and as such genuineness of Purchases made by him (The Appellant) could not be established.

03. That the Id. A.O. and CIT-Appeals have overlooked to provide copies of Information /Report sent by Maharashtra Sales Tax Department as to Bogus entities providing accommodation entries on the basis of which Id. A.O. had made the Additions of Rs. 50,86,050/- in the hands of the Appellant, nor did they afford any opportunity to the Appellant to Cross Examine the impugned suppliers whose premises were Searched and Statements Recorded which became foundation for making aforesaid Additions. Therefore, the Assessment Order of Id. A.O. dated 31.03.2014 and Appellate Order of CIT-Appeals dated 24.08.2023 are unlawful and liable to be quashed.

04(a). That the Hon'ble CIT-Appeals has erred on facts and under the law in baseless by holding that the Appellant procured only Purchase Bills from Bogus Suppliers and executed Sales by way of Purchasing Material from local market and thereby earned a Gross Profit of 8% on such purchases amounting to Rs. 4,06,884/-. Therefore, this Addition may please be deleted.

04(b). That the Hon'ble CIT-Appeals has himself calculated Gross Profit of the Appellant@ 8% on so called local purchases from grey market but overlooked to allow rebate of Gross Profit of Rs. 7,39,684/- shown by the Appellant in his Audited Trading Account and Indirect Expenses of

Rs. 5,69,820/ appearing in the Audited Profit & Loss A/c. Hon'ble CIT- Appeals could not appreciate the fact that after allowance of above rebates Appellant's Income will become negative. To this extent, impugned Appellate Order is erroneous and unlawful and deserves to be quashed.

05. That the appellant craves leave to raise additional grounds and/or make amendment in the existing grounds on or before the date of hearing."

4. The precise facts in both appeals are identical except change of figures. The AO initiated re-assessment proceeding u/s 147 based on an information received from internal wings of Income-tax Department revealing that the purchases shown by assessee from certain suppliers, namely (i) M/s Roopam Impex, Mumbai (ii) M/s Satyanarayan Steel & Engineering, Mumbai (iii) M/s Bajarangi Steel & Metal P Ltd, Mumbai (iv) M/s Sun Star Steel, Mumbai (v) M/s Reality Sales India P Ltd., Mumbai and (vi) M/s Stainless Impex P Ltd., Mumbai, aggregating to Rs. 50,86,050/- and Rs. 73,15,444/- during the previous year 2008-09 & 2009-10 relevant to AYS 2009-10 & 2010-11 respectively, were bogus. During proceeding, the assessee filed certain documents to AO to demonstrate the genuineness of purchase-transactions but the AO was not satisfied who rejected assessee's submission and ultimately made additions of Rs. 50,86,050/- and Rs. 73,15,444/- respectively in those two years by making 100% disallowances of purchases. During first-appeals, the CIT(A), relying upon certain judicial rulings, restricted disallowances to gross-profit element @ G.P. rate of 8% of bogus purchases and thereby reduced disallowances to Rs. 4,06,884/- [8% of Rs. 50,86,050/-] and Rs. 6,17,235/- [8% of Rs. 73,15,444/-] respectively

in AYS 2009-10 & 2010-11 and deleted excessive additions made by AO. Thus, the CIT(A) granted a substantial relief to assessee. Still the assessee is not satisfied with the relief granted by CIT(A) and has come in these appeals before us. The revenue is, however, not in appeal.

5. We have heard the learned Representatives of both sides and carefully perused the orders of lower authorities. After a detailed deliberation which took place in open court, Ld. AR for assessee finally confined his prayer in terms of Ground No. 4(b) raised by assessee as re-produced above. Ld. AR submitted that the assessee has included the impugned purchases made from different supplies as well as the corresponding sales made by utilising those purchases in Trading A/c and thus already offered resultant gross profit in books of accounts/income-tax return. Referring to the reporting made by auditors in Clause No. 32 of Form No. 3CD (Audit Report) filed in respective Paper-Books of two years at Pages 11 & 10, Ld. AR narrated that the assessee has declared G.P. Rate of 4.8522% and 7.6318% in books of accounts of AY 2009-10 and 2010-11 respectively. Therefore, when the CIT(A) has applied G.P. Rate of 8%, the CIT(A) ought to have granted a credit/relief of 4.8522% and 7.6318% already declared by assessee and sustained only differential addition. Since the CIT(A) has not done so, there is a mistake of double taxation to that extent. Ld. AR submitted that the assessee would be adequately satisfied if a direction is given by bench to the AO to give credit/relief of gross-profit already declared by assessee in Trading A/c as reported by auditors. Ld. DR for revenue does not have any

objection to this limited prayer of Ld. AR. Faced with this situation, we agree to the request made by Ld. AR and accordingly direct the AO to modify respective assessment-orders by giving credit to the extent of gross-profit already declared by assessee. Necessary computation shall be made by AO. The assessee shall get relief accordingly.

6. Resultantly, these appeals are partly allowed in terms mentioned above.

Order pronounced in open court on 10/06/2025

Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/ Dated : 10/06/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore