

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री राजपाल यादव, उपाध्यक्ष एवं श्री कृणवन्त सहाय, लेखा सदस्य  
BEFORE: SHRI RAJPAL YADAV, VP & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No.122/Chd/ 2024  
निर्धारण वर्ष / Assessment Year : 2012-13

The DCIT Circle-1, Ludhiana	बनाम	M/s Adinath Textiles Limited K-302/1, Bholapur, Sahabana, Chandigarh Road, Ludhiana
स्थायी लेखा सं. / PAN NO: AABCA9074E		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

**CROSS OBJECTION NO. 22/Chd/2024**

In

(आयकर अपील सं. / ITA No.122/Chd/ 2024)  
निर्धारण वर्ष / Assessment Year : 2012-13

M/s Adinath Textiles Limited K-302/1, Bholapur, Sahabana, Chandigarh Road, Ludhiana	बनाम	The DCIT Circle-1, Ludhiana
स्थायी लेखा सं. / PAN NO: AABCA9074E		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/ Date of Hearing : 22/05/2025  
उदघोषणा की तारीख/ Date of Pronouncement : 23 /07/2025

**आदेश/Order**

**PER KRINWANT SAHAY, A.M:**

The present appeal is filed by the Department and Cross objection is filed by the Assessee against the order of the Ld. CIT(A) / NFAC, Delhi dt. 14/12/2023 pertaining to Assessment Year 2012-13.

2. The Department in its appeal has raised the following grounds:

*"1. That the Ld. CIT(A), NFAC, Delhi erred on facts and law, the CIT(A) has ignored the relevant facts on record as well as ignored the relevant provisions of law.*

*2. The Ld. CIT(A) has failed to appreciate the fact that credible information was received from DCIT Central Circle Kolkata and was well substantiated with the statements taken during the search proceedings of Sh. Praveen Aggarwal who has provided accommodation entries to the assessee.*

*3. That Ld. CIT(A), NFAC, Delhi erred on facts and law. in deleting the addition on account of unexplained cash credits under section 68 the Income Tax Act, 1961 amounting to R- 2,20,32,738/-.*

*4. That Ld. CIT(A), NFAC, Delhi erred on facts and law, in deleting the addition u/s 69C of the Income Tax As on account of explained expenditure amounting to Rs.3,83,50,000/-*

*5. That the Ld. CIT(A), NFAC, Delhi erred on facts and law, in deleting the addition u/s 69C of the Income Tax Act on account of Commission paid amounting to Rs.6,03,827/-.*

*6. That the Appellant craves, leave for permission to add, amend, or alter any ground of appeal at the time of hearing."*

3. The assessee in its Cross Objection has raised following grounds:

*"1. That the Ld. CIT(A) has erred in dismissing the grounds of appeal with regard to the initiation of proceedings u/s 147/148 as per para 8 to para 8.5 of his order.*

*2. That the Ld. CIT(A) has failed to consider that wrong reasons have been recorded with regard to reopening of the case u/s 148 and, whereas, the addition have been made by the Ld. Assessing Officer on some other issues and, thus, the confirmation of action by the CIT(A) with regard to reopening of assessment is bad in law, having no nexus with the formation of belief and the conclusion drawn by the Assessing Officer.*

3. *That the reopening of the assessment u/s 148 as confirmed by the Ld. CIT(A), is not valid, since the vague reasons have been recorded by the Assessing Officer and such reopening has been made only on suspicion and doubt.*

4. *That the confirmation of addition u/s 148 is not valid since the reopening has been resorted to only on borrowed satisfaction without any application of mind by the Assessing Officer, which is not permitted as per law.*

5. *That the cross objector creates leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off."*

4. The cross objections have been filed late by 68 days, for which, the condonation of delay was filed on 1<sup>st</sup> of August 2024, along with affidavit of Senior Vice President of the company namely, Sh. Arun Kapoor and it was contended that though, the grounds of appeal of the department were received by the company on 28.02.2024, but since the appropriate relief had been granted by the CIT(A), he was under a bonafide belief that nothing was required to be done by him. The delay of 68 days is as under:-

i).	The grounds of appeal were received by the assessee on	28.02.2024
ii).	The cross objections were to be filed on or before	30.03.2024
iii).	The assessee filed the cross objections on	05.06.2024
iv).	Delay	68 days

5. It was further stated that it was only, when the company decided to hire Sh. Sudhir Sehgal in the last week of May 2024, then, it was suggested by the Ld. Counsel that the cross objections were to be filed and, accordingly, as advised, the said cross objections were filed and, thus, it was pleaded that there was no deliberate attempt for late filing of cross objections and, thus, it

was prayed to condone the delay in filing cross-objections. The department Representative argued that the issue may be decided on merits of the case. We have considered the application for condonation and the affidavit and arguments of the Ld. Counsel and after going through the contents of the same, we deem it fit to condone the delay.

6. The Departmental Representative argued that the original return was processed u/s 143(1) and the proceedings were initiated by issue of notice u/s 148 by recording the reasons and thereafter, the notice u/s 142(1) was issued. It was stated that certain information was received from the office of DCIT, Central Circle, Kolkata that on account of search at the premises of one Sh. Parveen Aggarwal and his group company at Kolkata on 13.09.2012, he had stated that, he was operating very large number of paper companies for providing bogus entries. He stated that he had provided bogus entries of expenses like commission, contractual expenses, professional charges and accommodation entries. On the basis of above modus operandi, it was noticed by the AO that the assessee concerned had also entered into some transactions with group of companies, controlled by Sh. Parveen Kumar and accordingly recorded the reasons u/s 148 and since the transactions were made to create bogus loan and inflated expenses in the books of accounts, accordingly, a reason to believe was formed by the AO for escapement of income at Rs. 6,03,82,738/- on the allegation of bogus purchases. As per para six of the reasons to believe were recorded by the AO.

7. It was stated by the DR that though, the assessee raised objections and the same were disposed off vide order, dated 02.11.2019 as per pages 47 to 49 of the Paper Book, thereafter, the questionnaires were issued with regard to dealings of the assessee with the following parties:-

S.NO.	NAME OF THE PARTY	AMOUNT(Rs.)	TYPE OF TRANSACTIONS
1.	Growfast Realtors Pvt. Ltd.	17032738.75	Payments
2.	Khusbhoo Complex Pvt.Ltd.	33350000.00	Receipts
3.	Klapp Vyapaar Pvt. Ltd.	5000000.00	Receipts
4.	Pushpanjali Commotrade Pvt. Ltd.	5000000.00	Payments

8. It was further stated that notices u/s 133 (6) were issued to the above parties for verification of the transactions with the assessee company but such notices were returned back without service.

9. The assessee filed replies during the course of assessment proceedings along with confirmations from the said parties, regarding transactions dealt with by assessee with them and balance sheet of the parties, along with their ITRs and bank account of the parties concerned. It was further contended in respect of dealings with the parties as per assessment order at page 6 & 7, following information was filed:-

a). "**Growfast Realtors Pvt. Ltd.**" Rs. 17032738.75

These payments have been received against the amount receivable by the assessee as on 31.03.2011, which have been duly reflected in audited balance sheet and Income Tax return for the A.Y. 2011-12 in respect of sales by the assessee last year.

b). **Khushboo Complex Pvt. Ltd.** Rs. 33350000.00

These payments have been made by the assessee, partly against the amount payable to the company Rs. 17000110 as on 31.03.2011, and the partly against fresh purchases made during the year, which have been duly reflected in audited balance sheet and Income Tax Return for the A. Y. 2011-12 & A. Y. 2012-13.

c). **Klaap Vyapaar Pvt. Ltd.** Rs. 5000000.00

These payments have been made by the assessee company against the purchases made during the year under consideration.

d). **Pushpanjali commotrade Pvt. Ltd.** Rs. 5000000.00

These payments have been received by the Assessee against the sales made by the assessee company during the year under consideration.

10. It was further contended by the AR that assessee filed confirmed copies of accounts of all the above four parties and stated that the transactions with these parties are part of total purchases Rs. 35025000/- and sales Rs. 41723750/- made during the year as per page 17 and page 24 of the paper book, which have been duly accounted for/audited in the books of account of the company and also profit arising out of these transactions have been duly disclosed by the assessee in the Income Tax Return filed for the Asstt. Year 2012-13. All these transactions are through banking channel i.e. RTGS &/or cheques.

11. It was further stated by the AR that the assessee later on, provided the balance sheets of the parties concerned, copies of the bills, with respect to the dealings with the parties and AO observed that no vital evidence has been provided by the assessee to substantiate the genuineness of such transactions.

Thereafter, the AO confronted various statements of the parties concerned on the basis of information received from the DCIT, Kolkata, which have been reproduced in the order of AO, at pages 21 to 54. Further, the AO observed that none of the parties have responded to the letters as issued to them u/s 133 (6) in respect of 'Growfast Realtors Pvt. Ltd'. and 'Pushpanjali Commotrade Pvt. Ltd'. from whom, the amount was received. Thus, the addition was made u/s 68 to the tune of Rs. 2,20,32,737/- and in respect of purchases made from 'Khusbhoo Complex Pvt. Ltd'. and 'Klaap Vyapaar Pvt. Ltd'., it was argued by the DR that the transactions of purchases made from these parties are bogus and made an addition of Rs. 3,83,50,000/- u/s 69C of the Act were made along with an addition of Rs. 6,03,827/- as 1% commission paid on above receipts and payment from undisclosed sources.

12. It was argued by the DR that after considering the submissions of the assessee, a finding has been recorded by AO that transactions with parties are bogus. Reliance was placed by the DR on the order passed by the AO and further stated that CIT(A) has in a summary manner has deleted the addition, which is not justified and argued for confirmation of addition.

13. On the merits of the case, it was argued by DR that the CIT(A), though, has allowed the appeal of the assessee as per page 32 and 33 of his order and has wrongly held that opening balance in respect of 'Growfast Realtors Pvt. Ltd.' and 'Khusbhoo Complex Pvt. Ltd.', cannot be added u/s 68 and 69 as the said transactions related to last year. This finding is not correct. It was

further argued that none of the parties had replied to the notices sent by the AO and there was information that Sh. Parveen Aggarwal was involved in giving bogus entries and he has confessed it, thereafter, the addition was made in respect of parties i.e. 'Klapp Vyappar Pvt. Ltd. and Pushapanjali Commotrade Pvt. Ltd'. for bogus purchases.

14. The Ld. Counsel of the assessee referred to the Paper Book filed before the Bench on 06.01.2024 consisting of 172 pages and relied upon the following documents:-

<b>Sr. No</b>	<b>Name of party</b>	<b>List of documents</b>	<b>Pg. No.</b>
<b>1.</b>	M/s Growfast Realtors Pvt. Ltd.	•Copy of confirmation from party along with complete financial statements.	<b>61-78</b>
		•Copy of ledger account of party in the books of assessee.	<b>79</b>
		•Copy of relevant extract of bank statement highlighting the relevant transaction.	<b>80-81</b>
		•Copy of sale invoice of the party.	<b>82-95</b>
<b>2.</b>	M/s.Khusboo Complex Pvt Ltd.	•Copy of confirmation from party along with audited financial statements.	<b>96-112</b>
		•Copy of ledger account of party in the books of assessee.	<b>113</b>
		•Copy of relevant extract of bank statement highlighting the relevant transaction.	<b>114-119</b>
		•Copy of purchase invoice of the party.	<b>120-126</b>
<b>3.</b>	M/s. Klaap Vyapaar Pvt. Ltd.	•Copy of confirmation from party along with audited financial statements.	<b>127-144</b>

		•Copy of ledger account of party in the books of assessee.	<b>145-146</b>
		•Copy of purchase invoice of the party.	<b>147-148</b>
<b>4.</b>	M/s.Pushpanjali Commotrade Pvt. Ltd.	•Copy of confirmation from party along with complete financial statements.	<b>149-166</b>
		•Copy of ledger account of party in the books of assessee.	<b>167</b>
		•Copy of relevant extract of bank statement highlighting the relevant transaction.	<b>168-170</b>
		•Copy of sale invoice of the party.	<b>171-172</b>

15. It was further stressed that, in so far as, the amount received from 'Growfast Realtors Pvt. Ltd.' and Pushpanjali Commotrade Pvt., such amounts were received on account of sales, made to those parties. In respect of 'Growfast Realtors Pvt. Ltd'. , sales were made in last year i.e. as on 31.03.2011, which has been accepted by the department in the earlier years, thus, as such, it is the realization of amount due from the accepted debtor as on 31.03.2011. So as per the audited books of accounts as on 30.03.2011, no addition u/s 68 could be made in the year under consideration. It was further argued that to 'M/s Growfast Realtors Pvt. Ltd.', no sales have been made during the year under consideration. Confirmed copy of amount of party and bank statement had been filed.

16. It was further, argued by the Counsel of the Assessee that in respect of 'Pushpanjali Commotrade Pvt. Ltd.', the amount has been received against the sales made by the assessee during the

year under consideration and such sales have been accepted by the AO, while framing the impugned assessment year, thus, on the basis of confirmed copy of account, and bank statement, sale bills duly confirmed, no such addition could be made. Similarly, in respect of 'Khusbhoo Complex Pvt. Ltd.' and 'Klapp Vyapaar Pvt. Ltd.', the payments have been made to them for purchases during the year and payment of Rs. 1,70,00,000/- was made to 'M/s Khusbhoo Complex Pvt. Ltd.' in respect of outstanding balance, payable to that party as on 31.03.2011. In respect of purchases made last year for which purchases have been accepted and the balance purchases amounting to Rs. 1,65,25,000/- were made in respect of purchases made during the year under consideration. So, even the assessee had filed confirmed copy of account, ITR and Bank statement of party and, thus, no adverse view needed to be drawn. Similarly, in respect of 'Klaap Vyappar Pvt. Ltd.', the payment have been made in respect of purchases made during the year under consideration. It was argued by the Ld. Counsel that the corresponding sales against the purchases during the year under consideration have been accepted. Last year purchases and sales have been accepted and, as such, the whole basis of making the addition was not in order by the Assessing Officer. It was further argued that opening and closing stock of the assessee have not been doubted and the books of accounts have not been rejected. The Ld. Counsel relied upon the judgement of Punjab & Haryana High Court in the case of Om Oversease, reported in 315 ITR 385 and Paradise Holidays, reported in 315 ITR 13 for this preposition. The

reliance was also made on the following judgment that no addition could be made in respect of the allegation of bogus purchases:-

- a) Apex Court in the case of Pr. CIT vs Teju Rohit Kumar Kapadia in SLP No. 12670/2018 order dated 04.05.2018.
- b) M/s Supertech Forgings (India) Pvt Ltd. vs DCIT in ITA No. 563/Asr/2018 order dated 25.08.2021. Further the appeal of the department has even been dismissed by the Hon'ble Punjab & Haryana HC vide order dated 05.09.2023 in ITA-101-2022.
- c). Rajesh Gupta V/s Joint Commissioner of Income Tax ITA No. 264/CHD/2010, ITAT, Chandigarh Bench, Chandigarh.
- d) Commissioner of Income Tax V/s Leader Valves Ltd. as reported in (2007) 295 ITR 273 (P&H).
- e) Judgment of Hon'ble ITAT, Chandigarh Bench in the case of Samrat Plywood Inds., in ITA No. 595/Chd/2017.
- f). f) Piyush Developers Pvt. Ltd V/s ACIT ITA No. 5599/DEL/2010, ITAT, Delhi Bench at New Delhi.
- g) Commissioner of Income Tax V/s Bholanath Poly Fab Pvt. Ltd 355 ITR 290 GUJ HC.
- h) Northern India Steel Rolling Mills V/s DCIT ITA No. 591/CHD/2014, ITAT, Chandigarh Bench, Chandigarh
- i). Nisraj Real Estate & Export (P) Ltd. V/s ACIT 31 DTR 456 JAIPUR-TRIB
- j). Commissioner of Income Tax V/s Simit P. Sheth 356 ITR 451 GUJ-HC
- k) ACIT vs Karam Chand Rubber Industries in ITA No. 6599/Del/2014 order dated 12.12.2018 (Del Bench).
- l). l) PCIT vs Nitin Cylinders Ltd. 159 taxmann.com 649 (BOM-HC) order dated 1.01.2024.
- m) PCIT vs Yog Oil Traders 153 Taxmann.com 386 (Bom-HC) order dated 05.07.2023.

17. It was further argued by the Counsel of the Assessee that the sales have been made to some of the parties against the purchases as per books of accounts and, thus, the assessee had sufficient stocks available and no addition could be made under such facts and circumstances:-

- i) Pr. CIT Vs Akshit Kumar in ITA No. 348 of 2019 as reported in 197 DTR 121
- ii) CIT Vs Agson Global Pvt Ltd in ITA no. 68-73/2021 dated 19.02.2022
- iii) Aakriti Jain of ITAT Chandigarh Bench, where above cases have been followed as per copy at placed 158 to 167.
- iv) Judgment of Chandigarh Bench in the case of M/s Fashion Zone in ITA No. 331/Chd/2023. Copy placed at pages 151 to 157 of the Judgement Set.

18. Lastly, it was argued by the Counsel that, no cross examination has been allowed in respect of the parties whose statements have been confronted to the assessee and even request by way of specific letter dated 23.12.2019 was made. The assessee relied upon the following case laws, that if cross examination is not allowed of the statements recorded at the back of assessee, no adverse view can be drawn:-

- i). *[2024] 162 taxmann.com 5 (SC) Principal Commissioner of Income-tax v. Kishore Kumar Mohapatra*".

*"INCOME TAX: SLP dismissed against order of High Court that where Assessing Officer denied exemption claimed by assessee under section 10(38) on long-term capital gain on sale of shares on basis of statement of entry operators recorded on various dates in some other proceedings not connected with assessee and no opportunity to cross-examine so-called entry providers was given to*

*assessee thereby violating principles of natural Justice, Tribunal was Justified in deleting addition made by Assessing Officer"*

ii). [2023] 157 taxmann.com 193 (SC) SUPREME COURT OF INDIA  
Principal commissioner of Income-tax v. HadotiPunjVikas Ltd.

*"INCOME TAX: SLP dismissed against impugned High Court's order that where AO made addition under section 68 solely on basis of information received from Investigation Wing that lenders from whom assessee-company acquired loans were indulged in bogus accommodation entries, since assessee was not granted an opportunity to cross-examine persons whose statements were recorded during Investigation, Impugned addition made on basis of such investigation which was not privy to assessee were to be deleted."*

iv) [2015] 281 CTR 0241 (SC) Andaman Timber Industries Vs. Commissioner of Central Excise.

v) [2024] 161 taxmann.com 586 (Punjab & Haryana) Principal Commissioner of Income-tax (Central) v. DSG Papers (P.) Ltd."

*"INCOME TAX: Where pursuant to a search conducted at business premises of assessee, department made additions on account of suppressed turnover through under-invoicing based on third-party statements, since said statements were recorded at back of assessee and without giving proper opportunity for cross-examination, Tribunal rightly deleted said addition From perusal of above referred case laws, it is submitted that, wherein the opportunity of cross examination has not been provided to assessee then the assessment framed will be considered as invalid assessment, thereby violating the principal of natural justice, therefore, needs to be quashed.*

*16. Even otherwise, it is submitted, Books of accounts of the assessee have been not rejected by the AO and the findings have been given by the CIT(A) at para 6.5 at page 36 of the order of CIT(A) and, reliance is being placed on judgments of different courts, on the issue, no addition could be made without rejecting the books of accounts."*

19. As regards the addition of Rs. 6,03,827/- which have been deleted by the CIT(A), it was argued that this is consequent to the addition made as per the facts stated above and there was no

basis for making such addition and neither there was any evidence for the same. The Ld. Counsel relied upon the finding of the CIT(A) from paragraph 10, pages 32 to 33 of the order and contended that CIT (A) has rightly deleted the said addition.

20. As regards the cross objections are concerned, the Ld. Counsel argued that there is no proper disposal of objections nor any reasons have been given for the same, which is apparent from the objections as disposed off vide order dated 2.11.2019 of the AO and for the clarity, the same is being reproduced herewith:-

*“Kindly refer to your letter Dated 10th Oct, 2019. In this regard, it is to inform you that as per Income Tax Act 1961 the notice 148 must be served on the assessee before completing the Assessment in concern case. However, the notice was issued to the assessee within time and delivered on 30.03.2019. The evidences of issued of notice are enclosed herewith for your reference (Speed Post & Mail).*

*The jurisdiction of this case lies over to the under signed as per address given in your ITR. You are also requested to provide the detail of Jurisdiction of your case as you made objections.*

*In view of the above, your reasons of objection are refuted and met out. You are further requested to comply the notices to complete the assessment proceeding. Your case is fixed for hearing on 06.11.2019 at 11.30 A.M. You are also requested to furnish the justification on bogus bills debited in your books of account. You are requested to furnish the complete books of account for verification of these transaction alongwith complete balance sheets.*

21. Reliance, was made on the judgment of Apex Court in the case of G.K.N. Driveshafts, reported in 259 ITR 19 and Delhi High Court in the case of Scan Holding Pvt. Ltd. 402 ITR 290 for the

preposition that if no objections are disposed off with proper reasoning, the reopening is bad in law. It was further stressed that the reopening has been made only on the basis of information received from the DCIT, Kolkata without any application of mind by the AO. No enquiries have been made and, thus, it was a case of borrowed satisfaction. Reliance was made on the following judgments:-

- i). CIT vs Meenakshi Overseas Ltd. as reported in 395 ITR 677,
- ii). PCIT vs G G Pharma India Ltd. as reported in 384 ITR 147,
- iii). M/s Supertech Forgings (India) Pvt Ltd. vs DCIT in ITA No. 563/Asr/2018 order dated 25.08.2021 and of Hon'ble Punjab & Haryana High Court.
- iv). M/s Holy Faith International Pvt Ltd. Vs DCIT in liA No. 181/Asr/2017 order dated 15.01.2019

22. It was further argued by the Counsel that there has been wrong reason to belief formed by the AO since in the reason, it has been mentioned in para 6 as under:-

*"6. Thus, regarding the information available with record that the F.Y. 2011-12 relevant to the A.Y. 2012-13, the assessee had made transaction amounting to Rs. 60,382,738/-, there is nothing on record, which establishes the genuineness of the transactions and the sources used for this purchase."*

23. It was further argued that it was quite apparent from the return of income that from certain parties, the payment was received in respect of sales made in earlier years or payment made in respect of purchases in earlier year. From some parties, there were payments and receipts on account of purchases and sales during the year under consideration and in the reasons, it has

been concluded in para 6 above that the genuineness of transactions and source used for the purchases was stated to be reason to believe about escapement of income. The assessee relied upon the judgment of 'Kissan Fats in ITA No. 407/Chd/2023' and 'Darshan Garg HUF Vs ACIT' in ITA No. 176/Asr/ 2017' and of 'Apex Court' in the case of 'LakhmiMewalDass 103 ITR 437' in which, it has held that if there is no nexus with the reason to believe and conclusion to be drawn, the assessment needs to be quashed. Further, it was argued that even as per the judgment of Punjab & Haryana High Court in the case of "Supertech Forgings" is quite relevant to the facts and circumstances of the case, where the reopening u/s 148 have been quashed, Lastly, the Ld. Counsel, relied upon the recent judgment of 'ITAT Amritsar' in the case of 'Vohra Solvex (P) Ltd.', in ITA No. 588/Asr/2024 and C.O. No.3/Asr/2025, wherein addition on account of bogus purchases was made and by relying upon the judgment of 'Jurisdictional High Court' in the case of 'Supertech Forgings', the proceedings initiated by the Assessing Officer u/s 148 was quashed and the following finding in that judgment is being relied upon:-

*"22. We have heard the rival submissions of the counsels and we have considered the materials on record and also the contents of the paper book filed by the assessee along with the copy of the judgment set of various decisions of various courts relied upon by the assessee in support of his argument. We find that in the instant case, the original assessment was framed u/s 143(3) on 19th December, 2016 and the reopening notice u/s 148 was issued on 19th March, 2021 which has been issued beyond four years, on the basis of statement of two parties recorded behind the back of the assessee by the ITO, Ward 2(4), Abohar and on the basis of information supplied by the ITO, Ward-2(4), Abohar to the AO of the assessee, proceedings has been initiated u/s 148 without verifying the particulars and the contents of such information. The*

AO has not made any enquiry before issue of such notice u/s 148. We find that the Assessing Officer has not recorded his independent satisfaction. He has simply relied upon the information passed on to him by the AO, Abohar and relying on the report of the investigation wing, he has proceeded to reopen the assessment without any independent satisfaction or findings that there has been any escapement of income. Respectfully, following the law laid down by the jurisdictional High Court in the case of *M/s Supertech Forgings (India) Pvt. Ltd. Vs PCIT (supra)* where the AO has disallowed the entire purchase as bogus purchase on the basis of statement of third parties recorded on the back of the assessee where they have denied making any sales to the assessee company and this information received by the AO was neither corroborated nor verified by the AO, the Hon'ble jurisdictional High Court quashed the reopening of the assessment.

23. In the instant case, the facts are identical to the case relied upon by the assessee and as such we have no hesitation in holding that the reassessment proceedings in the instant case by issue of notice u/s 148 dated 29.03.2021 is bad in law. We further find that in the recorded reasons the purchase from Evergreen Sales Corporation (ESC) has been (incorrectly mentioned at Rs.3,98,4048/-) against the correct amount 2,43,78,214/- which proves that the wrong reasons to believe has been formed by the Assessing Officer and relying on the judgments cited by the assessee before us, the reassessment proceedings are held to be void ab-initio and accordingly the cross objection of the assessee is allowed on this legal ground and reassessment proceedings as initiated by the Assessing Officer by notice u/s 148 dated 29.03.2021 are liable to be Quashed."

24. Thus, it was argued in, nutshell, that the finding of CIT(A) on the issue of 148, wherein, he has confirmed such action of the AO with regard to reopening is against the facts and circumstances of the case in view of the judgment as cited above, specially, of Jurisdictional Punjab & Haryana High Court in the case of '*M/s Supertech Forgings Pvt. Ltd.*' as cited '*supra*' and other case laws on the issue of wrong reason to believe.

25. We have gone through the order of the Assessing Officer and CIT(A), paper books and brief submissions as filed by the Ld. Counsel and submissions of the Ld. DR. The facts in this case are not disputed in, as much as, there has been certain transactions of purchases and sales in the year under consideration, with some of the parties in respect of one party 'M/s Growfast Realtors Pvt. Ltd.', certain amount to the tune of Rs. 1,70,32,738/- was due in respect of sales made by the assessee concerned in last year and sales have been accepted in Asstt. Year 2011-12 by the department. No fresh transactions of sales or purchases have been made by those parties with the assessee concerned. Similarly, regarding 'M/s Khushboo Complex Pvt. Ltd.', there was an amount of Rs. 1,70,00,110/- , which was due to be paid to that party as on 31.03.2011, in respect of purchases from the that party in Asstt. Year 2011-12. Such purchases from the party have been accepted in previous year and that amount had to be paid by the assessee concerned to 'M/s Khusbhoo Complex Pvt. Ltd.' In respect of other two parties, 'M/sKlaap Vyapaar Pvt.Ltd.' and 'Pushpanjali Commotrade Pvt. Ltd.', the purchases and sales have been made during the year under consideration and the amount has been received and paid in respect of purchases and sales. Since, the purchases and sales have been accepted, no adverse view could be drawn. Further, as rightly held by the CIT(A), that opening balance due to be paid/receivable cannot be added u/s 68/69, since they relate to previous year transactions and cannot form the part of the addition. It is further held that the assessee have not booked such income or expenses during the

year in its books of account of such earlier year's transactions and as such, the CIT(A) has rightly deleted the said addition.

26. Further, in respect of other two parties from whom, purchases and sales have been made, the fact is that the AO has accepted the purchases and sales as per trading account reflected and consequent payments/receipts in respect of sales/purchases during the year under consideration, cannot be the subject matter of addition during the year. We also find that the assessee has submitted the confirmation, ledger account of the parties, duly confirmed and their bank statements/balance sheets, which proves the existence of those parties in those years and, if the parties above, did not respond to the notices u/s 133 (6), no adverse view can be drawn against the assessee in view of the following judgments :-

- *Judgment of High Court of Delhi in the case of Principal Commissioner of Income-tax v/s WellIntertrade (P.) Ltd. as reported in [2023] 152 taxmann.com 663 (Delhi) wherein it is held as under:*

*“Whether merely because assessee had not repaid amount and credit or had not responded to impugned notice issued under section 133(6), it could not be used as a reason by Assessing Officer to make additions - Held, yes - Whether Tribunal was right in deleting impugned additions as assessee had discharged its primary onus of proving identity and capacity of creditor as well as genuineness of transaction - Held, yes [Paras 10 and 15] [In favour of assessee]”*

- *Judgment of High Court of BOMBAY in the case of Commissioner of Income-tax-1, Mumbai v/s Nikunj Eximp Enterprises (P.) Ltd. as reported in [2013] 35 taxmann.com 384 (Bombay) wherein it is held as under:*

*“Whether merely because suppliers had not appeared before Assessing Officer or Commissioner (Appeals), it could not be concluded that purchases were not made by assessee - Held, yes [Para 7] [In favour of assessee]”*

- Judgment of ITAT MUMBAI BENCH in the case of FancyWear v/s Income-tax Officer as reported in [2017] 87 taxmann.com 183 (Mumbai - Trib.) wherein it is held as under:

*“Whether on facts, assessee had discharged onus of proving genuineness of transactions and merely returning back of notices under section 133(6) was not sufficient to hold that purchases made were bogus, thus, impugned additions was to be deleted - Held, yes [Paras 5.1 and 5.7] [In favour of assessee]”*

- Judgment of ITAT, DELHI BENCH in the case of ASSISTANT COMMISSIONER OF INCOME TAX v/s KARAMCHAND RUBBER INDUSTRIES (P) LTD. as reported in ITA No. 6599/Del/2014

- Judgment of SUPREME COURT OF INDIA in the case of COMMISSIONER OF INCOME TAX vs. ORISSA CORPORATION (P) LTD. as reported in (1986) 52 CTR 0138; (1986) 159 ITR 0078

Thus, no adverse view can be drawn in respect of non-appearance of the parties as per notices u/s 133(6).

27. We also find that the books of accounts of the assessee company are duly audited and such books of accounts have not been rejected u/s 145(3) and with rejection of books of accounts, no addition could be made as per settled law and, thus, the addition as made by the AO also stands deleted on this account.

28. We find that in the Assessment order, it has been mentioned that Sh. Parveen Aggarwal has accepted 248 companies and these four companies did not form part of 248 companies being controlled by him. Merely because, there were common shareholders/brokers, it cannot be concluded that the transactions done by the applicant with four companies are also of Sh. Parveen Aggarwal group of 248 companies and the

following finding by the Ld. CIT(A) is quite apt, to which we agree as under:-

*"It is noted from the Appellant submission that these 4 companies viz. Growfast realtors Pvt Ltd Khushboo complex Pvt Ltd, Klaap vyapaarPvt Lt, and Pushpanjali comotradePvtLtd do not form part of the confession made by Praveen Agarwal against whom search was conducted and he had accepted 248 companies which form part of the Report given by Central Circle. Since, these 4 companies do not form part of the 248 companies which were confessed by the Praveen Agarwal and merely because they have common shareholders or directors it cannot be concluded that the transactions done by the Appellant with these 4 companies are also part of Praveen Agarwal Group of 248companies and such transactions done by Appellant are Bogus in nature as there is no evidence or proof that these transactions are bogus. Only because there are common directors or shareholders to those 248 companies confessed by Praveen Agarwal. It is also pertinent to note the fact the appellant has submitted that these 4 companies are existent as on date i.e 12 years after the transactions are done and their status is Active in MCA portal as well as GST portal and thus the Assessing Officer remark that these companies are doing Bogus Transactions and are mere Paper Companies becomes highly arbitrary and without any evidence. The Assessing Officer has not considered the fact that transactions are in respect of Sale and Purchase both and if sale is considered as Bogus and as well as Purchase is considered Bogus, this will not have any tax implications. The Appellant has already declared profit during the year and paid taxes on the same and reversing these transactions and applying Gross Margin will be also not be in favour of the Department as the assessee has been incurring losses in the previous years.*

29. The Appellant has filed the Income Tax Returns of all the four parties, their financials, ledger, statement, Invoices and Bank Account statements and also the confirmations from the said parties that these transactions are genuine. They duly acknowledge these transactions. We have also considered the case laws submitted by the Appellant and the decision of Hon'ble

Bombay High Court [2023] 153 taxmann.com 340 (Bombay) HIGH COURT OF BOMBAY Rajshree Realtors (P.) Ltd. v. Union of India under the same pretext of Praveen Agarwal matter wherein relief has been given to the assessee. Also the case of Pr.CIT Vs. Teju Rohit Kumar Kapadia, the SUPREME COURT OF INDIA wherein it was held as under:

*“Unexplained expenditure -Bogus Purchases- Purchases cannot be treated as Bogus if ;*

*(a) they are duly supported by bills,*

*(b) all payments are made by account payee cheques,*

*c) the supplier has confirmed the transactions,*

*d) there is no evidence to show that the purchase consideration has come back to the assessee in cash,*

*(e) the sales out of purchases have been accepted & (f) the supplier has accounted for the purchases made by the assessee and paid taxes thereon [S.143(3)]. Even the Special leave petition filed by the department has been dismissed by the Hon'ble Supreme Court. (2018) 94Taxmann.com 325 (SC).”*

Thus, based on the above said findings, we have no hesitation in confirming the order of CIT(A) and held that he has rightly deleted the addition of Rs. 2,20,32,738/- and Rs. 3,83,50,000/- on account of transactions with four parties as cited above and alleged commission @ 1% on such receipt and payment to the tune of Rs. 6,03,827/-. Thus, we uphold the order of the CIT (A), deleting the addition on merits.

30. As regards, the cross objections as filed by the assessee, we have also taken into consideration the arguments of the Ld.

Counsel, Departmental Representative on the issue of reopening of the case u/s 148 and gone through the judgments as cited above. Before us, the arguments of the Ld. Counsel that wrong reason to believe have been formed by the AO, as in the reasons, it has been mentioned about the of transactions and sources used for the purchases made from four parties are to be investigated.

31. Since we have already confirmed the findings given by the CIT(A), dismissing the appeal filed by the Revenue on merit, so all the grounds raised by the Assessee in Cross objections are covered by the findings arrived at by us in the former part of order and now this ground raised by the Assessee, which is technical, it remains just academic in nature. Accordingly, we do not intend to take the legal issue and as such are not inclined to give our findings on this academic issue. Thus, cross objections of the Assessee are dismissed.

32. In the result both the appeal filed by the Revenue and Cross objection filed by the Assessee are dismissed.

Order pronounced in the open Court on 23/07/2025

Sd/-

**राजपाल यादव**  
**(RAJPAL YADAV)**

**उपाध्यक्ष/VICE PRESIDENT**

**AG / RKK**

Sd/-

**कृणवन्त सहाय**  
**(KRINWANT SAHAY)**

**लेखा सदस्य/ ACCOUNTANT MEMBER**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,  
CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar