



IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

IT(SS)A No. 01/Ran/2025
(Assessment Year: 2022-23)

A.C.I.T., Central Circle-2, Ranchi.	Vs.	Manikaran Power Limited, Manikaran Tower, Kilburn Colony, P.O. Hinoo, Ranchi-834002 (Jharkhand) PAN No. AAECM 4555 F
J.C.I.T. (IN SITU), Ranchi.		
Revenue/ Appellant		Respondent/ Assessee

ITA No. 471/Ran/2024
(Assessment Year: 2022-23)

Manikaran Power Limited, Manikaran Tower, Kilburn Colony, P.O. Hinoo, Ranchi-834002 (Jharkhand) PAN No. AAECM 4555 F	Vs.	A.C.I.T., Central Circle-2, Ranchi.
Revenue/ Appellant		Respondent/ Assessee

Department represented by	Adjournment Application Filed
Assessee represented by	Shri Devesh Poddar, A.R. & Mrs. Lavanya G. Mittal, A.R.
Date of hearing	08/10/2025
Date of pronouncement	08/10/2025

ORDER

PER: BENCH

1. IT(SS)A No. 01/Ran/2025 is the appeal filed by the revenue and ITA No. 471/Ran/2024 is the appeal filed by the assessee against the orders of the Id. CIT(A)-3, Patna both dated 09/10/2024 for the A.Y. 2022-23.
2. The Id. CIT-DR has sought adjournment mentioning as follows:

"As per order of Pr. Chief Commissioner of Income-Tax (B&J), Patna dated 26/09/2025, I have been directed to perform duty as CIT(DR)

from 06.10.2025 to 10.10,2025 on rotational basis. In the following cases appeal orders have been passed by this office. In some cases, appeals of the same assessee's are pending with the undersigned for other assessment years. Hence, these cases cannot be argued by the undersigned. A short adjournment of 10 days may please be granted so that another CIT(DR) may attend to these cases."

3. The number of cases posted during the week is nearly 250, out of the same, on daily basis, nearly in 72 to 75% of the cases, adjournments are being sought. As the Bench was constituted and the same was also intimated much in advance and the adjournment has been sought in the last minute, therefore, the adjournment applications are being rejected.
4. It may also be worthwhile to mention here that another reason given by the Id. CIT-DR for adjournment is that in some of the appeals, orders have been passed by the office of the impugned CIT-DR personally. Here, it is to be mentioned that in respect of the orders of the Id. CIT(A), which have been challenged by the revenue, it can be said that it would be difficult for the Id. CIT-Departmental Representative to defend such orders, in so far as he would be arguing against his own orders. But in such cases, where the orders have been passed against the assessee and the assessee is in appeal, we find no reason as to why the Id. CIT-DR would not be able to defend his own orders. In any case orders have been issued against the assessee. When this was put to the Id. CIT-DR, it was a submission that should the Tribunal pass an order reversing the order of Id. CIT(A), he could be questioned under administrative provisions. This does not stand to be a reason, in so far as the appeal provisions have been provided by the statute.

It is human to err. If there is no order passed by the Assessing Officer, then obviously post of CIT(A) is required and if there is no order of Id. CIT(A), there is no requirement of the Tribunal so on and so forth. Various stages of appeals are provided so that necessary proceedings are available for both the assessee and the revenue to defend their stands. Decisions taken by the appellate authority as a judicial or quasi judicial forums, are not subject to administrative reviews. Appeal provisions are provided by the statute. It would also be worthwhile to mention here that repeatedly the courts have been holding that the Id. CIT(A) are quasi judicial authorities and no administrative pressure can be put on them to decide any issues in any specific manner. We are of the view that such apprehension of the Id. CIT-DR is unfounded. Consequently, the submission of the Id. CIT-Departmental Representative was that he is recusing from the arguments. His plea is accepted. The matters are disposed off on merits on the basis of records and documents available before the Tribunal.

5. Shri Devesh Poddar, Id. A.R. represented on behalf of the assessee. It was submitted by the Id. AR that the assessee is a trader of power being electricity power. It was a submission that the assessee had during the impugned assessment year, made purchases of power to an extent of ₹ 3,223,88,83,166.05 for a quantity of 82,81,832.84 mega watts. The assessee had sold the entire power purchased for a total consideration of ₹ 3,274,81,81,206.28/-. The entire break up was shown in the notes to the accounts which reads as follows:

Note 15

REVENUE FROM OPERATIONS		Amt (in Rs)	Amt (in Lakhs)
SALES OF PRODUCT (A)		37,07,54,33,278.51	3,70,754.33
OTHER OPERATING REVENUE (B)		43,79,20,427.15	4,379.20
TOTAL		37,51,33,53,705.66	3,75,133.54

(A) DETAILS OF PRODUCT SOLD

	UOM	Qty	Amt (in Rs)	Amt (in Lakhs)
ENERGY	Mwh	82,81,832.84	32,74,81,81,206.28	3,27,481.81
BANKING/ BARTER TRANSACTIONS	Mwh	17,17,664.16	1,77,18,440.30	177.18
REC/RPO	Nos.	19,84,204.00	2,43,05,95,789.00	24,305.96
E-CERT	Nos	1,22,280.00	3,05,70,000.00	305.70
COAL	MT	2,36,299.97	1,84,83,67,842.93	18,483.68
TOTAL		1,23,42,280.97	37,07,54,33,278.51	3,70,754.33

(B) OTHER OPERATING REVENUE

	UOM	Qty	Amt (in Rs)	Amt (in Lakhs)
RENT			17,32,81,148.36	1,732.81
STEVEDORING CHARGES RECEIVED			6,11,85,116.08	611.85
SURCHARGE ON LATE PAYMENT			1,95,447.45	1.95
PROFESSIONAL FEE			10,02,02,405.50	1,002.02
ANNUAL SUBSCRIPTION FEES			5,63,47,000.00	563.47
PROCESSING/CONSULTANCY FEES			3,49,30,808.02	349.31
OTHER OPERATING BILATERAL INCOME			1,17,78,501.74	117.79
TOTAL			43,79,20,427.15	4,379.20

Note 17

PURCHASE OF STOCK-IN-TRADE		UOM	Qty	Amt (in Rs)	Amt (in Lakhs)
ENERGY	Mwh	82,81,832.84	32,23,88,83,166.05	3,22,388.83	
BANKING/ BARTER TRANSACTIONS	Mwh	17,17,664.16			
REC/RPO	Nos.	19,84,204.00	2,43,05,95,789.00	24,305.96	
ESCERTS	Nos	1,22,280.00	3,05,70,000.00	305.70	
COAL	MT	2,36,299.97	1,80,82,03,614.38	18,082.04	
METER			2,90,300.00	2.90	
TOTAL		1,23,42,280.97	36,50,85,42,869.43	3,65,085.43	

Note : Banking/ Barter Transactions is swapping of power. We had mentioned quantity in purchase and sale, but we receive only trading margin for banking/ Barter Transactions.

It was a submission that in the course of assessment, it was noticed by the Assessing Officer that the part payments for the purchases from BT DB Power Limited and DPEMizoram, Aquasub engineering, Sri Vinayaga Green Power Generation P. Limited, Sri Dhanlaxmi Sprintex Pvt. Ltd., Daksha Infrastructure Pvt. Ltd. and Annapoorni Yarns were made to certain alleged shell companies. The purchase consideration had been substantially paid to certain shell companies. Consequently, the Assessing Officer treated the purchase payments in respect of the said companies to an extent of ₹

35,77,52,226/- as bogus purchases. It was a submission that the Assessing Officer had also made the disallowance by invoking the provisions of Section 68 of the Income Tax Act, 1961 (in short, the Act) wherein it was stated that these were the payments made from the bank accounts of the assessee and not any amount credited in the bank account or the books of the assessee so as to attract the provisions of Section 68 of the Act which specifically refers to unexplained cash credits. It was a further submission that in respect of the expenses paid and claimed as rental expenditure to an extent of ₹ 57,00,000/- and ₹ 36,00,000/- was treated as unexplained expenditure on the ground that the payments have been made to various persons who are not having any properties which were rented to the assessee and the same was disallowed under Section 37(1) of the Act. It was a submissions that on appeal, the Id. CIT(A) held that in respect of the issue of bogus purchases, the same could not be considered under Section 68 of the Act and the same was liable to be considered under Section 37(1) of the Act. It was a submission that against the action of the Id. CIT(A) in directing the Assessing Officer to treat the additions representing the bogus purchases under Section 37 as against Section 68 adopted by the Assessing Officer, the revenue is in appeal. It was a further submission that the Id. CIT(A) had in respect of the issue of the expenditure claimed by the assessee of ₹ 57,00,000/- and ₹ 36,00,000/- representing the rents paid, the same was deleted by the Id. CIT(A) on the ground that the payments were made through agreements and recorded in the regular books of account and the

recipients of the payments had also offered the receipts to tax and the disallowance of the same in the hands of the assessee would amount to double taxation. It was a submission that against the said deletion, also, the revenue is in appeal.

6. As the Id. CIT(A) had not deleted the addition of the alleged bogus purchases of ₹ 35,77,52,226/- but had held that the same was liable to be considered as disallowable under Section 37(1) of the Act, the assessee is in appeal. It was a submission that as is evident in the assessee's appeal, the assessee has purchased the 82,81,832.84 mega watts of energy and the same quantity of energy has been sold apart from other byproducts. It was a submission that admittedly the payments have been made to certain third parties in respect of the purchases at the behest of the seller. It was a submission that the Assessing Officer had not even examined with the seller as to whether the seller had given any direction. It was a submission that there is no outstanding in respect of the purchases in the balance sheet of the assessee. It was a further submission that there is also no claim till today in respect of the said amount of ₹ 35,77,52,226/- from any of the sellers of power. It was a submission that the said addition itself was not called for much less under Section 37(1) or Section 68 of the Act. The Id. AR had also placed before us the copy of the purchase register as also the sales register to show that the quantity of purchases and the quantity of sales were fully tallied. It was a further submission that in respect of the revenue's appeal, the Id. CIT(A) has given a categorical finding that in respect of addition of ₹

57.00 lacs, the recipients had already disclosed the said income in their returns and had paid taxes on the same and in respect of the balance of ₹ 36.00 lacs, the Id. CIT(A) had considered the agreements and had also found that these were guest houses for which the rents has been paid. It was a submission that the additions as deleted by the Id. CIT(A) is liable to be upheld and the addition as confirmed by the Id. CIT(A) of the alleged bogus purchases is liable to be deleted.

7. We have considered the submissions. We have also perused the orders of the authorities below and the documents on record. A perusal of the assessment order shows that in page 3 to 7 of the assessment order, the Assessing Officer has extracted the specific purchases for which the payments have been made to third parties. Admittedly, the Assessing Officer has not verified with the sellers as to whether the payments were made at the behest of the sellers. A perusal of the balance sheet of the assessee also clearly shows that there is no outstanding in respect of the purchases during the year apart from continuous business transactions. At this instance, we would like to mention that with respect to purchase of power from M/s BT DB Power Limited, the assessee in totality had made a purchase of ₹ 1,94,59,63,834/- whereas the Assessing Officer has disallowed a part payment of the same as bogus. Same is the condition with respect of the other parties. The assessee being a dealer of power, obviously, cannot store it and therefore, there is no closing stock or opening stock. The accounts of the assessee also clearly show the quantity purchased and quantity sold is

the same. If the purchases identified by the Assessing Officer in page 3 to 7 of the assessment order is excluded then obviously, the sales to that extent will also have to be excluded in so far as the purchases is being doubted. If this is not done, it would be noticed that the assessee has sold more than it has purchased which is not possible. The commodity being electricity is a controlled item and it is metered at every level. There is no deficiency in respect of the quantity sold or metered which has been identified. Therefore, the sales have been accepted and remains undisputed. Obviously, thus, there has to be corresponding purchases. The Assessing Officer has also not shown that the assessee has purchased from any other person, no evidence to that extent is available. The assessee is a trader of electricity power, the said electricity is traded on the exchange and no evidence has come to the possession of the revenue to say that the assessee has done any act of under purchasing or short selling or under invoicing of power from the exchange. Further, it is also noticed that the rate of purchase of electricity is also constant with respect to different sellers. The purchases from BT DB Power from the sellers have not been examined, obviously, once the purchases have been made and the quantification is available, the billing is available and what has been sold tallies with the quantity, it cannot be said that the purchases are bogus just because the payments have been made on behalf of the seller to the third parties. It is the seller who provides the account for the transfer of the funds and the assessee has no control over the accounts to which the payment is made. The assessee is only paying in

respect of the bills raised on the assessee to the accounts which are mentioned by the sellers. It is also not in dispute that the payments has not been made through the bank account of the assessee. This being so, as there is no variation in the stock or there is no variation in the quantity sold as also on the ground that there is no evidence of under invoicing or any allegation from the electricity exchange in regard to the transactions of the assessee as also on the ground that there is no payment shown to be due to any of the sellers and no proceedings have also been initiated by any of the sellers against the assessee for recovery of any sale consideration, we are of the view that the additions as made by the Assessing Officer under Section 68 of the Act and as confirmed by the Id. CIT(A) under Section 37(1) of the Act is unsustainable and consequently we delete the same.

8. In the result, the appeal of the assessee in ITA No. 471/Ran/2024 stands allowed.
9. Coming to the revenue's appeal, it is noticed that the Id. CIT(A) has categorically given a finding that in respect of amount of ₹ 57.00 lacs, the recipients have also clearly offered the said income to tax. This findings of the Id. CIT(A) have not been disputed nor dislodged by the revenue. Similarly in respect of expenditure of ₹ 36.00 lacs paid under the head 'rent', the Id. CIT(A) has in page 17 and 18 of his order, categorically given a finding that both the premises were used as guest houses by the appellant company and the payments have been made on a regular basis through banking channels after deducting TDS thereon. These findings of the Id.

CIT(A) have also not been dislodged. Anyhow as the case may be, the fact remains that the recipients of ₹ 57.00 lacs and ₹ 36.00 lacs have duly disclosed the same in their ITR and that disallowing the same in the hands of the assessee would amount to double taxation which is bad in law. As such, we find no infirmity in the order of the Id. CIT(A) to the extent of deleting the said additions.

10. Coming to the issue of whether the alleged disallowance of the bogus purchases is to be made under Section 37(1) or Section 68 of the Act, as we have already deleted the addition itself in assessee's appeal, this ground no more survives. Consequently, the appeal of the revenue stands dismissed.
11. In the result, the appeal of the assessee in ITA No. 471/Ran/2024 stands allowed and the appeal of the revenue in IT(SS)A No. 01/Ran/2025 stands dismissed.

Order announced in open court on 08/10/2025.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Ranchi, Dated: 08/10/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi