

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

I.T.A. No.: 1166/KOL/2025

Assessment Year: 2011-12

A R Udyog <i>(Appellant)</i>	Vs.	ITO, Ward-46(3), Kolkata <i>(Respondent)</i>
PAN: AALFA5924G		

Appearances:

Assessee represented by : Girdhar Dhelia, AR.

Department represented by : Ranu Biswas, Addl. CIT, Sr. DR.

Date of concluding the hearing : 30-July-2025

Date of pronouncing the order : 08-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Addl/JCIT(A)-5, Mumbai [hereinafter referred to as "the Ld. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2011-12 dated 07.03.2025, which has been passed against the assessment order u/s 144 r.w.s. 147 of the Act, dated 03.12.2018.

2. The assessee is in appeal before the Bench raising the following grounds of appeal:

"Ground-1: That the Ld. CIT(A) erred in law and in facts in considering the assessment order as valid and good in law, in as much as the facts and circumstances of the case, when he confirmed the actions of the Ld. AO the Ld. A.O. in addition of Rs. 11,49,794/- on account of "unaccounted income" u/s 68 of the Income Tax Act, 1961, based on doubt, suspicion and surmise



and when the Ld. AO did not reject the books of accounts and therefore such addition is liable to be deleted.

Ground-2: That without prejudice to the aforesaid grounds, even assuming but without admitting, the Ld. CIT(A) erred in law and in facts in treating the additions of Rs. 11,49,794/- as valid, in as much as in the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming addition of entire alleged bogus purchases when the appellant has made submissions that out of the total alleged purchases, he has not carried out any transaction with the alleged parties (i) Jayshree Sales Corporation of Rs. 4,30,100/- and (ii) Metal and Alloy Syndicate of Rs. 4,74,247/- during the F.Y. under consideration and hence the additions are liable to be deleted.

Ground-3: That without prejudice to the aforesaid grounds, even assuming but without admitting, the Ld. CIT(A) erred in law and in facts in treating the additions of Rs. 11,49,794/- as bogus purchases although the additions have been made u/s 68 of the Income Tax Act, 1961, as unaccounted income out of total purchases of Rs. 15,71,509/- as valid, being 73% of the total purchases and accepting the sales of Rs. 17,19,600/-, without considering the gross profit earned by the appellant in its business and hence such additions are liable to be deleted.

Ground-4: For that on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming subject additions without appreciating that the Ld. AO should have estimated the income u/s 144 of the Income Tax Act, 1961, after taking into account all relevant material including gross profit earned by the appellant in preceding and subsequent years.

Ground-5: For that on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming subject additions without appreciating that the modus operandi relied extensively in impugned order is never co-related even remotely to the facts of the present case as there is no iota of evidence brought on record which can display that appellant conducted any dubious action and that the theoretical discussion made by the Ld. AO without any trail of wrong doing has remained inchoate completely nullifying the entire basis of the addition.

Ground-6: That the Ld. AO and the Ld. CIT(A) erred in law and in facts in treating the reopening as valid, in as much as in view of the facts and circumstances of the case, the basis of findings of the Ld. A.O. is 'suspicion' and 'human probabilities' only which is never converted to reliable and trustworthy material and the entire assessment order is passed on sole basis of 'borrowed satisfaction' and without any independent application of mind and approval by Pr. CIT-16, Kolkata, was accorded mechanically



without application of mind and therefore the notice u/s 148 of the Act, assessment order passed u/s 144 r.w.s. 147 of the Act and notice of demand are liable to be quashed.

Ground-7: The Appellant craves Leave to add/to and/or alter, modify or rescind the grounds rescind the grounds hereinabove before or at the time of hearing of this Appeal.”

3. Brief facts of the case are that the assessee had filed its return of income u/s 139 of the Act on 03.02.2012 showing total income of ₹9,002/-. Subsequently the Assessing Officer (hereinafter referred to as Ld. 'AO') received information from the Investigation Wing that Shri Sanjiw Kumar Singh, in the statement recorded on oath during the course of a search, had admitted to have provided accommodation entries through paper concerns. As per the findings of the Investigation Wing, Shri Sanjiw Kumar Singh had provided accommodation entries of ₹1,410/- crores to more than 3,500 beneficiaries, on which he earned commission @1%; the assessee being one of such beneficiaries having received accommodation entries of ₹11,49,794/- from following paper concerns:

- a. Durga Sales of ₹99,689/-
- b. Jayshree Sales Corporation of ₹4,30,100/-
- c. Metal and Alloy Syndicate of ₹4,74,247/-
- d. Vasukinath Enterprises of ₹1,45,758/-

3.1 The Ld. AO, therefore, reopened the assessment by issuing notice u/s 148 of the Act. Since the assessee did not furnish any reply to the notices issued, the assessment was completed u/s 144 r.w.s. 147 of the Act, assessing the total income at ₹11,58,800/- wherein an addition of ₹11,49,794/- was made on account of unexplained income. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who held that the onus was on the assessee to explain the



transactions with paper concerns which were involved in providing accommodation entries. Further, the assessee had failed to produce genuine and verifiable purchase invoices, delivery challans or transportation records to substantiate its claims of legitimate purchases and had also failed to provide the entire list of its purchases with corresponding bills to support its claim, therefore, the Ld. CIT(A) rejected the claim for reliefs sought and dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made and the paper book filed have been examined. It was submitted by the Ld. AR that the Ld. AO made the addition on account of bogus purchases u/s 68 of the Act. It was submitted that out of four entities, no transactions whatsoever were carried out with two of the parties. The assessee had made total purchases with 14 parties for total invoice value of ₹16,34,362/- and the details are on page 1 of the paper book filed and during the impugned assessment year the assessee had total sales of ₹17,19,600/- on which total income of ₹9,002/- was disclosed. It was stated that the assessee carries on the business of manufacturing machine spares. It was submitted that the Ld. AO disallowed a sum of ₹11,49,794/- out of total purchases of ₹15,71,509/- made by the assessee on the allegation of the same being bogus purchases; however, the addition has been made under the wrong provision of section 68 of the Act which refers to unexplained cash credits and the appropriate provision would have been section 69C of the Act. It was submitted that after considering the additions, the gross profit ratio works out to 84.21% as against the gross profit ratio of 17.34% disclosed by the



assessee as the gross profit was ₹2,98,259/- on the total sales of ₹17,19,600/-. The gross profit ratio varied from 16.61% in AY 2008-09 to 18.90% in AY 2012-13. It was also submitted that the Ld. AO had not rejected the books of account and VAT was also added and it was submitted that if at all the purchases were bogus, only the gross profit was to be added. The assessee submitted that it had made purchases with only two out of four parties i.e. (a) Durga Trading Corporation for invoice value of ₹99,689/- and (b) Vasukinath Enterprise for invoice value of ₹1,45,758/- with the total amounting to ₹ 2,45,447/- while no transactions whatsoever were made with Jayshree Sales Corporation and Metal and Alloy Syndicate and if the additions from these 2 parties are sustained, the gross profit ratio amounts to approximately 31% which is exceptionally high and is commercially unattainable as per the prevailing industry norms.

6. It is further stated that the Ld. CIT(A) was wrong in sustaining the addition of ₹11,49,794/- as the Ld. AO had erroneously invoked the provision of section 68 of the Act for making the addition and the provisions of section 68 of the Act were not applicable and what were applicable was the provisions of section 69C of the Act. It was submitted that the additions are not sustainable and the same may be deleted. The assessee has relied upon the following judicial pronouncements in support of the claim that since the Ld. AO had not doubted the genuineness of the payments made through the banking channels and accepted total sales, the entire purchases could not be disallowed and only the profit element could be added:

- i. *Principal Commissioner of Income-tax, Burdwan Subarna Hice Mal (2018) 96 taxmann.com 256 (Calcutta)*
- ii. *Principal Commissioner of Income Tax vs M/S. Bardhaman Dharmaraj Paper Mill [ITAT/207/2023] [03.01.2024] of the jurisdictional High Court.*



- iii. *PCIT v. Anil Jagannath Tiwari* [2023] 153 taxmann.com 540 (SC)/[2023] 294 Taxman 517 (SC)[03-07-2023]
- iv. *Dhar & Company (P) Ltd. vs. ITO Ward 3(3), Kolkata, ITA No.1113/KOL/2024, order dated 17:03.2025*
- v. *Principal Commissioner of Income tax vs. Tripati Proteins (P) Ltd. (2024) 165 taxmann.com 175 (Gujarat)(14-06-2024)*
- vi. *Principal Commissioner of Income-tax vs. Hitesh Mody (HUF) [2024] 160 taxmann.com 110 (Bombay)/[2024] 298 Taxman 162 (Bombay)(07-02-2024)*
- vii. *Principal Commissioner of Income-tax-1 vs. SVD Resins & Plastics (P.) Ltd. [2024] 166 taxmann.com 242 (Bombay)/[2024] 300 Taxman 503 (Bombay)/[2025] 474 ITR 151 (Bombay) [07-08-2024]*
- viii. *Principal Commissioner of Income-tax, Burdwan vs. Subarna Rice Mai* [2018] 96 taxmann.com 286 (Calcutta)/[2018] 257 Taxman 509 (Calcutta)[20-06-2018]
- ix. *IPCA Laboratories Ltd. vs. Deputy Commissioner of Income-tax* [2024] 161 taxmann.com 511 (Mumbai-Trib.)/[2024] 113 ITR(T) 53 (Mumbai - Trib.)[08-04-2024]
- x. *Heena Gems vs. ACIT* [2024] 166 taxmann.com 160 (Mumbai Trib.)/[2024] 208 ITD 481 (Mumbai - Trib.)[22-07-2024]
- xi. *Commissioner of Income-tax-V vs. Radhika Creation* [2011] 10 taxmann.com 138 (Delhi) [30-04-2010]

6.1 We have gone through the decisions relied upon; however, it is also mentioned in the written submission filed that the assessee is a small-scale business enterprise carrying out a limited volume of transactions during the relevant financial year and had engaged a part-time accountant for maintaining its books of account. Consequently, detailed and systematic records such as the stock register and stock statements are not readily available for verification. Hence, these decisions are not applicable to the facts of the case of the assessee as the assessee is not able to produce the required books of account in support of the claim that the purchases were made nor the other details are available. It is further submitted that due to an inadvertent error on the part of the assessee's accountant, two separate ledger accounts were maintained for M/s. Durga Trading Corporation and M/s. Vasukinath Enterprise and out of these, only one ledger account of both



the parties were submitted before the Ld. CIT(A) and the other ledger owing to a mismatch in the names of the ledger, remained to be produced before the Ld. CIT(A). The assessee was using a locally developed accounting software for record-keeping during the said period and the software was no longer functional as on date, thereby rendering the retrieval and production of historical accounting data infeasible. It is also stated that the Ld. AO had reopened the assessment proceedings on the basis of reports received from the Directorate of Income Tax (Investigation Wing), Kolkata and had not undertaken any independent enquiry or verification but had solely relied upon the information received from the Investigation Wing and the reopening of the assessment was based on borrowed satisfaction which renders the proceedings unsustainable in law.

7. The Ld. DR submitted that the order of the Ld. CIT(A) may be sustained as the assessee had failed to provide any evidence to counter the claim that no purchases were made. However, in the course of the hearing before us, the assessee filed an affidavit of Shri Mahadev Senapati, s/o Fatick Chandra Senapati on behalf of the partnership firm A R Udyog stating that out of the above four parties, the assessee denies having any purchase transactions with the two parties namely M/s. Jayshree Sales Corporation of ₹4,30,100/- and M/s. Metal & Alloy Syndicate of ₹4,74,247/- during the FY 2010-11 relevant to AY 2011-12.

8. We have considered the submissions made and have also gone through the facts of the case. Ground no. 1 is regarding the addition of ₹11,49,794/- being made under the wrong section 68 of the Act without rejecting the books of account. Except for the affidavit filed, which is an additional document and which was neither filed before the Ld. CIT(A)



nor even before the Ld. AO, the assessee has not filed any evidence to dispute the transactions with two of the four parties i.e. M/s. Durga Trading Corporation and M/s. Vasukinath Enterprise, the names of which figure in the list of the purchasers made by the assessee during the year. It is stated that the assessee was maintaining two ledgers and the name of M/s. Durga Trading Corporation was recorded incorrectly. It is stated that the Ld. CIT(A) was unjustified in sustaining the addition on account of bogus purchases from the two parties to the extent of VAT amount which is not debited to the profit and loss account. The assessee has stated that in case the alleged addition on account of purchases from these two parties are sustained the gross profit ratio amounts to 31% which is exceptionally high and is commercially unattainable as per prevailing industry norms

9. We have considered the submissions made. The Ld. CIT(A) relied upon the decision of Hon'ble Bombay High Court in the case of **Principal Commissioner of Income-tax vs. Kanak Impex (India) Ltd.** [2025] 172 taxmann.com 283 (Bombay)/[2025] 474 ITR 175 (Bombay)[03-03-2025] order dated 03.03.2025 in which it has been held as under:

“■ *The short issue which requires adjudication in this appeal is whether additions made by the Assessing Officer on account of the failure of the assessee to prove the genuineness of the purchases can be said to be valid.* [Para 13]

■ *In the instant case, admittedly, the assessee did not appear before the Assessing Officer during the reassessment proceedings to prove the deduction claimed for purchases. There is no justification for non-appearance before the Assessing Officer to establish the purchases. The plea of the assessee that they were not served with the notices has been negated by the Appellate Authority and the same has not been challenged. Therefore, the assessee in the present case has failed to prove the purchases of which the claim for deduction was made before the Assessing Officer.* [Para 17]

■ *The Commissioner (Appeals) has also given a finding against the assessee, stating that the assessee failed to prove the genuineness and source of the purchases and confirmed its involvement in the modus operandi. It is viewed that the Commissioner (Appeals) was not justified after giving such a finding that the additions should be restricted only to 12.5 per cent of such purchases and not entire purchases. The issue before the Commissioner (Appeals) was not whether the profit disclosed by the assessee was low so as to justify the estimation of the profit of 12.5 per cent. The issue before Commissioner (Appeals) was whether the purchases had been proved and the Commissioner (Appeals), having observed against the assessee on this issue, ought to have confirmed the additions of the entire purchases. It is viewed that the Commissioner (Appeals) misdirected himself by estimating a profit of 12.5 per cent. [Para 18]*

■ *It was nobody's case that both the sales and purchases are unaccounted. If that be so and the purchases have been recorded in books of account by accommodation entry, then same gets automatically reflected in the books of account. In the instant case, since the purchases are recorded by accommodation entry in the books of account and sales have not been disputed, the Commissioner (Appeals) was not justified in estimating the profit, when the basis of addition was not low profit. [Para 19]*

■ *The Tribunal also misdirected itself by approaching the issue with the erroneous belief that it was estimating profit. In fact, the issue before the Tribunal was whether the Commissioner (Appeals) was justified in not confirming entire purchase additions. Therefore, to that extent, the Tribunal too misdirected itself by approaching the issue solely based on estimating profit. [Para 20]*

■ *It is viewed that both the Appellate Authorities ought to have appreciated that the issue before them was whether the assessee had proved the purchases of which the claim for deduction was made. The assessee, having failed to discharge its onus on this issue before all three authorities, it is viewed that the additions made in the assessment order by the Assessing Officer was justified. [Para 21]*

■ *If the approach of the Appellate Authorities of estimating the profit on such purchases is to be accepted, then, in effect, the consequence would be that even if assessee has failed to prove its claim of deduction of purchases, still by estimating profit, impliedly deduction of purchases is given. For example, if the purchases by accommodation entries are Rs. 100 and a profit of 10 per cent is estimated, then to the extent of Rs.90 deduction on account of purchases is deemed to have been given by the Appellate Authorities. This approach would not be correct since it is nobody's case that the assessee*

has made sales out of books by purchasing the goods out of books. [Para 22]

■ *If the approach of the Appellate Authorities is accepted, then the provision of section 69C, which is an enabling provision, would become redundant. Section 69C provides that where an assessee has incurred any expenditure and offers no explanation about the source of expenditure or the explanation offered is not in the opinion of the Assessing Officer satisfactory, then the amount of expenditure may be deemed to be the income of the assessee and such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income. It is viewed that if the approach of the Commissioner (Appeals) and the Tribunal is accepted, then it would amount to endorsing outright conduct of illegality, contrary to the express provisions of section 69C, which the Appellate Authorities have entirely ignored. In the above example, by estimating 10 per cent and thereby impliedly giving a deduction of Rs.90, in the teeth of the provisions of section 69C, which expressly bars the allowability of unexplained expenditure. [Para 23]*

■ *The assessee relied upon the details of sundry debtors and sundry creditors filed during the original assessment proceedings under Section 143(3) to contend that the details of purchases have been furnished. These details were furnished in the course of the original assessment proceedings under section 143(3) and not during the re-assessment proceedings. This fact has been admitted by the respondent-assessee. After the original assessment order under Section 143(3), the revenue, on the basis of the information received from the DGIT (Inv.)/Sales Tax Department, reopened the case on the ground that the purchases made by the respondent-assessee are from hawala operator. Therefore, the details of sundry debtors and creditors filed in the original assessment proceedings do not absolve the respondent-assessee from proving the source of the purchases in the course of the re-assessment proceedings. On the contrary, on account of reasons for which case was reopened, the onus was more to prove purchases which respondent-assessee has totally failed.[Para 28]*

■ *The re-assessment proceedings were initiated for this very reason that the purchases which were accepted in the original assessment proceedings are non-genuine after the passing of the assessment order. The respondent-assessee chose not to attend the re-assessment proceedings even though the notices were sent to the respondent-assessee by post, email and affixture. The CIT(A) has given a finding that the address of the petitioner mentioned in the assessment order and in Form No.35, which is an appeal filed by the respondent-assessee, is same and the respondent-assessee intentionally did not accept notice sent by post. The CIT(A) has also given a finding that notices sent by email have not bounced back and there is no*

rebuttal to the affixture of notice on the office of the respondent-assessee.[Para 29]

■ *The assessee having consciously and intentionally decided not to join the investigation, cannot now contend that the revenue should have given them all the details before making the addition. Such a conduct of the assessee cannot be accepted. It was incumbent upon the assessee to have joined the reassessment proceedings, discharge the initial onus of proving the purchases and seek details, if any. Having not joined the reassessment proceedings, the contentions raised by the assessee on this issue are to be rejected.*[Para 30]

■ *The submission of assessee that if this addition made by the AO is sustained, then profit rate would be exorbitant and therefore addition should be deleted is to be rejected. The fallacy of this argument is that the AO has not made the addition because of low profit. The addition was made because the assessee failed to prove genuineness of purchases because of allegation of purchases by accommodation entries as explained above. If contention of assessee is accepted, then every addition would have to be deleted if related to business deduction. Such a submission is to be rejected outright.*[Para 31]

■ *The Commissioner (Appeals) has given a clear finding of fact that the assessee was involved in getting bogus bills. This finding has not been challenged by the assessee before the Tribunal, and only submission made before the Tribunal was on the estimation of gross profit.* [Para 34]

■ *The question of law admitted in this appeal states explicitly that neither of the Appellate Authorities has considered the provisions of section 69C.* [Para 36]

■ *The assessee has not made any submissions on the provisions of section 69C, although the same were explicitly framed in the admission order and relied upon by the revenue in the course of the hearing. Therefore, the only conclusion that can be arrived at is that the assessee does not dispute the applicability of the provisions of section 69C to its facts.* [Para 37]

■ *It is viewed that in the instant case, the assessee has offered no explanation of the source of the expenditure incurred on account of purchases and, therefore, the Assessing Officer was justified in making an addition of the said amount and the Appellate Authorities were not justified in estimating the profit rate and thereby impliedly grant deduction of such unexplained expenditure which is contrary to the express provision of section 69C.* [Para 38]

■ *In the instant case, the assessee has not appeared in the reassessment proceedings to discharge its onus on proving purchase transactions under*

consideration. Before the Commissioner (Appeals) for the first time, scanty details of sundry debtors, creditors and stocks were given. The Commissioner (Appeals) gave a finding of the assessee's involvement in bogus transaction. Therefore, the finding of the Assessing Officer on the genuineness of the purchases was confirmed by the Commissioner (Appeals). Before the Tribunal, the assessee has not canvassed any submission on the genuineness of the purchases but only pleaded for an estimation of a certain percentage of such bogus purchases to be added. Therefore, before all three authorities, the assessee has not proved the genuineness of the purchases, which inter alia include the source of making the payment for such purchases. In the light of these factual findings by three authorities, today before the High Court, the assessee's submissions that they have discharged the onus cast upon them to prove the genuineness of the purchases, including the source cannot be accepted. [Para 39]

■ *In view of the above, the appeal of the revenue is allowed by answering the question in favour of the revenue and against the assessee. Consequently, the order of the Assessing Officer is restored, and the order passed by Commissioner (Appeals) and the Tribunal is reversed. However, it is made clear that the aggregate addition after considering the Commissioner (Appeals) and the Tribunal's order should not exceed Rs.20.07 crores. [Para 40]"*

10. As regards the Ld. AO invoking the incorrect section it has been held that a wrong reference to the power under which an order is made does not *per se* vitiate the order if there is some other power under which the order could lawfully be made. The validity of the impugned order has to be tested by reference to the question whether the ITO had any power at all to make an order of this nature. If the power is otherwise established, the fact that the source of power has been incorrectly described would not make the order invalid as has been held in *Isha Beevi Vs TRO (SC) 101 ITR 449*, *VR.C.RM. Adaikkappa Chettiar Vs CIT (Mad) 78 ITR 285*, *CIT Vs Hargopal Bhalla & Sons (P&H) 82 ITR 243*, *L. Hazari Mal Kuthiala Vs ITO & Anr. (SC) 41 ITR 12*, *CIT Vs Motor Industries Co. (Kar) 229 ITR 126* and *K.P. Paulose & Co. Vs CIT (Ker) 230 ITR 798*. Hon'ble Bombay High Court have held in the case of **Kanak Impex (India) Ltd.** (supra) that in case of bogus purchases, the



addition u/s 69C of the Act is liable to be made. This is for the reason that section 69C of the Act is an enabling provision and if only the profit element is estimated instead of the rest of the amount, then it is tantamount to rest of the amount of purchases deemed to have been allowed by the appellate authorities. Hence, in view of the facts of the case and the decision of Hon'ble Bombay High Court, since the assessee claims to have made purchases from M/s. Durga Trading Corporation and M/s. Vasukinath Enterprises and the name of one of the parties was incorrectly mentioned in the ledger submitted before the Ld. CIT(A) and the assessee has expressed inability to produce the stock register and the stock statements which are not readily available for verification and even the locally developed accounting software for record-keeping, which was being used, is no longer functional as on date, thereby rendering the retrieval and production of historical accounting data infeasible; therefore, it can be safely inferred that the assessee has no documentary evidence by way of the lorry receipts and challans by which the goods were transported to the premises of the assessee and the evidence that they were actually received; hence, the addition of ₹99,689/- and ₹1,45,758/- is hereby liable to be sustained. However, in order to provide another opportunity to the assessee to prove its claim, the order of the Ld. CIT(A) is hereby set aside and the issue is remanded to the Ld. AO who shall allow an opportunity of being heard to the assessee and the assessee shall produce all evidences in support of the genuineness of the transactions and AO shall confront all evidences in his possession in support of the finding that the transactions were bogus/accommodation entries and thereafter the issue shall be decided by the Ld. AO as per law.



11. As regards the purchases from Jayshree Sales Corporation of ₹4,30,100/- and Metal and Alloy Syndicate of ₹4,74,247/-, the assessee contends that it had not made any such transactions with the said parties. Since the assessee is denying making any such purchases, the issue relating to the bogus transactions with these two parties is hereby remanded to the Ld. AO who shall provide necessary evidence in his possession like the copy of bills/vouchers or any other evidence by virtue of which the submission made by the assessee in the affidavit can be countered by the Ld. AO. Hence, for statistical purposes Ground Nos. 1 and 2 of the appeal are partly allowed.

12. Ground no. 3 is also rejected as when the addition is made under the deeming provision, it loses the concept of gross profit ratio which relates to business income as section 69C of the Act relates to unaccounted purchases for which the expenditure is made outside the books of account and is a deeming provision, not falling under any of the 'heads of income' but falls under 'aggregation of income'.

13. Ground no. 4 relates to the Ld. AO estimating the income u/s 144 of the Act. The Ld. CIT(A) has addressed this issue and we do not find any justification for interfering with his finding in this regard, which is confirmed.

14. Ground nos. 5 and 6 relate to the satisfaction of the Ld. AO being a borrowed satisfaction. However, it may be mentioned that the assessee did not file any return of income in response to the notice issued u/s 148 of the Act. The Hon'ble Supreme Court in the case of **GKN Driveshafts (India) Ltd. vs. Income-tax Officer** reported in **[2003] 259 ITR 19 (SC)** have propounded the principle in relation to objection to the recording of reasons in respect of proceedings u/s



147/148 of the Act. Since the assessee did not file any return of income nor participated in the proceeding before the Ld. AO, the Ld. AO had no other option but to make the assessment u/s 144 of the Act. The assessee contends that the books of account ought to have been rejected. However, since no such books of account were produced before the Ld. AO, there was no occasion for the Ld. AO to reject any books of account and as has been held above, the addition u/s 69C of the Act is on account of bogus purchases which has no relation with the estimation of profit as has been rightly held by the Hon'ble Bombay High Court in the recent decision in the case of **Kanak Impex (India) Ltd.** (supra).

15. Ground no. 7 is general in nature and does not require any separate adjudication.

16. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 8th October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 08.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **A R Udyog, Ichapur Sealdanga, Ichapur Road, Santragachi, Howrah, West Bengal, 711104.**
2. **ITO, Ward-46(3), Kolkata.**
3. Addl/JCIT(A)-5, Mumbai.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
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