

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 5104/Del/2024
निर्धारणवर्ष/Assessment Year: 2021-22**

DEPUTY COMMISSIONER OF INCOME TAX, Central Circle-31, New Delhi.	<u>बनाम</u> Vs.	M/S AHLUWALIA CONTRACTS INDIA PVT. LTD., A-177, Phase-1, Tehkhand Okhla Industrial Estate, New Delhi.
		PAN No.AABCA4303K
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

&

**Cross Objection No.37/Del/2025
(Arising out of ITA No. 5104/Del/2024)
निर्धारणवर्ष/Assessment Year: 2021-22**

M/S AHLUWALIA CONTRACTS INDIA PVT. LTD., A-177, Phase-1, Tehkhand Okhla Industrial Estate, New Delhi.	<u>बनाम</u> Vs.	DEPUTY COMMISSIONER OF INCOME TAX, Central Circle-31, New Delhi.
PAN No. AABCA4303K		
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Revenue by	Shri Ajay
Assessee by	Shri Vishal Sahgal, CA & Shri V. Rajakumar, Advocate

सुनवाईकीतारीख/ Date of hearing:	12.08.2025
उद्घोषणाकीतारीख/ Pronouncement on	13.08.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal and Cross Objection are filed by the Revenue and Assessee respectively against the order of the Ld. CIT(Appeals)-NFAC dated 29.08.2024 for the AY 2021-22. Revenue in its appeal raised the following grounds:

1. *“The order of the Ld. CIT(A) is perverse, erroneous and is not tenable on facts and in law.*
2. *Whether the Ld.CIT(A) has erred in law & fact by not taking into consideration the judgment of the Hon’ble Gujarat High Court in the case of N.K. Industries Limited vs. DCIT in ITA No.240, 241, 242, 260 & 261 of 2003, vide order dated 20.06.2016 and directing the AO to re-assess because taxing only certain percentage of bogus purchases goes against the principles of Section 69C of the Act.*
3. *Whether the Ld. CIT(A) has erred in taking into consideration the Hon’ble Apex Court order dated 11.3.2022 in the case of Pr. Commissioner of Income Tax vs. Delhi International Airport (P) Ltd. vide which it has accepted the SLP 113(SC)/[2022], wherein the identical issues (Issue of disallowance u/s 14A of the Act) were reported.*
4. *The grounds of appeal are without prejudice to each other.*
5. *The appellant craves leave to add, amend, alter or forgo any grounds of appeal either on or before the final hearing of the appeal.”*

The Assessee in its cross objection raised the following grounds:

“That on the facts and in the circumstances of the case and in law the Ld.CIT(Appeals) erred in confirming the following actions made by the Assessing Officer:

1. *Not deleting addition of Rs.10,20,000/- on account of genuine purchases and only directing to confirm the addition to the extent of 15% of such purchases.*

All the above actions being erroneous unlawful and untenable it is prayed that the same must be quashed with directions for appropriate relief.”

2. Ld. Counsel for the assessee, at the outset, submitted that the tax effect in Revenue’s appeal is less than Rs.60 lakhs and therefore the appeal is liable to be dismissed in view of the CBDT Circular No.09 of 2024 dated 17/09/2024. Ld. Counsel submitted the following short synopsis of facts and arguments:

“This appeal has been filed by the Department in respect of two additions annulled by the Ld. CIT(A):-

- i) *Addition made as per para 2.5 in a sum of Rs.6,28,000/- in respect of disallowance u/s 14A of the Income Tax Act, 1961 (the Act); and*
- ii) *Addition made as per para 4.11 in a sum of Rs.10,20,000/- on account of alleged bogus purchases.*

These two additions which form the Ground of Appeal of the Department in the Form-36 as submitted by them add up to Rs.16,48,000/- only. The tax on these additions by any stretch of imagination cannot exceed Rs.60,00,000/-.

Since the appeal filed by the Department is against the monetary limits as prescribed by the Board vide Circular

No. 9/2024 dated 17.09.2024, the appeal merits to be dismissed in limine.

In the event of the appeal being dismissed on the aforesaid ground, Form-36A as filed by the Assessee in this regard may also be considered as withdrawn.”

3. Heard rival submissions, perused the record before us. As per Form 36 filed by the Department the total amount of additions or disallowances made in the assessment order was Rs.60,33,420/- and the amount disputed in appeal is only Rs.16,48,000/- and the tax effect on such disputed amount is Rs.8,95,708/-.

4. Ld. DR could not point out whether the issues in appeal fall under any exceptions provided by the Circular of the CBDT. Since the total tax effect in this Revenue's appeal is less than Rs. 60 lakhs the appeal is liable to be dismissed in view of the Board Circular. However, in the event of the Revenue proving that the issues in appeal falls under any exceptions provided by the CBDT in its Circular the Revenue is at liberty to file miscellaneous application to recall the order and to hear the appeal on merits. Similarly, the assessee is also given liberty to file a miscellaneous application to recall the cross objection to hear it on merits. With these observations the appeal of the Revenue and the Cross Objection of the Assessee are disposed off.

5. In the result, the appeal of the Revenue and the Cross Objection filed by the Assessee are dismissed.

Order pronounced in the open court on 13/08/2025

**Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

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

Dated: 13.08.2025

**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**