

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 2460/Kol/2024**

**Assessment Year: 2013-14**

ACIT, Circle-34, Kolkata	Vs.	Vinod Kumar Lahoti  (PAN: AAXPL 3149 A)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	17.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	25.07.2025
For the assessee / निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the revenue / राजस्व की ओर से	Shri Manoj Kumar Pati, Addl. CIT Sr. DR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the revenue against the order of Commissioner of Income Tax (Appeals), -NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 18.10.2024 for AY 2013-14.

2. Brief facts of the case of the assessee is that the assessee is an individual and e-filed his original return of income for A.Y.2013-14 on 27.09.2013 declaring the total income at Rs.28,25,020/-. The return was processed u/s.143(1) of the I.T. Act, 1961. Thereafter, the case was selected for scrutiny under CASS and accordingly the assessment u/s.143(3) of the Act was passed on 22.12.2015 determining assessed income at Rs.28,97,060/-. As per the information received from the office of the ADIT(Inv), Unit-4(1), Kolkata, it was found that the assessee has entered into bogus purchase transactions amounting to Rs.2,43,65,952/-. Accordingly, the assessment proceedings in this case was reopened. Notice u/s 148 of the Act was duly served on the assessee for further compliance. In response to the said notice, the assessee, the assessee filed his return of income on 27.05.2020 declaring total income at Rs.28,25,020/-. Accordingly, notices u/s.143(2) and 142(1) of the Act were issued and served on the assessee. Therefore, vide letter dated 12.02.2021, the assessee has submitted the details called for and raised his objection for reopening the assessment. The objection raised by the assessee has been rebutted. During the re-assessment proceedings, after examination of the details filed the AO found that the alleged purchase transactions entered with M/s. Ridhhi Sidhhi Enterprises and M/s. Nabh Durga Trading Company, are bogus. Therefore, the purchases as claimed by the assessee, amounting to Rs.2,43,65,952/- was remained unexplained and hence the same is treated unexplained purchases u/s.69C and accordingly disallowed.

3. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been partly allowed as the addition made u/s 69C of the Act has been deleted.

Being aggrieved and dissatisfied the revenue preferred an appeal before us.

4. The Ld. DR has raised the following grounds in this appeal:

*1. Whether on the facts and in the circumstances of the case as well as in law, the Ld. CIT(A) is justified in deleting the additions of Rs. 2,43,65,952/- made u/s.69C of the Act on account of unexplained purchases in the order passed u/s.147 r.w.s.144B of the Act dated 29.09.2021.*

2. *Whether on the facts and in the circumstances of the case as well as in law, the Ld.CIT(A) failed to appreciate the facts that from the enquiries conducted by the Investigation Wing, it is found that the entry operator Sri Manoj Rameka, in his statement recorded by ADIT(Inv.), U-4, Kolkata, admitted that he has provided bogus purchase bills through broker from four entities controlled by him, viz.,(1) Ridhi Sidhi Enterprises & (2) Nav Durga Trading Co.*

3. *Whether on the facts and in the circumstances of the case as well as in law, the Ld.CIT(A) failed to acknowledge that Sri Manoj Kumar Rameka has given list of different beneficiaries along with amount and name of broker and name of M/s. Vandana Trading Co., the proprietorship concern of assessee appeared in the list of beneficiaries provided by Sri Manoj Kumar Rameka.*

4. *Whether on the facts and in the circumstances of the case as well as in law, the Ld.CIT(A) failed to verify the evidence of (i) delivery and transportation (ii) confirmation from the suppliers or their e-mail ID.*

5. *Whether the Ld. CIT(A) is justified in deleting the addition made by the AO on account of unexplained purchases claimed by the assessee ignoring the larger scam of organized tax evasion by way of providing bogus purchase bill as per report and findings after enquiry done by Investigation Wing.*

6. *That the appellant craves leave to add/alter any/all grounds of appeal before or all the time of the hearing of the appeal.*

5. Contrary to that the Ld. AR supports the impugned order thereby submitting that the AO did not carry out any investigation and abruptly come to conclusion of his escapement of income by the assessee. The Ld. A.R further submits that AO considered the third party statement to be true without examining the veracity of the same. It has further been submitted that the mere information without establishing a live link or direct, the AO has held that here is an escapement of income to the extent of Rs. 2,43,65,952/-. The Ld. A.R submits that the Ld. CIT(A) in its order has discussed the law and facts and there is no infirmity in the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have gone through the order passed by the Ld. CIT(A) and find that the assessee engaged in the business of trading electric and electronic goods under proprietorship entity M/s Vandana Trading Company. The assessee filed return of income for AY 2013-14 by declaring income of Rs. 28,25,020/-. The return was selected for scrutiny and determined at Rs. 28,97,060/- vide order passed u/s 143(3) of the Act and after five

years the assessee was served with notice u/s 148 of the Act. The assessee came to know that the AO formed his reason belief that the assessee was a beneficiary of obtaining bogus billing for sum of Rs. 2,43,65,952/- from a dummy entity M/s Riddhi Siddhi Enterprises. The assessee objected very reasons of reopening of his case. It is pertinent to mention here that the extract of reasons reveals that during the course of survey proceedings statement of Shri Manoj Kumar Rameka was recorded and he discloses in his statement that he provided bogus payments to Sanjeev Kumar Behani through his four entities Shree Shyam Trading, Nabh Durga Trading Company, Ridhhi Sidhhi Enterprises and Bhagwati Traders. We further find that AO did not state the basis of his reason belief of escapement of income.

7. We have gone through the order passed by the Ld. CIT(A) and find that the Ld. CIT(A) has discussed the facts of the case and judicial pronouncement. He has discussed the reasons of reopening of case and thereafter has passed an order in favour of the assessee. The relevant portion of Ld. CIT(A) is essential to reproduce herein below:

*“6. Decision: I have considered the facts of the case, written submission and case laws relied upon by the appellant as against the observations and findings of the AO in the assessment order. The submissions and contentions of the appellant are discussed and decided as under:*

*6.1 Ground No.1 to 15: The Appellant in his written submission has primarily objected to reopening of assessment submitting that the reasons to believe for reopening are not valid, reopening has been made merely on the basis of statement of third person recorded during the course of survey proceedings in said third party.*

*6.1.1 The assessee has also requested for opportunity to cross examine third party on the basis of whose statement the case was reopened, however, the same was not been provided by the AO. The assessee has placed reliance upon various decisions to strengthen his arguments. The decisions of Hon'ble Supreme Court of India in cases of Andaman Timber Industries v. Commissioner of Central Excise, Civil Appeal No. 4228/2006 (SC) and Lakshman Exports Ltd. v. Collector of Central Excise (2005) reported at 10 SCC 634 favor the assessee. Thus, the action of the AO in relying upon the statement without providing opportunity to cross examine is not as per spirit of law.*

*6.1.2 It has also been submitted that AO has not made any independent enquiry for reopening of assessment. The Appellant has further argued that reopening of assessment is based on borrowed satisfaction. The Appellant has also submitted that objections to reopening of assessment have not been properly disposed of and the notice has been issued beyond four years without any failure of the assessee to disclose fully and truly material facts necessary for assessment. The assessee has further submitted that his income was assessed at returned income by the assessment order dated 22.12.2015 under Section 143(3) of the Income Tax Act,*

1961 and during the course of original assessment proceedings the purchases were duly verified by the then AO, thus, the assessment is based merely change of opinion. The assessee has relied upon a number of judicial precedents from various courts and tribunals in support of his contentions and submissions. The submissions of the assessee have the merit and action of the AO is not as per law. The Grounds taken by Appellant for failure on part of AO for not making independent enquiries, for opening of assessment on borrowed satisfaction, for chance of opinion have the force as the courts and other judicial forums have held in favor of the assesseees from time to time.

6.1.3 The facts of the case, the assessment order, Submissions of the appellant and other material on record have been perused. It is observed that A.O has concluded the re-assessment proceedings by making a disallowance of Rs. 2,43,65,952/- on account of unexplained purchases and treating it as unexplained expenses and added it to the total income of the appellant u/s 69C of the Income Tax Act 1961.

6.1.4 The appellant had furnished the following documentary evidences to prove the genuineness of the purchases made by the appellant from impugned parties 1. Audited Accounts for the FY 2012-13 2. Summary of month-wise Purchase reconciled with VAT return 3. Purchase Day Book 4. Sales Day Book 5. Purchase details from Riddhi Siddhi & Naba Durga Trading 6. Ledger of Riddhi Siddhi & Naba Durga Trading Corporation 7. Summary of Sundry Creditors with purchase & payment 8. Purchase bill Riddhi Siddhi & Naba Durga 9. Bank statement for payment to Riddhi & Naba Durga 10. Stock Statement & Goods IN/Out wrt disputed suppliers 11. VAT audit report & VAT returns reflecting the purchase per books

6.1.5 It is observed from the perusal of the documents submitted by the appellant that he has submitted the requisite documents to prove the genuineness of the purchases viz complete details of the parties, their PAN, Sales Tax registration number, description of the items, purchase register, sale register, VAT returns, purchase invoices and stock register showing inward and outward movement of the goods. It is further seen that the sales and purchases shown by the assessee in his VAT returns for the relevant year have been accepted by the VAT Department after scrutiny. It is seen from the perusal of the bank statements, bank books and ledger accounts submitted by appellant that all payments towards purchases were made through banking channels.

6.1.6 Further it is noticed from written submission made by appellant that the AO has carried out verification of books of accounts of the appellant by calling details and explanations with respect to sales, purchases, debtors, creditors, stock register, quantitative detail of stock, bank statements, VAT returns etc. However, AO has not pointed out even a single error/discrepancy in the detail and documentary evidences submitted by the appellant. Accordingly, AO has not doubted the trading results declared by the appellant.

6.1.7 It is worthwhile to mention that the case of the assessee for immediately preceding year i.e. assessment year 2012-13 was reopened on the similar allegation of bogus purchase from the same parties as alleged in the year under consideration and no adverse view was taken by the AO in respect of purchases made by the assessee from impugned parties. In the instant case, the assessee has also submitted that the purchases are recorded in the books of account, source has been proved and books of the assessee are audited and accepted by the AO. The various courts have also held that no addition under Section 69C of the Income Tax Act, 1961 could be made in respect of the purchases. Thus, this argument of the appellant is also tenable. 6.1.8 Based on above findings and views taken by various Tribunals and High Court on the similar issue, I am of the considered opinion that AO was not correct in making addition of Rs.2,43,65,952/- u/s.69C of the I.T. Act on account of unexplained Expenses. Accordingly, the addition of Rs.2,43,65,952/- is hereby deleted.

6.2 Ground no. 16 to 21: These grounds are consequential in nature and do not require to be adjudicated.

7. The appeal of the appellant is Partly Allowed.”

8. Keeping in view the above discussion and considering the order passed by the Ld. CIT(A), we do not find any infirmity in the impugned order. Accordingly, the appeal of the revenue is hereby dismissed.

In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 25<sup>th</sup> July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 25<sup>th</sup> July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ACIT, Circle-34, Kolkata
2. Respondent – Vinod Kumar Lahoti, Room NO. 9, 2<sup>nd</sup> Floor, Strand Road, Burra Bazar-700001
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata