

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A”BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1680/Bang/2024
Assessment Year : 2018-19

Gauge 16 Kitchen Equipments No.10, Ground Floor, 2 <sup>nd</sup> Main, 3 <sup>rd</sup> Cross Padarayanapura Bangalore 560 026  <b>PAN NO : AALFG1306N</b>	<b>Vs.</b>	ITO Ward-5(2)(4) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Balram R Rao, A.R.
<b>Respondent by</b>	:	Sri Balusamy N., D.R.

<b>Date of Hearing</b>	:	12.06.2025
<b>Date of Pronouncement</b>	:	08.09.2025

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the order of the ld. CIT(A)/NFAC dated 31.07.2024 vide DIN & Order No. ITBA/NFAC/S/25/2024-25/1067171327(1) passed u/s 250 of the Income Tax Act, 1961 (in short “the Act”) for the assessment year 2018-19.

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case the learned CIT(A) erred in upholding the order of the assessing officer in the manner in which he did.
2. On the facts and in the circumstances of the case, the learned CIT(A) erred in providing sufficient opportunity to the Appellant to put forth the submissions of the Appellant.
3. On the facts and in the circumstances of the case, the learned CIT(A) erred in upholding the additions of Rs. 50,35,980/- as bogus purchase by merely relying upon the assessment order.
4. On the facts and in the circumstances of the case the learned CIT(A) failed to appreciate that the total of alleged bogus purchases added amounted to Rs.40,35,980/- and not Rs. 50,35,980/-.
5. On the facts and in the circumstances of the case learned CIT(A) failed to appreciate that the appellant had made genuine credit purchases from M/s Manjunatha Marketing amounting to Rs.5,33,000/-.

**3.** Brief facts of the case are that the assessee is a Registered Partnership firm engaged in the business of manufacturing & selling stainless steel Kitchen Equipment for hotels and other industrial purposes. The assessee firm filed its return of income for the A.Y. 2018-19 on 30.03.2019 declaring total income of Rs.12,64,010/-. Thereafter, the case of the assessee firm was selected under compulsory scrutiny with the issue "specific information pointing tax evasion has been received from other agency". Accordingly, the notices u/s. 143(2) as well as 142(1) of the Act was issued calling for various details along with the questionnaire. The assessee firm submitted its reply through e-filing portal.

**3.1** Background of the case is that information was received through Regional Economic Intelligence Committee

(REIC) forum from one of the member agency of REIC i.e. Commercial Tax Department, Karnataka that the assessee is one of the beneficiaries of bogus GST billing. The assessee had received Bogus purchase entries of Rs.50,35,980/- thereby reducing its tax liability. The modus operandi adopted was that the fictitious bills/invoices were generated along with E-way bills and vehicle details without actual movement of goods or services. The purchase proceeds were routed through the bank channels. The payment of sale proceeds were routed through layering and after deducting commission the amounts were paid back in cash. As per the commercial taxes department, the parties claim bogus purchases in their books of accounts and inflated expenses. The assessee is one of the beneficiary of bogus GST billing and received bogus purchase entries of Rs.50,35,980/-. The trade entries which constituted this amount were Rs.13,54,500/- from A to Z Traders, Rs.10,12,480/- from Manjunatha Marketing and Rs.16,69,000/- from Silicon Traders.

**3.2** After going through the reply filed by the assessee firm as well as bank statement, the AO noticed that the alleged purchases amounting to Rs.50,35,980/- were credit purchases and no payment of the same has been made till the date of the passing of order by the AO. The assessee has also not given any reasons for such a long delay in making payments. Further the AO observe that the assessee could neither explain nor filed any supporting evidences in respect of addition proposed of Rs.50,35,980/- on account of business income. Further, with regard to the purchases made from Manjunatha Marketing, the assessee firm could neither file any confirmation of accounts nor provide e-mail address of the party. Accordingly, the AO was of the opinion that as the assessee has not made any payments, the purchases were bogus purchases made with the

purpose to reduce the tax liability of the assessee firm. The AO treated the purchases of Rs.50,35,980/- made from the three parties as bogus purchases and added the same to the business income of the assessee. The assessment was completed u/s 143(3) of the Act on a total income of Rs.62,99,990/-.

**4.** Aggrieved by the order of AO dated 11.05.2021, the assessee firm preferred an appeal before the Ld.CIT(A)/NFAC.

**5.** The Ld.CIT(A)/NFAC dismissed the appeal of the assessee as the assessee had not submitted any details during the course of the appellate proceedings in spite of giving several opportunities to furnish ground wise written submission along with the supporting documentary evidences and accordingly the Ld.CIT(A)/NFAC held that the assessee is not interested in prosecuting the appeal.

**5.1** The Ld.CIT(A)/NFAC also held that the appeal deserves to be dismissed on merits as well as the findings made by the AO remain uncontroverted by the assessee and accordingly dismissed the appeal of the assessee.

**6.** Again aggrieved by the order of Ld.CIT(A)/NFAC dated 31.07.2024, the assessee has filed the present appeal before this tribunal. The assessee has also filed paper book comprising 186 pages containing therein the copy of the notices u/s.143(2) of the Act dated 28.09.2019, reply dated 12.10.2019 filed by the assessee, copy of responses filed on 01<sup>st</sup>, 03<sup>rd</sup> and 16<sup>th</sup> February 2021, copy of response uploaded on 12.03.2021 as well as on 18.03.2021, copy of reply dated 23.01.2021 filed in response to Show cause notice dated 19.04.2021.

**7.** Before us, the ld. A.R. of the assessee vehemently submitted that with regard to the proposed addition of the purchases made from Manjunatha Marketing, the assessee had made actual purchases of Rs.5,33,000/- only & not Rs.10,12480/- as alleged by the AO. Further Ld. A.R. of the assessee submitted that during the course of assessment proceedings, the assessee firm had produced the purchase register along with the breakup of the purchases and corresponding GST, along with the invoices. The AO had accepted the sales and stock figure as disclosed by the assessee firm and submitted that the entire addition is based on the sole information from third party agency without conducting any independent enquiry by the AO.

**8.** The ld. D.R. on the other hand relied on the orders of the authorities below and vehemently submitted that the assessee had not furnished any documentary evidence which shows that the assessee had made actual purchases.

**9.** We have heard rival submissions and perused the materials available on the record. The assessee firm is into the business of Fabrication of Kitchen equipments. The books of accounts of the assessee firm were audited by the Chartered Accountant under the provisions contained in section 44AB of the Act. It is an undisputed fact that the audited accounts were also accepted by the AO and no deficiency had been pointed out by the AO in the books of accounts. We observe that the entire assessment proceedings centered around the specific information received from REIC with regard to the issuance of bogus bills, where the assessee firm is alleged to be one of the beneficiary. The main modus operandi alleged to be adopted was that the fictitious bills/ invoices were generated along with E-way bills and vehicle details without actual movement of

goods or services. The purchase proceeds were routed through the bank channels. The payment of the sale proceeds were routed through layering and after deducting commission, the amounts were paid back in cash. However, on going through the assessment order, we take a note of the fact that the AO on verifying the bank statements, found that even on the date of passing order, no payments were made towards the alleged purchases amounting to Rs.50,35,980/- which in his opinion confirms that the purchases were bogus purchases made with the purpose to reduce the tax liability of the assessee firm.

**9.1** On going through the assessment order, we also observed that during the course of assessment proceedings, the assessee along with its written submission had also furnished the bills/invoices relating to the purchases made from A to Z Traders, Manjunatha Marketing and Silicon Traders as well as the bank statement and purchase registers showing breakup of purchases along with the GST. We also cannot brush aside the fact that sales and closing stock as declared by the assessee along with the opening stock had been accepted by the AO. The only allegation made by the AO is that the assessee had not made any payments to the parties from whom the alleged purchases were made. We are of the considered opinion that AO had merely by relying upon the information received from Commercial Tax Department, Karnataka has added the entire purchases based without carrying out any independent enquiry. We are also of the considered opinion that the AO had failed to demonstrate as to how only purchases amounting to Rs. 50,35,980/- were only bogus out of the total purchases amounting Rs.1,60,51,004/- as declared by the assessee during the FY 2017-18. Merely because the payment were not made to the sundry creditors, the AO cannot presume that the purchases itself are bogus. The AO has not brought any adverse

material on record to prove that the purchases were bogus. Further, the assessee/AO has every right to add profits u/s. 41(1) of the Act in the year of remission or cessation of such trading liability on account of writing off. The AO ought not to have made addition without carrying out any independent enquiry and without offering due opportunity to controvert REIC report to the assessee.

**9.2** We are also of the opinion that both the authorities below have also not brought on record that the payment of sale proceeds were routed through layering and after deducting commission the amounts were paid back in cash. Further, the information from Commercial Tax Department was that the fictitious bills/invoices were generated along with E-way bills and the purchase proceeds were routed through the bank channels however the addition was made by the AO on the ground that the assessee had not made any payment towards the said purchases which purely based on surmises & conjecture. The AO failed to show that the alleged purchases were bogus. Therefore, we do not find any reason to disbelieve the genuineness of the purchases made by the assessee. Further, we also rely on the decision of Hon'ble High Court of Bombay in the case of PCIT Vs. Shapoorji Pallonji & Company Ltd. reported in (2020) 423 ITR 220 (Bom.), which has also been affirmed by the Apex Court in which it was held under-

*“18. Thus, we find that according to the Tribunal the assessing officer had merely relied upon information received from the Sales Tax Department, Government of Maharashtra without carrying out any independent enquiry. Tribunal had recorded a finding that assessing officer had failed to show that the purchased materials were bogus and held that there was no justification to doubt genuineness of the purchases made by the respondent – assessee.*

*19. We are in agreement with the views expressed by the Tribunal. Merely on suspicion based on information received from another authority, the assessing officer ought not to have made the*

*additions without carrying out independent enquiry and without affording due opportunity to the respondent – assessee to controvert the statements made by the sellers before the other authority. Accordingly, we do not find any good ground to entertain this question for consideration as well.”*

**9.3** In view of the above discussion and respectfully relying on the decision of Hon'ble Bombay High Court as above, we direct the AO to delete the addition of Rs.50,35,980/- as made on account of business income.

**10.** In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 8<sup>th</sup> September, 2025

**Sd/-**  
**(Prashant Maharishi)**  
**Vice President**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 8<sup>th</sup> Sep,2025.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**