

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.719/Del/2025, A.Y. 2021-22

S.N. Malhotra & Sons 7/60, Ramesh Nagar S.O., New Delhi-110015 PAN: AABFS6724N (Appellant)	Vs.	Dy. Commissioner of Income Tax, Central Circle-30, ARA Building, Jhandewalan, New Delhi (Respondent)
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Appellant by	Sh. Rakesh Anthwal, Advocate
Respondent by	Sh. Dayainder Singh Sidhu, CIT-DR

Date of Hearing	22/07/2025
Date of Pronouncement	29/07/2025

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal of the assessee for the Assessment Year ('AY') 2021-22 is directed against the order dated 12.12.2024 of the Commissioner of Income Tax (Appeal)-30, New Delhi ['CIT(A)'].

2. The grounds of appeal are not well drafted. However, sole issue raised by the assessee emerged therefrom is that whether the Ld. CIT(A) is justified in applying Gross Profit ('GP') @ 20% of the said bogus purchases of Rs.43,16,444/-.

3. The relevant facts giving rise to this appeal are that the assessee-appellant filed its Income Tax Return ('ITR') of the relevant year on

05.03.2022 declaring income of Rs.85,26,280/-. Search and seizure operations under section 132 of the Income Tax Act, 1961 ('Act') carried, on 26.10.2020, on Sanjay Jain & Mehta Group of cases revealed that the assessee had taken accommodation entries of Rs.43,16,444/- in the garb of purchases during the relevant year. Hence, the Assessing Officer ('AO'), with detailed reasoning mentioned in the assessment order disallowed the entire bogus purchases of Rs.43,16,444/- and taxed the same in the hands of the assessee. Aggrieved, the assessee filed appeal before the Ld. CIT(A), who restricted the disallowance/addition at Rs.8,63,289/-; i.e. @ 20% of the bogus purchases of Rs.43,16,444/- as under: -

“8. The evidence, including statements of Sanjay Jain and Nikhil Sachar, and the seized Tally data, unequivocally establishes that the purchases were accommodation entries. The absence of corresponding delivery challans or transport records further corroborates this conclusion. While the purchases are deemed bogus, the fact that the corresponding sales and consumption are undisputed indicates that the materials were obtained through back channels. The appellant's argument that only the profit element should be taxed is valid. Considering the nature of the industry and the high GST rate of 28% on cement, it is reasonable to assume that back-channel operations would involve additional costs, such as commissions and logistics. A GP addition of 20% on the bogus purchases adequately reflects the profit embedded in such transactions, accounting for industry norms and the specific circumstances of this case. In CIT vs. Simit P. Sheth, the court upheld a 12.5% GP addition. However, given the higher GST rate and the inherent costs in accommodation entry operations for cement, a GP addition of 20% is more appropriate. This approach aligns with the principle that the addition must reflect a fair estimate of the profit element. In light of the above findings, the appeal is partially allowed. The addition of ₹43,16,444/- is modified, and 20% of the disputed purchases, amounting to ₹8,63,289/-, is sustained as taxable income.”

4. The Revenue is not in appeal before us.

5. At the outset, the Ld. Counsel contended that the purchases of Rs.43,16,444/- was genuine as the payments had been made through the banking channel and the AO had not disputed the consumption of material purchased for Rs.43,16,444/-. Alternatively, he submitted that the GP rate of 12.5% might be applied in this case instead of 20% applied by the Ld. CIT(A).

6. On the other hand, the Ld. Commissioner of Income Tax- Departmental Representative ('CIT-DR') contended that the average G.P. rate of the assessee had been applied as the GST on the purchases of cement was 28%. He contended that the Ld. Counsel had not contradicted the finding of the Ld. CIT(A). He prayed for dismissal of the appeal.

7. We have heard both parties and have considered the material available on record. The Ld. CIT(A) has applied the rate of 20% keeping in view the entire facts of the case, GST rate and the cost of accommodation entries. However, the Ld. CIT(A) has not given details in this in the impugned order. Keeping in view the facts in totality, material available on the record and in the interest of justice, we are of the considered opinion that the GP rate of 18% will be sufficient as the assessee had to give payment for accommodation entries after deriving income from the above

bogus purchases. Accordingly, we restrict the disallowance/addition to 18%. The appellant gets consequential relief.

8. In the result, the appeal of the assessee is partly allowed as above.

Order pronounced in open Court on 29th July, 2025

Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-

(AVDRESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Dated: 29th/07/2025

Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT/CIT
4. CIT-DR

ASSISTANT REGISTRAR
ITAT, NEW DELHI