

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'DB', AMRITSAR BENCH, AMRITSAR**

**HYBRID HEARING**

**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND**  
**HON'BLE SHRI UDAYAN DAS GUPTA, JM**

**1. आयकर अपील सं./ ITA No. 335/ASR/2024**  
**(निर्धारण वर्ष / Assessment Year: 2021-22)**

<b>Ms. Jyoti Saroop Grover</b> (Prop. Ms. Sant Metal Industries) Sekhu Road, Ward No 7 Malout, Punjab – 152 107	<b>बनाम/ Vs.</b>	<b>DCIT - Central Circle</b> Amritsar Punjab-143001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AJRPG-8929-P</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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**2. आयकर अपील सं./ ITA No. 434/ASR/2024**  
**(निर्धारण वर्ष / Assessment Year: 2021-22)**

<b>DCIT - Central Circle</b> Amritsar Punjab-143001	<b>बनाम/ Vs.</b>	<b>Ms. Jyoti Saroop Grover</b> (Prop. Ms. Sant Metal Industries) Sekhu Road, Ward No 7 Malout, Punjab – 152 107
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AJRPG-8929-P</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Sudhir Sehgal (Advocate) –Ld.AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Abhishek Pal Garg (CIT) – Ld. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	17-07-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	18-08-2025

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid cross-appeals for Assessment Year (AY) 2021-22 arises out of an order of Ld. Commissioner of Income Tax (Appeals)-5, Ludhiana

[CIT(A)] dated 13-05-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s. 144B of the Act on 23-12-2022. The sole that issue that fall for our consideration is addition of *alleged bogus purchases*. The assessee, by way of additional grounds, has also challenged the enhancement made by Ld. CIT(A) in the impugned order. Having heard rival submissions and upon perusal of case records, the cross-appeals are disposed-off as under.

### **Assessment Proceedings**

2.1 The assessee is stated to be engaged in extracting lead from batteries scrap under proprietorship concern by the name M/s *Sant Metal Industries*. The assessee declared income of Rs.15.48 Lacs which was subjected to scrutiny assessment proceedings. Pursuant to certain information as available on the portal, Ld. AO alleged that the assessee made purchases from 12 parties / suppliers who did not file their Income Tax Returns. The purchases so made by the assessee aggregated to Rs.786.61 Lacs which has been extracted at para 3.1 of the assessment order. Notices u/s 133(6) was issued to these parties. Only one party i.e., Shri Satwant Singh (Proprietor of M/s S.S. International) responded and denied having done any business transactions with the assessee. As against this, the assessee furnished confirmed copy of ledger account as appearing in the books of M/s S.S. International and pleaded that all the purchases were genuine.

2.2 In support of all purchase transactions, the assessee stated that the purchases were made from these parties before their respective VAT / GST registrations were cancelled. The status report of GSTN of all the

parties with respective sale vouchers and e-way bills was also furnished in support of delivery of goods. All the payments to these parties were made through banking channels which was evident from bank statements of these parties as furnished by the assessee. It was stated that the assessee was under no legal obligation to compel the sellers to file their respective income tax returns. The assessee duly reflected all the purchase and sale transactions in its books of accounts. In the alternative, the assessee pleaded for application of profit rate of 0.25% on these purchases. The attention was also drawn to the fact that in the case of similarly placed assesses, Ld. AO estimated profit rate of 3%. However, rejecting all these submissions, Ld. AO added the amount of Rs.786.61 Lacs to the income of the assessee u/s 69C r.w.s. 115BBE of the Act and framed the assessment.

### **Appellate Proceedings**

3.1 During appellate proceedings, the assessee assailed impugned additions by way of elaborate written submissions which have already been extracted in the impugned order. The Ld. CIT(A) partly concurred with assessee's submissions and observed that the assessee had filed plethora of documents in support of its claim as under: -

- a) Copy of complete audited set including the Balance Sheet and Profit and Loss account for the year under consideration.
- b) Copy of complete purchase report of the Assessee for the year under consideration.
- c) Copy of the purchase account for the year under consideration along with Supplier wise purchase summary for the year AY 2021-22.
- d) Copy of the Sale account for the year under consideration along with recipient wise sale summary for the year AY 2021-22.
- e) GSTR-2A of the assessee for the FY 2020-21.
- f) GSTR-3B summary report of the assessee for the FY 2020-21.
- g) GSTR 9 and 9c of the assessee for the AY 2020-21.

- h) Quantitative data of purchase and sale transactions done by the assessee for FY 2020-21
- j) Copy of the ledger account of all the 12 parties in assessee's books
- k) Copies of bank statements highlighting with purchase transaction with the said 12 parties
- l) Ledger account confirmation by the major suppliers.
- m) Copies of Invoices along with E-way bills for the said 12 parties.
- n) GST registration status of the above said firm on GST portal

It was thus very much clear that the assessee had explained each and every purchase transaction with all the suppliers and also proved the genuineness of the transactions with these suppliers. The purchases were duly supported by the bills, all the payments were through banking channels and there was no evidence that the purchase consideration was routed back to the assessee. The sales made out of purchases were duly been accepted by Ld. AO. The books of account were not rejected. The assessee furnished quantitative data of purchase and sale transactions. The purchases made by the assessee were duly backed up by proper documents. The assessee relied upon various case laws to assail the impugned addition including the decision of Hon'ble Apex Court in the case of **Pr. CIT vs. Tejua Rohit Kumar Kapadia (94 Taxmann.com 325; dated 04.05.2018)** and also the Judgment of the Jurisdictional High Court in the case of **Supertech Forgings (India) Pvt. Ltd. (ITA No.101 of 2022 (O&M) dated 05-09-2023)** rendered on similar factual matrix. Considering the same, Ld. CIT(A) finally held that entire addition of alleged bogus purchases could not be made in the hands of the assessee.

3.2 It was further observed by Ld CIT(A) that the assessee was engaged in procuring scrap and there was no uniformity /

standardization of this raw material. The exact weight of lead and the quality of lead in this raw material was not known and therefore, the stock register or other documents maintained by the assessee could not be said to fully reliable giving true picture of the net profit of the assessee. The assessee himself pleaded for estimation of 0.25% against such addition. Considering the same, Ld. CIT(A) rejected the books of the assessee u/s 145(3) and estimated gross profit of Rs.1% on entire sale of Rs.17.21 Crores which worked out to be Rs.17.21 Lacs. Aggrieved, the assessee as well as revenue is in further appeal before us.

#### **Our findings and Adjudication**

4. From the case records, it emerges that the assessee carries out manufacturing activity since the year 2004. The substantial purchases made by the assessee are mostly from GST registered dealers only. The purchases so made are duly reflected by those dealers in their respective GSTR 3B returns and corresponding purchases are reflected by the assessee in its own GSTR 2A returned to claim the input tax credit. The tax credit so claimed has not been rejected by GST authorities. The purchased goods are transported through different carriers which are supported by e-way bills as mandated under relevant GST laws. The assessee has made purchases in this year for Rs. 786.61 Lacs from 12 parties which has been disputed by Ld. AO primarily on the ground that notices issued u/s 133(6) were not complied with by these parties and these parties did not file their respective income tax returns. As against this, the assessee has furnished purchase ledgers of all the suppliers which would show that the payments have been made through banking

channels only. The purchases are duly supported by purchase invoices and e-way bills evidencing movement of material. The confirmed copies of accounts have also been furnished by the assessee. The assessee has maintained complete quantitative details of raw material and manufactured items which have not been disputed by Ld. AO. The books of accounts are duly audited as per law and no adverse observation has been made by Tax Auditor. No single defect / discrepancy have been pointed out by Ld. AO in the books of the assessee. It is quite logical to hold that without purchases, there could be no sale considering the fact that the assessee was engaged in manufacturing activity which would require basic raw material for any production to happen. No discrepancy has been found in the quantitative details of raw material as shown to have been consumed by the assessee. In the present case, sales turnover has not been doubted / disturbed by Ld. AO. The rate of Gross profit (GP) shown by the assessee in this year is 4.49% which is commensurate with GP rates of 4.93% and 6.51% in AYs 2020-21 and 2019-20 respectively. If impugned purchases are added in its entirety, GP rate would shoot up to 50.21% which is quite abnormal and could not happen in manufacturing activities being carried out by the assessee.

5. We also find that the assessee has furnished plethora of documentary evidences in support of its purchases made during the year. The same has already been tabulated at preceding para 3.1. Upon perusal of the same, it could very well be said that the assessee had duly discharged of its onus to prove the genuineness of the purchases and the onus was on revenue to disprove the documents of the assessee. We find

that except for the fact the notices u/s 133(6) were unresponsive, there is no other material before Ld. AO to make impugned additions in the hands of the assessee. In our opinion, the mere fact of non-response to notices u/s 133(6) could not disprove the purchases so made by the assessee.

6. In our considered opinion, the statement of Shri Satwant Singh would be unworthy of admittance and the same could not be accepted since the purchases are duly supported by e-way bills and the payments have happened through banking channels which has not been controverted by the said supplier. Merely because notices u/s 133(6) remained non-complied with or not Income Tax Returns were filed by these suppliers, no adverse inference could be drawn against the assessee on these facts. The suppliers have duly reflected to sales made to the assessee in their respective GST returns. Therefore, these facts do not lend any assistance to the case of the revenue.

7. Our view is duly supported by the decision of Hon'ble Supreme Court in the case of **Pr. CIT v. Tejua Rohitkumar Kapadia (94 Taxmann.com 325)** wherein Hon'ble Court dismissed revenue's Special Leave Petition (SLP) against the decision of Hon'ble High Court of Gujarat holding that where purchases made by assessee-trader were duly supported by bills and payments were made by account payee cheque and there was no evidence to show that amount was recycled back to assessee, AO was not justified in treating said purchases as bogus under section 69C. Similarly, Hon'ble Punjab & Haryana High Court in the case of **Supertech Forgings India Pvt. Ltd. (supra)**, on identical facts & circumstances, deleted the addition on account of the alleged bogus

purchases. The other decisions as referred to by Ld. AR and placed on record similarly supports our aforesaid view.

8. So far as the rejection of books of accounts by Ld. CIT(A) and estimation of profit of 1% on sales is concerned, we find that there is no basis to reject the books of accounts since no defect has been pointed out in the books of accounts. The assessee has maintained completed records for its business transactions. There is no doubt on the trading results or on the expenditure as incurred by the assessee. The sale turnover is not in dispute. Pertinently, no enhancement notice has ever been issued by Ld. CIT(A) before rejecting the books and estimating the income on *lumpsum* basis. It is trite law that no addition could be made on mere presumptions, conjectures and surmises. We find that there is no reasonable basis to reject the books of the assessee and applying profit rate of 1% on the turnover. Therefore, the addition as sustained by Ld. CIT(A) in the impugned order could not be sustained in law. We order so. The Ld. AO is directed to accept the returned income of the assessee.

9. The revenue's appeal stand dismissed. The assessee's appeal stand allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.*

Sd/-

**(UDAYAN DAS GUPTA)**  
**JUDICIAL MEMBER**

Sd/-

**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 18-08-2025.

**आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR