

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"SMC" BENCH, NAGPUR**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA no.421/NAG/2024**

**(Assessment Year :2018-19)**

Subhash Badriprasad Shahu,  
Plot no.84, Near Annapurna Dall Mill,  
Bagad Ganj, Small Factory Area  
Nagpur 440 008.  
Maharashtra.  
PAN - AGQPS9660N

..... Appellant

v/s

Income Tax Officer  
Ward-4(3), Nagpur

..... Respondent

Assessee by :Shri. Abhay Agrawal.A.R.

Revenue by :Shri Surjit Kumar Saha.Sr.DR

Date of Hearing -06/10/2025

Date of Order - 07/10/2025

**ORDER**

The assessee has filed the appeal against the order dated 05/06/2024, passed by the learned CIT(A)/National Faceless Appeal Centre(NFAC) Delhi, under section 147 r.w.s 144 and under section 250 of the Income Tax Act, 1961 (for short "*the Act*"). The assessee has raised following grounds of appeal:-

"1. Whether on the facts and in law, the order passed by learned CIT(A) u/s 250 of the Act is bad in law.

2. Whether on the facts and in law, the notice issued under section 148 of the Act is bad in law.

3. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in sustaining the addition made by the learned AO of Rs.32,02,225/-towards alleged bogus purchases under section 69C of the Act.*

4. *Whether on the facts and in law, the learned AO erred in making the disallowance based on suspicions and surmises without considering the documentary evidences filed in support of genuineness of purchases and without doubting the corresponding sales.*

5. *Whether on the facts and in law, the learned AO erred in neither providing adverse material allegedly received from GST department, nor opportunity of cross-examination of party Shri Sanket Santosh Shahu, thereby breaching principles of natural justice."*

6. *The Assessee craves leave to add, alter, vary, omit, amend or delete one or more of the above grounds of appeal before, or at the time of, hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."*

2. At the time of hearing, the Learned Authorized Representative of the assessee (for short "*the learned A.R.*") has not pressed the grounds of appeal no.2 and 5. Accordingly, they are dismissed as not pressed.

3. The Brief facts of the case are that the assessee is engaged in the business of trading in Iron & Steel. The assessee has filed the return of income for A.Y.2018-19 disclosing a total income of Rs.8,17,450/-. The Assessing Officer has received information from GST authorities that the assessee has obtained accommodation entries/ bogus purchases from M/s. Sanket Steel Enterprises for the F.Y. 2017-18 aggregating to Rs.32,02,255/- which is a nonexistent entity. The Assessing Officer has reason to believe that the income has escaped assessment and issued notice under section 148 of the Income Tax Act, 1961 (for short "*the Act*"). The assessee has filed the information explaining the business

activities and the transactions with M/s. Sanket Steel Enterprises. Further, the assessee in the assessment proceedings has filed the reply along with the copy of confirmation, bills/invoices and material to substantiate that the assessee has purchase transactions with M/s. Sanket Steel Enterprises. Whereas, the Assessing Officer has dealt on the facts and finally drawn the conclusion that the purchases are not genuine and made addition of Rs.32,02,225/- and assessed the total income of ₹ Rs.40,19,675/- and passed the order u/sec147 r.w.s144 of the Act dated 20-03-2023. Aggrieved by the order of the Assessing Officer, the assessee filed appeal before the learned CIT(A).

4. In the appellate proceedings, the learned CIT(A) has dealt on the grounds of appeal, written submissions, findings of the assessing officer statement of facts but observed in Para 7.5 of the order that the assessee has not produced the delivery challan in support of the claim and confirmed the addition and dismissed the assessee's appeal. Aggrieved by the order of the learned CIT(A), the assessee filed appeal before the Tribunal.

5. At the time of hearing, the learned A.R. submitted that the learned CIT(A) has overlooked the factual aspects in respect of purchase transactions which are supported with transportation bills, purchase invoice, bills, tax audit report and GST compliances. But due to action in the case of supplier of goods by the GST authorities, the assessee cannot

be put to hardship and the purchase transactions are genuine. The learned A.R substantiated the submissions with factual Paper Book, judicial decisions and the gross profit ratio substantiating the claim of genuine purchases. Per contra, the learned D.R. relied on the order of the Assessing Officer and the learned CIT(A).

6. Heard the rival contentions and perused the material available on record. The sole matrix of the disputed issue that the learned CIT(A) has confirmed the action of the Assessing Officer treating purchases as bogus under section 69C of the Act. Whereas, the learned A.R. substantiated that the transactions are genuine and also submitted in the Paper Book highlighting the purchase bills, purchase register / sales register, stock, transportation bills referred in Page-16 to 39 of the Paper Book. The learned A.R's contention that the assessee has already offered the purchases for income tax purpose and included in the Trading Account and again taxing the same purchase will amount to double taxation. Whereas, the learned Departmental Representative submitted that due to information from GST authorities, the supplier of goods is not a genuine entity and therefore, the transactions are doubted. The learned A.R's contentions are that the assessee has substantiated these purchases with documentary evidence before the authorities below which are referred in the Paper Book and the learned A.R. relied on the following decisions:-

- i) Ashok Kumar Rungta v/s ITO, 301 taxman 580 (Bom.);*
- ii) CIT v/s Nikunj Eximp Enterprises Pvt. Ltd., 372 ITR 619 (Bom.);*
- iii) PCIT v/s Uni Packs (I) Pvt. Ltd., 108 taxmann.com 454 (Bom.); and*
- iv) CIT v/s Odeon Builders Pvt. Ltd., 418 ITR 315 (SC).*

When a query was raised to the learned A.R. to explain the gross profit ratio of the business, the learned A.R. has highlighted on the Page-24 of the legal Paper Book explaining the gross profit ratio from the A.Y. 2016-17 to A.Y. 2020-21 with an average as worked out to 6%. Therefore, the learned A.R's contention that the transactions are genuine and the assessee has already offered the same to tax. The learned Departmental Representative relied on the decision of PCIT v/s Kanak Impex (India) Ltd. 474 ITR 175 (Bom.), which was distinguished by the assessee's A.R. referred at page 4&5 of additional paper book and the assessee has also filed an affidavit of the Vendor/ supplier of goods and the transporter has filed a response in lieu of notice under section 133(6) of the Act issued by the Assessing Officer at page 6 to 14 of the paper book. The contentions of the Ld.AR are realistic and duly supported by the material evidence and judicial decisions on the estimation of profit element. Hence considering the vat component embed in the transactions, facts and judicial decisions and to meet the ends of justice, set aside the order of the CIT(A) and direct the assessing officer to estimate the income @6.5% on unapproved/ bogus purchases. And the grounds of appeal of the assessee are partly allowed.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 07-10-2025.

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur