

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 4038/Del/2024
निर्धारणवर्ष/Assessment Year: 2012-13**

ATUL ENGINEERING COMPANY INC 17/42, Road No.42, West Punjabi Bagh, New Delhi.	<u>बनाम</u> Vs.	ACIT, Circle-50(1), 15 th Floor, E-2 Block, Pratyaksh Kar Bhawan, Civic Centre, J.L. Nehru Marg New Delhi.
PAN No.AAEFA4282G		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Baldev Raj Singh, Adv. & Shri Maneesh Upneja, Adv.
Revenue by	Shri Ajay Kumar Arora, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	29.05.2025
उद्घोषणाकीतारीख/Pronouncement on	25.06.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the Ld. CIT(Appeals)-NFAC, Delhi dated 06.07.2024 for the AY 2012-13. The assessee in its appeal raised the following grounds: -

1. "That on the facts and in law, the order dt. 16.12.2019 as passed by the ACIT, Circle-50(1), New Delhi [hereinafter referred as "The Ld. AO" or "The Ld. Assessing Officer"]

u/s 147 r.w.s. 143(3) of the Income Tax Act, 1961 and as upheld by the CIT(A), NFAC, Income Tax Department vide order dt. 06.07.2024 is bad in law and void ab initio.

- 2. That on the facts and in law, the Ld. CIT(A) erred in confirmed the Ld. AO action to exercising jurisdiction u/s 147/148 of the Act.*
- 3. That on the facts and in law, the Ld. CIT(A) erred in his observation and finding while disposed of objections raised by the Appellant on reassessment proceeding in ground no. 2 and 3 a) “this is not the proper forum to deal with any such objection”.*
- 4. That on the facts and in law, the Ld.CIT(A) erred in upholding an addition to the tune of Rs.1,82,50,000/- being 25% of the alleged bogus purchases of Rs.7,30,00,000/-.*
- 5. That the on the facts and in law, the Ld. CIT(A) misunderstood the transfer entries recorded in M/s Narayani Sales Corporation ledger account at head office in Appellant books of account and made the followings erroneous observation: a. On perusal of this ledger account it is seen that the appellant has carried out finance transactions with M/s Narayani Sales Corporation”.*
- 6. It has been transferred to appellant by M/s Narayani Sles this ledger account that huge sum of money has been transferred to appellant by M/s Narayani Sales Corporation which has been repaid by the appellant either on the same day, next day or within the couple of days the total of such finance transactions carried out by the appellant with M/s Narayani Sales Corporation is of Rs.7,55,20,000/- which has been squared off during the relevant previous year with Nil balance outstanding”. Considering these facts, the said financial transactions carried out by the appellant with M/s Narayani Sales Corporation are certainly not related to any genuine business transactions. It appears from both the ledger accounts that the appellant has actually carried out the finance transactions*

with M/s Narayani Sales Corporation and to cover up such transactions give it a colour of genuineness, purchase is shown from M/s Narayani Sales Corporation.

7. That on the facts and in law, the Ld. CIT(A) erroneous observation the followings: a. During the course of appellate proceedings, the appellant had requested for virtual hearing through video conferencing. Accordingly, the hearing through video conferencing was fixed on 7.6.24 @ 3.15 p.m. However, the appellant did not attend the virtual hearing through video conferencing on the given date and time. b. that the appellant neither during the course of appellate proceedings nor at the appellate stage has provided any authentic supporting documentary evidences to prove the genuineness of purchases made from the M/s Narayani Sales Corporation.

8. That on the facts and in law, the Ld. CIT(A) erred in confirming the addition to the tune of Rs.1,82,500/- being unexplained expenditure u/s 69C of the Act, presumed 0.25% on alleged bogus purchases of Rs.7,30,00,000/- paid as commission.

9. All the above mentioned grounds are independent and without prejudice to other and that the appellant craves the right to add, alter, amend, and delete the grounds of appeal during the course of hearing.”

2. Ld. Counsel for the assessee, at the outset, submitted that in the course of appeal proceedings the assessee requested for virtual hearing through video conferencing and the Ld. CIT(A) provided an opportunity on 7.6.2024. However, the assessee due to technical glitches could not join the video conferencing and the Ld. CIT(A) proceeded to decide the appeal based on the submissions uploaded online. Ld. Counsel for the assessee submits that the Ld. CIT(A)

should have provided one more opportunity to the assessee for personal hearing through video conferencing before deciding the appeal based on the submissions uploaded by the assessee. Ld. Counsel for the assessee submits that the appeal may be restored to the file of the Ld. CIT(A) for providing virtual hearing to the assessee to explain its case.

3. The Ld. DR has no serious objection in restoring the appeal to the file of the Ld. CIT(A) for deciding afresh further providing virtual hearing.

4. On hearing both the sides and perusing the order of the Ld. CIT(A) it is noticed that though the Ld. CIT(A) has provided an opportunity for virtual hearing to the assessee the assessee could not avail this opportunity due to technical glitches. The Ld. CIT(A) did not provide second opportunity to the assessee for virtual hearing and proceeded to decide the appeal based on the submissions on record. We are of the view that the Ld. CIT(A) should have provided one more opportunity to the assessee for virtual hearing before deciding the appeal based on the submission on record. Thus, this appeal is restored to the file of the Ld. CIT(A) who shall provide an opportunity to the assessee a personal video conferencing to put forth its case.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25/06/2025

**Sd/-
(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

**Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER**

Dated: 25.06.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**