

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.777/Del./2025, A.Y. 2019-20**

Kritika Jain C/o. DS Legal & Associates, B-50, LGF, South Extension-II, New Delhi PAN: AFTPA6657B	Vs.	Income Tax Officer, Ward 36(1), Civic Centre, Minto Road, New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Shaantanu Jain, Advocate Sh. Dipanshu Jain, Advocate Ms. Jahanvi Khanna, Advocate
Respondent by	Sh. Dayainder Singh Sidhu, CIT-DR

Date of Hearing	29/07/2025
Date of Pronouncement	17/10/2025

**ORDER**

**PER AVDHESH KUMAR MISHRA, AM**

This appeal of the assessee for Assessment Year ('AY') 2019-20 is directed against the order dated 22.01.2025 of the Commissioner of Income Tax (Appeals), NFAC, New Delhi ['CIT(A)'].

2. Vide various grounds and sub-grounds, the assessee has raised 4 issues: -

i. Validity of reopening the case,

- ii. Non-issuance of notice under section 143(2) of the Income Tax Act, 1961 ('Act'),
- iii. Violation of the principle of natural justice and
- iv. taxability of profit of Rs.8,20,000/- derived on bogus purchases.

3. The relevant facts giving rise to this appeal are that the assessee, engaged in the business of lubricant, rubber & related items, filed her original Income Tax Return (ITR) of the relevant year declaring income of Rs.20,52,910/-. Later on, the case was reopened on the basis of reasoning that the assessee has done bogus purchases of Rs.65,60,000/- from Manjeet Singh (Proprietor of Gupta Trading Company). The case was scrutinized and consequential assessment was completed at income of Rs. 28,72,910/- by the Ld. Assessing Officer ('AO'), wherein the Ld. AO made addition of Rs.8,20,000/- by applying the profit rate of 12.5% of stated bogus purchases of Rs.65,60,000/-. Aggrieved, the assessee filed appeal before the Ld. CIT(A) who dismissed the appeal.

3.1 The perusal of the Paper Book ('PB') filed by the Ld. Counsel reveals that the Ld. AO, based on the Investigation report received from 'Investigation Directorate of Income Tax', inferred that the assessee's purchases of Rs.65,60,000/- was not genuine. The said investigation report is placed on page No. 22 to 24 of the PB. According to the said investigation report of ITO (Inv.)(OSD), it is evident that he, in absence of any compliance made on part of Sh. Manjeet Singh (Proprietor of Gupta Trading Company),

one of the suppliers of the assessee, in whose case the investigation was being done by the ITO (Investigation) (OSD), New Delhi, inferred that Sh. Manjeet Singh was providing accommodation entries to various persons as he had made different kinds of trading activities with respect to De-oiled cakes, Cloth, import and export, wholesale trading of oil seeds, edible and non-edible oils, basmati Rice, supplying, installing and maintaining of street lights, electrical equipment. etc., etc. The assessee has purchased certain goods from Sh. Manjeet Singh/M/s Gupta Trading Company; therefore, the assessee was show-caused to explain the actual delivery of the said goods at her business premises and evidence of transportation thereof, etc., etc. However, the Ld. AO was not satisfied with the explanations of the assessee; therefore, he reopened the case and concluded the assessment by taxing profit of Rs.8,20,000/- derived on bogus purchases as under:

*“7. The investigation/enquiries by the government agencies have proved that the above parties are engaged in giving bogus bills for commission. In fact, all the evidences point to the fact that no actual goods were being supplied by the above party. It can thus, be easily concluded that there has been no sale of goods by the above parties to the assessee. Therefore, it is evident that the bills issued by the aforesaid parties to the assessee are not genuine. Thus, in reality there is no actual purchase of goods by the assessee from the aforesaid party, but the bills have been obtained by the assessee to inflate the purchases and to reduce the profit from the business.*

*8. There are many judicial pronouncements on this issue now wherein the courts have taken the view that in cases of non-existent parties from whom purchases are shown to have made, only part of such purchases can be disallowed wherein the corresponding sales are treated as genuine or the profit element embedded in such sales can only be brought to tax.*

*Considering the above view taken by the courts, it would be inappropriate to disallow the entire purchases made from certain alleged party. It is also possible that the alleged purchases might have made by the assessee from unregistered dealers (URD purchase), but so as to reduce the profit margin and marginalize the tax liability the assess have obtained inflated bills from the above-mentioned party, Therefore, what can be taxed in cases of such transactions is the profit element embedded and not the entire purchases.*

*9. Considering all the facts and circumstances of the case, I have no other option but to constrained, to hold on a balancing of facts as the payments have been effected through cheques and the fact that the purchases made from the parties concerned have been recorded in the books of accounts of the assessee, from which itself the subsequent sales have been effected, go on to show that it may not be appropriate to out rightly hold that the purchases are bogus merely because the parties are not traceable now. In fact any finding to this effect would also carry itself with the natural inference that the corresponding sales should also be held bogus and deleted from the turnover of the assessee in view thereof and on a totality of facts and circumstances and dispassionate weighing of the evidences treating the entire purchases as bogus transactions and disallowing the same in its entirety would be not only be wrong but would not be sustainable in law In view of the matter the entire purchases cannot be treated as bogus. Nevertheless, disputed purchases carry with it a natural corollary of disputed sales to that extent.*

*10 During the year under consideration there has been purchases aggregating to Rs.65,60,000/- by the assessee from the above party. The requirements of statutory notices issued from time to time affording the assessee opportunity to explain the case The explanation given by the assessee is not satisfactory regarding the purchases made above said party.*

*10.1 In view of discussions of facts and circumstance of case in preceding paras, 12.5% of the above-mentioned alleged transactions to the tune of Rs.8,20,000/- is hereby disallowed, treating the same as inflation of purchases to evade quantum of profit element embedded. Therefore, treated as unexplained expenditure u/s 69C of the IT. Act, and the same is added back to the total income of the assessee. Accordingly, penalty*

*proceedings u/s 271AAC of the Income Tax Act, 1961 for the addition made u/s 69C are initiated separately. (Addition of Rs. 8,20,000/-)”*

3.2 Aggrieved the assessee filed appeal before the Ld. CIT(A) challenging the jurisdictional issue as well as merit of the addition. The Ld. CIT(A) dismissed the appeal holding as under:

*“5.3 During the appellate proceedings, the appellant claimed that all the purchases were genuine and the AO erred in treating them as unexplained expenditure. The Investigation/enquiries by the Government Agencies have proved that the above parties were engaged in giving bogus bills for the sake of commission. In fact, all the evidences point to the fact that no actual goods were being supplied by the above parties to the assessee. Therefore, it is evident that the bills issued by the aforesaid parties to the assessee are not genuine. Thus, in reality there is no actual purchase of goods by the assessee from the aforesaid party, but the bills have been obtained by the assessee to inflate the purchases and reduce the taxable income of the assessee. But still, the AO relied upon judicial decisions given by the various High Courts and made addition of estimated profit basis instead of out rightly making addition of entire purchases.*

*In view of the facts discussed above, it is clear that the assessee failed to prove the genuineness of the purchases and hence there is no need to take a divergent view from the findings of the AO. Therefore, the contention of the appellant is rejected and the addition of Rs.8,20,000/- on account of unexplained expenditure is confirmed. Accordingly, Ground No. 3 is dismissed.”*

4. Before us the Ld. Counsel contended that the reopening of assessment was not justified as the non-compliance by the supplier of the goods was the only basis on which the inference had been drawn. The Ld. Counsel further contended that all purchases were duly accounted for and payments had been made through banking channel. Further, he submitted that the said purchases and consequential sales thereof had been duly disclosed in the

Profit & Loss Account of the assessee. Therefore, the income embedded therein; i.e. the sale of alleged bogus purchases had already been offered for tax in the ITR and the Ld. AO had not rejected the books of accounts of the appellant assessee; therefore, taxing profit @ 12.5% imbedded in the alleged bogus purchases of Rs.65,60,000/- again was nothing but double taxation. The Ld. Counsel, placing reliance on the decision of coordinate bench in the case of Vayam Technologies Ltd. ITA No. 1477/del/2023, prayed for relief. Thus, on both technical grounds and merit of the case, the Ld. Counsel prayed for relief.

5. On the other hand, the Ld. CIT-DR contended that the AO had recorded reasons for reopening the assessment. He submitted that the Ld. Counsel had not brought any material on the record to contradict the finding of the Ld. CIT(A) and to demonstrate that the said purchases of Rs.65,60,000/- was genuine and the said goods were actually delivered to the assessee for further effective sales. It was submitted that the assessee did not bring corroboratory evidence, before the Ld. AO, to demonstrate that the said purchases of Rs.65,60,000/- was genuine; therefore, the AO was justified in reopening the assessment. Further, on merit, the Ld. CIT-DR submitted that the Ld. AO had taxed additional profit over & above the profit disclosed in regular books of accounts on the simple reasoning that the GST/VAT on bogus purchases of Rs.65,60,000/- would have been

deposited. Hence, he contended that there was no infirmity in the finding of the Ld. CIT(A) and therefore, this appeal deserved dismissal.

6. We have heard both parties and have perused the material available on record. As far as the reopening of the case is concerned, the Ld. Counsel did not bring any material on the record to establish non-application of mind by the Ld. AO and the Authority approving the reopening of assessment. The Ld. Counsel has not brought any material on the record to contradict the finding of the Ld. CIT(A). The Hon'ble Supreme Court in the case of Raymond Woollen Mills Ltd. 236 ITR 34 have held that in determining whether commencement of reassessment proceedings is valid, it has only to be seen whether there is prima facie some material on the basis of which the AO can reopen the case. The sufficiency or correctness of the material is not a thing to be considered at this stage. Similar view also gets echoed in the decision of the Hon'ble Gujarat High in the case of Vasudev Fatandas Vaswani (2018-TIOL-2305-HC-AHM-IT); wherein the Hon'ble Gujarat High Court has held that when issuing notice for re-opening assessment, the AO is only required to show reasonable belief that income escaped assessment & is not required to establish the same beyond reasonable doubt. The Hon'ble Supreme Court in the case of Aravali Infrapower Ltd. 2017-TIOL-42-SC-IT has confirmed the decision of The Hon'ble High Court, whereby it was held that reopening of assessment is justified, when the information and the detail available on the ITR raise

more questions than satisfying the queries already raised. Here, we find that the AO has reasonable material to reopen the case. In view of the facts of the case in entirety and above-mentioned case laws in this para, we do not see any infirmity in the impugned order dismissing the jurisdictional/ reopening issue as the Ld. AO has sufficient reason to prima-facie infer that the income of the assessee has escaped assessment. Further, we do not find any merit in the contention that there is non-application of mind by the Ld. AO and the Authority approving the reopening of assessment. Hence, we hold the reopening of assessment as valid.

7. The copy of the notice under section 143(2) of the Act dated 28.08.2023 is place before us in the PB (page 37-39). We find the same in order. Therefore, the grounds raising non-issuance of notice under section 143(2) of the Act do not impress us. Hence, the grounds raising this issue stand dismissed.

8. On merit, on our specific query to demonstrate the disputed purchases of Rs.65,60,000/- as genuine and to explain why not 50% of the said profit should be charged to tax, the Ld. Counsel agreed for Rs.4,00,000/- out of the addition of Rs. 8,20,000/-.

9. We have taken note of the fact that the Ld. AO has neither rejected the books of accounts nor taken out the profit embedded in sales effected from the disputed purchases of Rs.65,60,000/- from Profit & Loss Account. Since

the disputed purchases of Rs.65,60,000/- have been accounted for in the regular books of accounts; therefore, the income embedded therein has already been offered for the tax. Hence, taxing the same @ 12.5% of the disputed purchases of Rs.65,60,000/-; prima-facie, will not be justified. Therefore, keeping in view the entire facts of the case and material available on the record, we uphold the addition of income of Rs.4,00,000/-. Thus, the assessee gets consequential relief of Rs.4,20,000/-.

10. In the result, the appeal of the assessee is partly allowed as above.

Order pronounced in open Court on 17<sup>th</sup> October, 2025

Sd/-

Sd/-

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**(AVDHESH KUMAR MISHRA)**  
**ACCOUNTANT MEMBER**

Dated:17<sup>th</sup>/10/2025  
*Binita, Sr. PS*

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT/CIT
4. CIT(Appeals)
5. CIT-DR, ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI