

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[Virtual Court]

Before

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

**I.T.A. No.: 607/PAT/2024
Assessment Year: 2021-22**

Sriram Enterprises	Vs.	ACIT, Central Circle-1, Patna
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: AARFS8853J		

Appearances:

Assessee represented by : Nishant Maitin, CA.

Department represented by : Ashwani Kumar, Sr. DR.

Date of concluding the hearing : 15-July-2025

Date of pronouncing the order : 13-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)- 3, Patna [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2021-22 dated 16.08.2024, which has been passed against the assessment order u/s 143(3) of the Act, dated 30.12.2022.

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

"1. For that the grounds hereto are without prejudice to each other.



2. For that the Id CIT erred in confirming the addition of Rs 32,73,262/- on account of non-confirmation of transactions by eleven parties who were suppliers of materials and were alleged to be non-filers of their income tax returns.

3. For that the Id CIT erred in treating the said sum of Rs 32,73,262/- on account of non-confirmation of transactions by eleven parties who were suppliers of materials and were alleged to be non-filers of their income tax returns, as income of the appellant.

4. For that the Id CIT erred in confirming the addition of Rs 10,00,479/- on account of non-confirmation of transactions by two parties who were sub-contractors and were alleged to be non-filers of their income tax returns.

5. For that the Id CIT erred in treating the said sum of Rs 10,00,479/- on account of non-confirmation of transactions by two parties who were sub-contractors and were alleged to be non-filers of their income tax returns, as income of the appellant.

6. For that in any view of the matter the order passed by the Id AO to the extent as aforesaid is bad in law and is liable to be quashed.

7. For that other various grounds which may be urged at the time of hearing.”

3. Brief facts of the case are that the assessee firm is a government contractor and was awarded work contracts from various government departments like Road Construction Department, National Highway Authority, Irrigation etc. for construction of Roads, Bridges, Flood Control etc. The assessee firm filed its return of income for AY 2021-22 showing total income of ₹12,63,01,580/-. The total income of the assessee consisted of income of ₹45,19,620/- from house property, profit of ₹12,16,69,526/- from business and ₹1,12,438/- as income from other sources. There are two partners of the assessee-firm namely, 1. Shri Shiv Kumar Agarwal and 2. Shri Roshan Kumar Agarwal. The return was selected for complete scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') and statutory notices u/s 143(2) and 142(1) of the Act were issued to which the assessee e-submitted its



submission on various dates. A perusal of the financial statement of the AY 2021-22 showed the total revenue from operations at ₹2,22,97,84,259/- in its audited profit and loss account for the period ending on 31.03.2021 besides other income of ₹3,42,11,885/-. The Profit before Tax was shown at ₹14,03,78,853/- and the net profit margin of the assessee was 6.29% which was apparently on a lower side in view of the Assessing Officer (hereinafter referred to as Ld. 'AO'). Considering the reply submitted by the assessee in response to the notices issued, the Ld. AO passed the order u/s 143(3) of the Act determining the total income of the assessee at ₹13,05,75,320/- after making addition of ₹32,73,262/- and ₹10,00,479/- on the ground that the parties from whom transactions had been made by the assessee were found to be non-filers. Hence, these sums were disallowed out of the claim of purchases and sub-contract expenses made by the assessee. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who issued notices for hearing and considering the submissions made by the assessee dismissed ground nos. 3 and 4 of the appeal and issued certain directions for providing TDS and TCS credit as per ground no. 5 and the appeal was partly allowed.

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. The Ld. AR submitted that the assessee is a government contractor and was awarded works contracts by the Central Government and had turnover of more than ₹220 Crore on which profit of about ₹9 Crore was shown. The addition of ₹43 Lakh



was made. The sums outstanding were added as the notices u/s 133(6) of the Act issued by the Ld. AO were not responded by the parties and the amounts were in relation to the services and goods purchased and the same were treated as unexplained expenditure. The Ld. AR submitted that two of the creditors were regular creditors from whom TDS was duly deducted and merely because the notices u/s 133(6) of the Act were not responded, the addition could not be made as the assessee has no judicial power to enforce the compliance on behalf of the creditors. It was submitted that no defect was noticed in the books of account. Another sum of sub-contract amount of ₹37.63 Lakh was also disallowed.

6. The Ld. DR stated that the disallowance was made out of the purchases which were subjected to verification. The Ld. DR also pointed out that there was a discrepancy as mentioned at page 10 and page 9 last para of the order of the Ld. CIT(A) and the Ld. CIT(A) required the assessee to file the confirmations but the assessee was not able to file the same and therefore, the same were treated as unexplained.

7. A perusal of the order of the Ld. CIT(A) shows that in respect of the addition made of ₹32,73,262/-, the transactions were from 11 parties as under:

Sl. No.	Name	PAN	Amount (Rs.)
1.	Singh Stone	ACRFS4650B	1479947
2.	Maa Siddhidatri Construction	ABIFM2069E	719976
3.	Mohammad Ashaluddin	AJUPA1823G	498600
4.	Gardeva Security (OPC) Private Ltd.	AAHCG1708F	363993
5.	Ozarul Shaikh	FPJPS1100A	74400
6.	Mukhtar Shekh	AMVPH7225F	48000
7.	Dinnanath Saha	GVFPS6109Q	37200
8.	Prabhakar Arya	AGAPA6770D	25815
9.	Mohammad Ataul Sekh	DLXPS7145M	19800
10.	Mukul Kumar	EFFPK9153A	5116



11.	Umang Bhuwania	AJRPB3864B	415
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7.1. The Ld. AO issued notices u/s 133(6) of the Act to the parties selected by him from the list furnished by the assessee and also from the list of parties available with him. None of the parties responded to the notices issued and the assessee failed to furnish any alternative e-mail/phone number/address of the above-mentioned parties and the assessee also failed to furnish the confirmations of these parties during the course of the assessment proceeding. Even during the course of the appellate proceeding, the assessee failed to produce confirmations regarding the purchases from the above-mentioned parties. During the course of the appeal proceeding, however the assessee submitted copy of ledger account, copy of invoices, evidence of payment made to four parties as under:

Sl. No.	Name	PAN	Amount (Rs.)
1.	Singh Stone	ACRFS4650B	Rs.14,79,947/-
2.	Maa Siddhidatri Construction	ABIFM2069E	Rs.7,19,976/-
3.	Gardeva Security (OPC) Private Limited	AAHCG1708F	Rs.3,63,993/-
4.	Krishnadev Pandit	CBBPP9743F	Rs.10,00,479/-

7.2. The bills and ledgers submitted by the assessee were perused carefully but found to be non-acceptable due to the following reasons/observations as mentioned in the order of the Ld. CIT(A):

“1. On perusal of bills of M/s. Singh Stone, it is found that no transportation details have been mentioned on all bills, Supply of Sand and Stone chips from Ranchi to Sahibganj having a distance of 425 Km is not viable. Appellant has also failed to furnish any toll receipts, weighment receipt, details of godowns, details of octroi payment and all original documentary evidence of movement of goods for verification.

1. On perusal of bills and ledgers of M/s. Maa Siddhidatri Construction, it is found that the address of seller is incomplete on many bills, no transportation details available, even address of buyer i.e. M/s. Sri Ram Enterprises is not mentioned on the bills and payment of Rs.4,30,986/- was



made through supply of Diesel & Lubricant for which also no details were furnished. Appellant has also failed to furnish any toll receipts, weighment receipt, details of godowns, details of octroi payment and all original documentary evidence of movement of goods for verification.

1. On perusal of bills of M/s. Gardeva Security (OPC) Private Limited, it is noticed that place of supply of manpower is not mentioned on many bills. The appellant has not furnished muster rolls in respect of persons employed through this party. The appellant has failed to provide confirmation.”

8. Thus, the Ld. CIT(A) held that the assessee did not file confirmations of these parties nor the transportation details of the material purported to be purchased from these suppliers were furnished during the course of assessment proceedings as well as during the appellate proceedings. The parties were also not produced before the authorities below. With these observations the addition of ₹32,73,260/- made by the Ld. AO was confirmed and ground no.3 raised by assessee was dismissed.

9. During the course of the appeal before us, the assessee filed a paper book running into 473 pages containing Tax Audit Report for FY 2020-21, ledger and invoices for Singh Stone for FYs 2020-21 and 2021-22, Ledger and Invoices for Maa Siddhidatri Construction FY 2020-21, Ledger and Invoices for Gardeva Security (OPC) Private Limited FY 2020-21, Ledger and Invoices for Krishna Pandit for FYs 2020-21 and 2021-22, and Bank Statement for SBI for FY 2020-21. However, in respect of M/s. Maa Siddhidatri Construction from whom diesel and lubricant was purchased, no details were filed. The Ld. AO had required the assessee to furnish details in the specific proforma and the claim of purchases made from the parties were treated as doubtful and an opportunity to file 'party-wise purchases along with ledger of all the parties and sample issues with delivery details of all the purchases more



than ₹1 Lakh was required to be filed. The assessee filed the party-wise details vide submission dated 14.12.2022 and the Ld. AO issued notices u/s 133(6) of the Act to 23 parties as mentioned at page 3 to 5 of the assessment order and based upon the results of the enquiry, issued a show cause notice to the assessee on 22.12.2022 in respect of 23 parties for an amount of ₹23,42,04,003/-. One of the common features in respect of the mentioned parties was that out of the claim of purchases to the tune of ₹23,42,04,003/- from these 23 parties, some of these parties were non-filers and the assessee had also not proved the purchases with credible evidence. The assessee made a submission in this regard and also enclosed the reply submitted by the parties. The transactions from Abbas Ali and Mohammad Amzad were said to be not in the books of the account of the assessee and the details of parties from whom replies were submitted are mentioned at page 7 to 10 of the assessment order. The assessee had claimed sub-contract charges of ₹37,63,63,015/-. After considering the reply to the notices issued, the Ld. AO issued a notice u/s 142(1) of the Act and required the assessee to give party-wise details of item purchased along with sample invoices and delivery details of all purchases, which the assessee failed to do, therefore, notices u/s 133(6) of the Act were issued to 11 parties for amount of ₹32,73,262/- and since none of those 11 parties responded to the notices issued, therefore, after considering the reply of the assessee (which was not found to be acceptable) and as none of the 11 parties had confirmed the transactions and all of them were non-filer of the income tax return and the assessee had not proved the receipt of any goods from them, an amount of ₹32,73,262/- was disallowed out of the claim of purchase made by the assessee. Before the Ld. CIT(A) the assessee submitted copies of ledger account, copies of invoices,



evidence of payment made to the four parties but in respect of M/s. Singh Stone no transportation details was mentioned and the supply of sand and stone chips from Ranchi to Sahibganj having a distance of 425 Km was not viable as per the Ld. CIT(A) and the assessee also failed to furnish any toll receipts, weighment receipt, details of godowns, details of octroi payment as evidence of movement of goods for verification, therefore, based upon the analysis of this party as well as of M/s. Maa Siddhidatri Construction, M/s. Gardeva Security (OPC) Private Ltd. as per the defects mentioned in the order of the Ld. CIT(A), the addition made in respect of these four parties was confirmed.

10. We have considered the submissions made. As the assessee had filed the Tax Audit Report, the ledger and invoices of M/s. Singh Stone, Maa Siddhidatri Construction, Gardeva Security (OPC) Private Ltd. and Krishnadev Pandit as well as the bank statement evidencing payment and has contended that merely because some of them were non-filers the disallowance could not be made and as the Ld. CIT(A) has not pointed out the specific discrepancy in respect of the bills noticed by him and has made a general statement, in the interest of justice it was considered imperative that the order of the Ld. CIT(A) on this ground should be set aside and another opportunity should be provided to the assessee to furnish evidence for not only payments made to the parties but also for transportation and receipt of goods along with ledger and invoices which may be got verified by the Ld. CIT(A) through the Ld. AO by calling for a remand report and, thereafter, the addition, if any, may be confirmed as per law wherever the verification is not made by the assessee by furnishing the required evidence for the genuineness of these transactions. Since the assessee claims to be a government



contractor, the assessee should furnish project-wise details of the purchases made from all these 11 parties so that the same could also be verified with the concerned government authorities. Hence, Ground nos. 2 and 3 of the appeal are allowed for statistical purposes as there is merit in the argument of the assessee that merely because the parties are non-filers of the income tax return the disallowance in the hands of the assessee could not be made.

11. As regards Ground nos. 4 and 5 relating to the addition of ₹10,00,479/- on account of non-confirmation of transactions by the two parties who were sub-contractors and were alleged to be non-filers of the income tax return, the Ld. AO issued notice u/s 142(1) of the Act and required the assessee to give documentary proof of the services rendered/work done by the sub-contractors for which sub-contract expenses were paid/credited namely Sri Gourav Choudhary and Sri Krishnadev Pandit for an amount of ₹56,53,261/-. The assessee filed the ledger and invoices/bills received from both these parties. The reply was considered but was not found to be acceptable because none of the two parties had confirmed the transactions and both of them are non-filers of income tax return. The assessee also did not prove what work was done by the above-mentioned parties and a sum of ₹56,53,261/- was disallowed out of the expenses claimed. In the appeal before the Ld. CIT(A), he noted the finding of the Ld. AO that the assessee had claimed total sub-contract charges of ₹ 37,63,63,015/- out of which substantial number of sub-contractors had not filed the income tax return which made the assessee's claim partially doubtful and the assessee also failed to furnish the documentary proof of work done/services rendered by the parties to whom sub-contract charges of ₹37,63,63,015/- were



paid/credited. The Ld. AO had issued notices u/s 133(6) of the Act to 11 parties but none of them responded to the notices issued. However, in response to the show cause notice dated 26.12.2022, the assessee submitted explanation for the claim of expenses regarding services rendered/work done by the parties to whom sub-contract expenses were paid and also attached a statement of remarks/comments for all the above-mentioned parties. The reply was considered by the Ld. AO but was not found to be acceptable. The Ld. AO issued notice u/s 133(6) of the Act to Sri Gourav Choudhary and Sri Krishnadev Pandit but since no reply was received, a sum of ₹56,53,261/- in respect of both these parties remained unverified. In the course of the appeal before the Ld. CIT(A), in respect of Sri Gourav Choudhary the reply filed by the assessee was accepted by the Ld. CIT(A) as he had confirmed the transactions and reported that during the FY 2020-21 he had worked for the assessee as its sub-contractor and had also filed the return of income for the AY 2021-22 and furnished acknowledgement of the return of income which he filed. But in respect of Sri Krishnadev Pandit the reply was found to be not acceptable because the confirmation was not made and he was a non-filer of the income tax return and, therefore, a sum of ₹10,00,479/- was disallowed. In respect of the other parties, the explanation regarding the work done/services rendered was though found to be not acceptable by the Ld. AO but apparently no addition was made in respect of any of the 11 parties mentioned at page 11 of the order of the Ld. CIT(A). However, even though the explanation in respect of many of these sub-contractors was found to be non-acceptable as the assessee had denied any transactions with them but the data extracted from the INSIGHT portal showed that with many of these parties, the assessee had transacted but as against the proposal



of addition of ₹56,53,261/- only an amount of ₹10,00,479/- was made in respect of transaction with Sri Krishnadev Pandit. The Ld. CIT(A) has mentioned that during the course of the appellate proceeding, the assessee had filed copies of ledger account, invoices and evidence of payment made through banking channel in regard to claim of expenses for services rendered/work done by Sri Krishnadev Pandit as a sub-contractor, the same work had been perused but found to be not acceptable because the assessee failed to furnish confirmation of sub-contractor Sri Krishnadev Pandit and he also failed to prove what work had been done by Sri Krishnadev Pandit and as he was a non-filer the claim of sub-contract expenses to the tune of ₹10,00,479/- was disallowed and Ground no. 4 of the appeal before him was dismissed.

12. Before us the assessee has filed the ledger and invoices of Sri Krishnadev Pandit for FY 2020-21 and 2021-22 in support of the claim that he was a regular sub-contractor and both these details were claimed to be filed before the Ld. AO as well as before the Ld. CIT(A). Since the Ld. CIT(A) has confirmed the addition without analysing the reply, more so when the payments have been made by cheque, this issue is also remanded to the Ld. CIT(A) for verification and the claim of the assessee that the amount was paid to sub-contractor Sri Krishnadev Pandit for the work done. The assessee shall furnish copy of agreement with the sub-contractor, if any. The Ld. CIT(A) shall also consider the fact that out of about 11 parties to whom the sub-contract work was given and many of whom were non-filers, yet the addition has been confirmed only in respect of Sri Krishnadev Pandit, therefore, on the same facts and reason, how the transactions with other parties were accepted may also be informed by the Ld. AO in the course of the appeal.



The Ld. CIT(A) shall call for a remand report from the Ld. AO and the assessee shall furnish all necessary evidence in support of the claim that the amount paid was for the sub-contract work and shall also furnish the details of the sub-contract work carried out. Therefore, both these Ground nos. 4 and 5 of appeal are also allowed for statistical purposes.

13. Ground nos. 6 and 7 being general in nature do not require any separate adjudication.

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

Order pronounced in the open Court on 13th October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 13.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Sriram Enterprises, Sriram Rtower, M P Road, Bhagwan Pustaklaya, Naya Bazaar, Bhagalpur, Bihar, 812002.**
2. **ACIT, Central Circle-1, Patna.**
3. CIT(A)-3, Patna.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata