

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**Before Sh. Satbeer Singh Godara, Judicial Member**

**ITA No. 2463/Del/2025 : Asstt. Year : 2018-19**

Vivek Garg, B-141, Vishwas Park, Uttam Nagar, West Delhi, New Delhi-110059 (APPELLANT)	Vs	CIT(A)/NFAC/ Income Tax Officer, New Delhi-110001 (RESPONDENT)
<b>PAN No. BTGPG0010A</b>		

**Assessee by: Sh. Abhishek Jain, CA &  
Ms. Sunidhi Sharma, Adv.  
Revenue by : Sh. Sudeep Dabas, Sr. DR**

<b>Date of Hearing: 10.07.2025</b>	<b>Date of Pronouncement: 10.07.2025</b>
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**ORDER**

This assessee's appeal for Assessment Year 2018-19, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2024-25/1073459244(1) dated 19.02.2025, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.
3. It is noticed during the course of hearing with the able assistance coming from both the parties that the learned lower authorities have invoked section 40A(3) disallowance of Rs.48,66,000/- in the assessee's hands thereby rejecting his claim of having made cash payments to various dealers and suppliers in his regular business activity, in assessment order dated 10.04.2021 and upheld in the lower appellate discussion.

4. I have given my thoughtful consideration to the assessee's and the Revenue's vehement submissions. The assessee has filed his detailed paper book running into 129 pages *inter alia* comprising of the entire case record before the learned lower authorities. His case accordingly is that the impugned payments are overwhelming genuine ones wherein the corresponding recipients of cash sums involved herein have been duly registered under GST law who had offered handsome discount leading to the cash payments in question. Learned department representative quotes Attar Singh Gurmukh Singh Vs. ITO (1991) 191 ITR 667 (SC) that in such an instance, the aim and objective of introduction of the impugned statutory provision could not be altogether ignored which was to curb the practice of ploughing of unaccounted money in the system. The assessee on the other hand quotes Anupam Tele Service Vs. ITO (2014) 366 ITR 122 (Guj.) that such an overwhelming genuine business expenditure could indeed be allowed even it is not covered under rule 6DD of the Income Tax Rules prescribing various exigencies in cash payments representing business expenditure. Learned counsel lastly states that the assessee is very much ready to prove his genuineness of the impugned business expenditure forming subject matter of section 40A(3) disallowance herein if afforded one more effective innings before the Assessing Officer. It is thus

deemed appropriate in the larger interest of justice to restore the assessee's instant appeal back to the Assessing Officer for its afresh adjudication as per law subject to a rider that the assessee shall plead and prove all the relevant facts at his own risk and responsibility, within three effective opportunities, in consequential proceedings. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes.  
Order Pronounced in the Open Court on 10/07/2025.

Sd/-  
**(Satbeer Singh Godara)**  
**Judicial Member**

**Dated: 10/07/2025**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**