

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 893/MUM/2024  
Assessment Year: 2017-18**

West Coast Fine Foods (India) Pvt Ltd 95, C wing, Mittal Tower, Nariman Point, Mumbai - 400021  (PAN: AAGCA2676P)	Vs.	DCIT 13(3)(2), Mumbai
(Appellant)		(Respondent)

**ITA No. 1201/MUM/2024  
Assessment Year: 2017-18**

DCIT 13(3)(2), Mumbai	Vs.	West Coast Fine Foods (India) Pvt Ltd D-1401/1402 Lotus Corporate Park Gram Path Western Express Highway, Mumbai - 400063  (PAN: AAGCA2676P)
(Appellant)		(Respondent)

Present for:

Assessee : Shri Piyush Chhajed & Shri Sumit Mantri CAs  
Revenue : Shri Arun Kanti Datta, CIT DR

Date of Hearing : 07.07.2025  
Date of Pronouncement : 28.08.2025

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

These two appeals, one filed by the assessee and the other by the revenue are cross appeals for the same assessment year. Revenue has

contested the relief granted by ld. CIT(A) on the ad hoc additions made by the ld. Assessing Officer by adopting a rate of 5% on the total purchases made by the assessee and on certain expenses incurred which was reduced to 2% by ld. CIT(A). Thus, revenue is in appeal contesting the reduction in the percentage from 5% to 2% and seeking restoration to the addition made by ld. AO adopting a rate of 5%.

1.1. Contrary to this, assessee is in appeal challenging the entire addition made by ld. AO at the rate of 5% to submit that such a disallowance is not permitted under the provisions of the Act as these are ad hoc disallowance without pointing out any defect in the audited financial statements when the incurrance of expenses is not doubted and payments made for these purchases and expenses are through proper banking channel, duly accounted for in the books of account with compliance of all the statutory requirements in these respect. According to the assessee, the ad hoc additions are made on presumptions and therefore do not warrant any addition.

2. Brief facts of the case are that assessee is engaged in the business of trading aquatic animal feed and related products, trading of farm raised shrimps which is purchased from various shrimp farmers and sold to processing house that freeze and export the shrimps. Assessee also runs retail stores by the name Seafood Mart by Cambay Tiger. Assessee filed its return of income on 16.02.2018 reporting a total income of Rs.1,54,18,710/-. Assessment was completed u/s.143(3), wherein the ad hoc disallowances were made as under:

A. Ad hoc disallowance of Rs. 9,23,78,676/- at the rate of 5% of the total purchases of Rs.184,75,73,529/-.

B. Ad hoc disallowances of Rs. 28,07,723/- that is 5% of business promotion expenses, cold storage expenses, office expenses, repairs and maintenance expenses and transportation expenses which totals up to Rs.5,61,54,456/-.

3. In the course of assessment proceedings, assessee was required to justify its purchases with necessary supporting documents in respect of which assessee furnished its details with multiple submissions, details of which are noted as under. Assessee furnished the details with complete details of the purchases amounting to Rs.169,89,80,094/-. Another submission was made vide letter dated 19.12.2019 whereby details including PAN, party name, amount of purchase and their addresses were furnished for purchases amounting to Rs. 10,19,81,128/-. Through the same submission, assessee also submitted a list of parties along with their addresses which related to the total purchases of Rs. 3,96,25,025/- for which the PAN were not readily available. Assessee however, assured that in due course of time, PAN for these parties shall be made available. In another list, assessee furnished details relating to purchases which were less than Rs. 1,00,000/- totalling to Rs.69,87,284/-, wherein details of PAN and addresses could not be furnished.

3.1. On the nature of business, assessee explained its modus operandi which is reproduced as under.

*"Our nature of business requires us to engage with farmers who are into the business of marine farming and aquaculture and of rural background, and consequently there might be some purchases, for which complete details could not be provided. However, whatever details were available with them, with respect to the details being called for were provided. As the farmers do not have an organized structure of a business set-up, we were unable to provide certain specific details like PAN etc in certain cases which is even less than 5% of total purchases."*

3.2. Summary of submissions made by the assessee in respect of the purchases is tabulated as under.

<i>Sr No.</i>	<i>Particular (as mentioned in assessment order)</i>	<i>Amount in Rs</i>	<i>Remark for your honor's reference</i>
<i>i)</i>	<i>Purchase with PAN</i>	<i>Rs.1,69,89,80,094/-</i>	<i>Enclosed the list of purchases (Page 103 to 106). The same was submitted during the assessment proceeding.</i>
<i>ii)</i>	<i>Additional Purchases with PAN to be submitted</i>	<i>Rs.10,19,81,128/-</i>	<i>Enclosed the list of purchase along with PAN (Page 107). The same was submitted during the assessment proceeding but not considered by ld. Assessing officer.</i>
<i>iii)</i>	<i>Purchases with no PAN</i>	<i>Rs.3,96,25,023/-</i>	<i>Enclosed the list as annexure (Page 108 to 109) wherein the PAN are stated. We are hereby enclosing the sample invoices (Page 110 to 497) for your goodself ref.</i>
<i>iv)</i>	<i>Others Purchase less than Rs. 1 lac</i>	<i>Rs.69,87,284/-</i>	<i>Enclosed the list as annexure (Page 498 to 504) wherein the party-wise PAN and Address are stated</i>
	<i>Total in Rs.</i>	<i>184,75,73,529/-</i>	

3.3. Reference was also made to the tax audit report placed on record whereby quantitative details of principal items of goods traded by the assessee were furnished including the opening stock, purchases made during the year, sales made during the year, closing stock and the shortages, if any. Assessee has maintained all the documents in respect of its trading transactions, details of which were furnished including sample invoices forming part of the paper book. In respect of purchases at serial no. 3 and 4 in the table above, assessee furnished further details including sample invoices for certain parties for which PAN was made available, subsequently. Thus, out of the purchases with no PAN

amounting to Rs. 3,96,25,023/-, approximately purchases worth Rs. 1.45 crores remained where the PAN was not available with the assessee. However, assessee had given the details of their address and sample invoices for meeting the compliance requirement of the Assessing Officer to substantiate the purchases made by it. These details are placed in the paper book at page no.108 and 109. Ld. AO took an adverse view by observing in Para 3.3 that in absence of any documentary evidences and only from the breakup of parties, entire claim cannot be verified and thus, he resorted to make a disallowance by taking an ad hoc rate of 5% of total purchases for want of evidences to make a disallowance of Rs.9,23,78,676/- i.e., 5% of Rs. 184,75,73,529/-.

4. On the second issue relating to similar ad hoc disallowance made by applying the rate of 5% of certain expenses, details of these expenses are tabulated below.

Sr. No.	Expenses	Amount (Rs.)
1	Business Promotion expenses	Rs.1,62,26,927/-
2	Cold Storage expenses	Rs.1,84,71,917/-
3	Office expenses	Rs.36,55,945/
4	Repair and Maintenance expenses	Rs.48,55,699/-
5	Transportation expenses	Rs.1,29,43,968/-
	Total	5,61,54,456/-

4.1. On the above, assessee furnished details of expenses in the format as required by the ld. AO. However, ld. AO without pointing out any defect in audited financial statements and details submitted by the assessee, made ad hoc disallowance by adopting a rate of 5% of the total of these expenses, to make an addition. Various contentions raised by

the ld. AO and the submissions made by the assessee thereon is tabulated below for ready reference.

	Nature Of Expenses Disallowed	Reasons for Disallowance	Assessee's Contentions
1	Business Promotion Expenses Expenses Incurred: - Rs. 1,62,26,927/- Expenses Disallowed: - Rs. 8,11,346/-	a) The assessee has simply furnished the break-up wherein in certain cases no Address, PAN, TDS has been filed	a)Addresses and PAN are not given for expense incurred by the employees (Where Company's address is considered as the address of the party. b) TDS details are provided for the nature of expenses wherein the total amount of expenses incurred are below the thresh hold limit on which TDS is to be deducted or the nature of expenses are in the form of purchases or in the nature of reimbursements.

		<p>b) In certain cases, though the payment is more than the threshold limit it has simply furnished NA without mentioning the reason.</p>	<p>a) The comments made in submission as "NA" refers to not applicable cases and pertains to expenses incurred for purchase wherein TDS provisions are not applicable. Complete details are available including the nature of expenses under the suitable heads.</p>
		<p>c) In certain cases the assessee has incurred the said expenditure through credit cards.</p>	<p>a) It is an accepted mean of making payment where a credit card is used by an assessee or his employee. In turn the credit cards are paid by regular banking channel. Since the credit card payments are numerous, making a mention of location of expenses is cumbersome, although full details will be available in the bills of credit card issuers.</p>
		<p>d) Also it has incurred certain expenditure in cash.</p>	<p>a) The total business promotion expenses incurred in cash is Rs. 1,72,920, compared to Rs. 1,62,26,927 being total business promotion expenses; being just 1.07% of total Business Promotion expenses debited to Profit and Loss account. A surely acceptable number in an economy of this period and this country; not leading to any further basis to search for a disallowance.</p> <p>b) The nature of cash expenses includes photography expenses, sample purchases, purchase of books and periodicals, miscellaneous expenses incurred at Events and exhibitions etc. justifying the cash payment.</p> <p>c) Average voucher size of total cash expenses are Rs 2034/-, nominal by any standard and total no of vouchers are approximately 85.</p>

			d)Not a single expense is incurred in cash in excess of the prescribed limit of Rs. 20,000
2.	Cold Storage Expenses Expenses Incurred: - Rs. 1,84,71,917/- Expenses Disallowed: - Rs. 9,23,565/-	a) The assessee has simply furnished the names without mentioning the address, cash vouchers, etc.	<p>a) The assessee is in the business of trading of Processed Frozen Prawns and shrimps wherein the assessee sources the material from one or more states and distributes it to various parties spread across India through its liasioning offices/branches.</p> <p>b) The assessee is required to use third party cold storage facilities which are located at various places.</p> <p>c)The assessee normally requires the services of part time labourers for loading and unloading of packages to/from the cold storage facilities.</p> <p>d)Since these workers are unorganized, it very much unlikely they possess bank accounts.</p> <p>d) The total expenses incurred is Rs. 3,21,605, which is 1.74% of the total cold storage expenses, and is thus nominal.</p>
		b)Moreover, the mode of payment has not been mentioned, which appears to be in cash.	<p>a) The mode of Payment of expenses is either cash or by cheque, which is all disclosed in statements submitted, IN fact, that is how the total cash payments are available to AO in the comments made in the order.</p> <p>b) The total expenses incurred in cash w.r.t payment to Naka labourers is 1.74% of total Cold storage expenses debited to Profit and Loss account. A surely acceptable number in an economy of this period and this</p>

			<p>country; not leading to any further basis to search for a disallowance.</p> <p>b) The nature of cash expenses includes payment for loading and unloading of material to/from cold storage etc justifying the cash payment.</p> <p>c) Average voucher size of total cash expenses is Rs 1747/-, nominal by any standard and total no of vouchers are approximately 185.</p> <p>d) Not a single expense is incurred in cash in excess of the prescribed limit of Rs. 20,000</p>
3.	<p>Office Expenses</p> <p>Expenses Incurred: - Rs. 36,55,945/-</p> <p>Expenses Disallowed: - Rs. 182797/-</p>	<p>a) No proper address, PAN and the purpose of expenditure has been mentioned.</p>	<p>a) Addresses and PAN are not given for expense incurred by the employees (Where Company's address is considered as the address of the party.</p> <p>b) Complete details are available with us and will be provided additionally.</p>
4.	<p>Repairs and Maintenance Expenses</p> <p>Expenses Incurred: - Rs. 48,55,699/-</p> <p>Expenses Disallowed: - Rs. 242785/-</p>	<p>a) Complete address, PAN, place of repair, etc. has not been mentioned.</p>	<p>a) The place of repair is an additional information and no such information was called for in the notice</p> <p>b) Addresses and PAN are not given for expense incurred by the employees (Where Company's address is considered as the address of the party.</p> <p>c) Complete details are available with us and will be provided additionally.</p>
		<p>b) All the expenditure is below the threshold limit which appears to be incurred in cash.</p>	<p>a) We have prepared additional details wherein the actual cash expenses incurred under the head repairs and maintenance is approx. Rs. 80518.</p> <p>b) The total expenses incurred in</p>

			approximately 960 d)Not a single expense is incurred in cash in excess of the prescribed limit of Rs. 20,000
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<i>Assessing Officer's contention</i>	<i>Appellant's counter argument</i>
Non-deduction of TDS on certain cases.	TDS has not been deducted only where there is no liability on payer's part to deduct the tax under the Act
Some of the expenses has been incurred through credit card.	This is an acceptable mode of payment. Credit cards are in the name of company and not in the name of director/any other person. No personal expenses have been made through credit card.
Some of the expenses has been incurred through cash.	Expenses incurred in cash are well within the limit prescribed in Rule 6DD of Income tax rules read with section 40A(3) of the Act.
Genuineness of entire claim of expenditure cannot be verifiable.	The Appellant has submitted all the details sought by the Assessing Officer during the course of assessment to prove the genuineness of expenditure. The A.O has not made any comment as to why he considers expenses as non-genuine.

4.2. Ld. CIT(A) in the first appeal has reduced this ad hoc percentage of 5% to 2% and gave partial relief to the assessee. Both, revenue and assessee are in appeal in respect of the addition made by the ld. AO and the relief granted by the ld. CIT(A).

5. Contentions of the assessee are that ld. AO has made ad hoc disallowances which are not permissible under the provisions of the Act without pointing out any mistake or specific defect with respect to the purchases made by the assessee and expenses incurred, claimed as deduction in computing its total income. In respect of the purchases, the ad hoc disallowances made by the assessee merely on the basis that certain PAN details or supporting were not submitted by the assessee

for which ld. AO has failed to take into consideration the nature of business in which the assessee is engaged in. Assessee has furnished the details of the parties with their addresses and invoices where the PAN details were not available. Ld. AO could have taken appropriate measures to inquire from the said parties before resorting to making ad hoc disallowance on the entire purchases of the assessee.

5.1. Further, contention of the assessee is that payments for the purchases are made through banking channel and that ld. AO has not rejected the books of accounts which have been duly subjected to audit and no defect or discrepancy has been pointed out by the auditor in the books of accounts so maintained by the assessee. All the required disclosures have been made in the audit report by the tax auditor. Similar submissions are made by the assessee in respect of each of the expenses for which ad hoc disallowance is made where nothing specific has been pointed out which led to the approach adopted by the ld. AO. In respect of these expenses, assessee also submitted that there is no violation of the provisions contained in section 40A(3) where the payments are made in excess of the threshold limit by making payment in cash.

6. Per contra, ld. DR asserted that the order of ld. AO be sustained where the disallowance has been made by adopting 5% of the purchases and certain expenses, since assessee failed to produce relevant evidences to justify said expenditure. According to him, assessing officer was justified in making the said ad hoc disallowance and ought to be sustained instead of relief granted by ld. CIT(A) by reducing the percentage from 5% to 2%. For this, he placed reliance on the decision

of Hon'ble High Court of Karnataka in the case of Tata Coffee Ltd vs. DCIT [2020] 121 taxmann.com, 139 (Kar).

7. We have heard both the parties and perused the material on record and given our thoughtful consideration to the submissions made. Assessee has submitted a paper book containing 1045 pages to substantiate the claim made by it in its appeal. Undisputedly, incurrance of expenditure and the purchases made is not disputed by the ld. AO. Assessee has maintained regular books of accounts which are subjected to audit. Tax audit report in Form 3CA and 3CD is placed on record with all the disclosures made therein. Assessee has furnished quantitative details of items in which it has traded. Assessee has also explained the nature of business in which it is engaged in. In respect of the purchases made by the Assessee which is of a significant volume of 184 crores, in respect of these purchases, it is only for a very insignificant portion for which the details in respect of PAN could not be furnished by the Assessee for which also, Assessee has explained its case and justified the non-availability of PAN. The small percentage is tabulated above which comes to less than 2% of the total purchases.

7.1. It is important to note that ld. AO has not rejected or made any negative observation in respect of the parties from whom purchases have been made for which assessee has furnished PAN details. In respect of the parties for which PAN details are not available, their addresses and the invoices are placed on record which were sufficient for the appropriate actions which ld. AO could have taken. In respect of certain expenses tabulated above, similar approach has been adopted by ld. AO of resorting to an ad hoc disallowance of 5%.

7.2. In the present case before us, it is noticed that neither the Id. AO nor Id. CIT(A) have rejected the regular books of accounts maintained by the assessee in the course of its business which have been subjected to audit. Id. DR has not been able to show any defect in the records of the assessee warranting rejection of books of accounts and adopting ad hoc percentage of 5% or 2% to make a disallowance on the entire purchases of the assessee and certain expenses tabulated above.

7.3. Before resorting to such an estimation for disallowance, it is *sine qua non* that the Assessing Officer has to come to a conclusion that the books of accounts maintained by the assessee are incorrect, incomplete or unreliable and reject the same before proceeding to make his own assessment on ad hoc basis/on a best estimate basis. Section 144 of the Act provides for the manner in which best judgment assessment has to be completed. From the provisions contained in section 144, it is noted that the Assessing Officer derives authority to make additions on the basis of estimates, only upon fulfilment of conditions mentioned in section 145(3). It is only when the Assessing Officer is satisfied about the existence of irregularities in the books of accounts as contained in section 145(3) that it can proceed to make a best judgment assessment as provided under section 144. In the present case, there is neither rejection of books of accounts maintained by the assessee, nor it is a case where any defect or specific deficiencies are pointed out by the authorities below in respect of the disallowances made. Submissions made by the assessee in the course of assessment proceedings are uncontroverted.

7.4. Nothing has been disproved by bringing anything cogent by the revenue on the submissions made by the assessee. There are no

observations by the authorities below that conditions prescribed under section 37(1) have been violated by the assessee to make the disallowance. We find that the disallowance made by ld. AO and that by ld. CIT(A) is purely on ad hoc basis whereby one has adopted a rate of 5% and was reduced to 2% at the first appellate stage. Nothing has been doubted on the bona fides of the expenditure claimed by the assessee. Considering the facts on record as narrated above, submissions made by the assessee forming part of the paper book giving all the details and explanation and the provisions of the Act contained in section 144 r.w.s. 145(3) as well as section 37(1), we find that the addition made by ld. AO by adopting an ad hoc rate of 5% on the total purchases as well as certain expenses details of which are tabulated below is uncalled for and is not in accordance with the provisions of the Act. The additions so made by ld. AO are deleted.

8. We draw our force from the decision of the Hon'ble High Court of Delhi in the case of PCIT vs. Forum Sales Pvt. Ltd. in ITA No.862/2019, dated 01.03.2024, which dealt with a similar issue and held in favour of the assessee. We also make a reference to the decision of Hon'ble High Court of Delhi in the case of PCIT vs. R.G. Buildwell Engineers Ltd. [2018] 99 taxmann.com 283 (Del), wherein in Para 4, Hon'ble Court observed that omission to reject the books of accounts in which even the ad hoc disallowance could have been made and also the historical treatment of such expenses cannot be termed as unreasonable on the reasoning given by the ITAT. Hon'ble High Court thus, held that no substantial question of law arose on the appeal filed by the Revenue and it upheld the reasoning given by the Tribunal on the ad hoc disallowance made by the Revenue. On the appeal by the Revenue before the Hon'ble Supreme Court in PCIT vs. R.G. Buildwell Engineers

Ltd. [2018] 99 taxmann.com 284 (SC), the SLP so filed was dismissed. Accordingly, grounds raised by the assessee in its appeal are allowed.

9. In the result, appeal of the assessee is allowed.

10. In the appeal filed by the Revenue, the contest is on the relief granted by ld. CIT(A) of reduction of rate from 5% to 2%. In essence, through its appeal, Revenue is seeking restoration of ad hoc disallowance at the rate of 5% adopted by the ld. AO. Since, we have allowed the appeal of the Assessee deleting the ad hoc disallowance made by adopting a rate of 5% by ld. AO, the appeal of the Revenue stands infructuous. Accordingly, grounds raised by the Revenue are dismissed as infructuous.

11. In the result, appeal of the assessee is allowed and appeal by the Revenue is dismissed.

Order is pronounced in the open court on 28 August, 2025

Sd/-  
(Beena Pillai)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

*Dated: 28 August, 2025*

*MP, Sr.P.S.*

Copy to :

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BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai