

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "B", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" B " BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.834/Ahd/2024
निर्धारण वर्ष /Assessment Year : 2021-22

The ACIT Dy./Asst.Commissioner of Income Tax (Anand Circle) Anand - 388 001	<u>बनाम/ v/s.</u>	Narendrakumar Hansrajbhai Patel I C/o. Mahakali Saw Mill Mansarovar Marker Kamla Kamia, Kheda - 387 320
स्थायी लेखा सं./PAN: CMMPP 6784 N		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Mishal Mehta, CA	
Revenue by :	Shri Alpesh Parmar, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 28/08/2025
घोषणा की तारीख /Date of Pronouncement: 29/10/2025

आदेश/ORDER

PER SIDDHARTHA NAUTIYAL, JM:

The present appeal has been preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 27/02/2024 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year (AY) 2021-2022.

2. The Revenue has raised the following grounds of appeal:

"1. Whether, on facts and in circumstances of the case and in law, the Ld.CIT(A) is justified in deleting the addition of Rs. 10,64,04,151/-made u/s 69C of the Act without appreciating the fact the assessee failed to substantiate the expenditure claimed with supporting evidences?"

2. Whether, on facts and in circumstances of the case and in law, the Ld.CIT(A) is justified in deleting the addition of Rs. 10,64,04,151/- made u/s 69C of the Act without remanding the additional evidences to the A.O for verification as required under Rule 46 of the I.T.Rules?

3. The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal.

It is prayed that the order of the CIT(A) on the above issues be set-side and that of the Assessing Officer be restored."

3. The brief facts of the case are that the assessee is an individual engaged in the business of trading in wooden products under the proprietary concern M/s. Vikas Wood at Nadiad, Gujarat. The assessee filed his return of income for Assessment Year 2021-22 declaring a total income of ₹21,15,540/-. During the course of assessment proceedings, the Assessing Officer (AO) noticed that the assessee had shown total purchases of ₹13,35,74,623/- and total sales of ₹13,78,26,034/- during the year. Based on information available from third-party data, the AO found that some of the suppliers from whom purchases were made were either non-filers or had declared meagre income in their returns. The AO issued notices under section 133(6) of the Act to these parties to verify the genuineness of the purchases. Out of 17 parties, confirmations were received only from a few, and according to the AO, satisfactory replies were not received from all suppliers. The AO accordingly issued a show-cause notice proposing to treat certain purchases as non-genuine. In response, the assessee submitted confirmations, bank statements, e-way bills, GST returns, and other supporting details, and submitted that that all payments were made through account payee cheques and all purchases were backed by valid GST documents. However, the AO held that the assessee had failed to substantiate the genuineness, identity, and creditworthiness of six suppliers aggregating to purchases of ₹10,64,04,151/-. He further observed

that certain suppliers' GST numbers were cancelled and some were non-filers. On this basis, the AO treated the said purchases as unexplained expenditure under section 69C of the Act and added ₹10,64,04,151/- to the total income of the assessee, completing the assessment under section 143(3) of the Act.

4. Aggrieved by the addition, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). Before the CIT(A), the assessee submitted written arguments along with documentary evidence, including the purchase register, purchase and sale bills, stock statements, e-way bills, GST returns (GSTR-1, GSTR-3B, and GSTR-2B), confirmations from suppliers, and bank statements evidencing payments made through banking channels. The assessee also submitted that all the sales declared had been accepted by the AO, and the sales could not have taken place without corresponding genuine purchases. The assessee contended that the AO made the addition merely on presumptions without any evidence to show that the purchases were bogus or that money had been received back in cash. Reliance was placed on several judicial precedents, including *PCIT v. Tejula Rohitkumar Kapadia* [2018] 94 taxmann.com 324 (Guj), *CIT v. Bholanath Poly Fab (P.) Ltd.* [2013] 40 taxmann.com 494 (Guj), and *PCIT v. Odeon Builders (P.) Ltd.* [2019] 110 taxmann.com 64 (SC), to argue that once purchases and corresponding sales are recorded in the books and supported by documentary evidence, no disallowance can be made merely because the supplier could not be traced or had not filed returns. After carefully examining the assessment order, the submissions, and evidences on record, the Ld. CIT(A) observed that the assessee had maintained regular books of account duly audited under section 44AB of the Act, had made all payments

through account payee cheques, and had furnished confirmations and GST details of the suppliers. The CIT(A) noted that the AO had accepted the sales but had disallowed corresponding purchases without pointing out any discrepancies in the books of account or evidence of bogus transactions. It was also found that the GST registration numbers of suppliers were mentioned in the confirmations and reflected in the assessee's GSTR-2A, which proved that purchases were recorded on the GST portal after suppliers filed their returns. The CIT(A) therefore held that the purchases could not be treated as bogus merely because certain suppliers did not respond to the AO's notices or had filed low returns. **In view of the detailed evidence produced by the assessee demonstrating the genuineness of purchases and sales,** the CIT(A) held that the addition of ₹10,64,04,151/- made by the AO under section 69C of the Act. was unsustainable. The CIT(A) accordingly deleted the entire addition and allowed the appeal on this ground.

5. The Department is in appeal before us against the order passed by CIT(Appeals) allowing the appeal of the assessee.

6. Before us, Ld. DR submitted that the assessee had placed on record substantial evidence before CIT(Appeals) and the assessee was given complete relief without calling for a Remand Report and without seeking comments of the Assessing Officer with respect to the additional evidence placed on record by the assessee during appellate proceedings. Ld. DR drew our attention to paragraph 5.5 of CIT(Appeals) order wherein substantial additional evidence was placed on record by the assessee.

7. We have carefully considered the rival submissions and perused the material available on record. The brief facts of the case, as borne out from the record, are that the Assessing Officer made an addition of ₹10,64,04,151/- under section 69C of the Act, on account of alleged non-genuine purchases. In appeal, the learned Commissioner of Income Tax (Appeals) deleted the entire addition after admitting and relying upon voluminous documentary evidences filed by the assessee such as confirmations, e-way bills, GST returns, stock registers, purchase invoices, and bank statements. It is an admitted position that these evidences were either not filed before the Assessing Officer during assessment proceedings or were filed for the first time before the CIT(A). However, the CIT(A) proceeded to allow full relief to the assessee without calling for a remand report from the Assessing Officer as required under Rule 46A(3) of the Income-tax Rules, 1962.

8. In our considered view, once the CIT(A) admits additional evidences during appellate proceedings, he is mandatorily required to afford an opportunity to the Assessing Officer to examine and rebut such evidences before passing an order. The failure to do so constitutes a violation of the procedure prescribed under Rule 46A(3) and renders the appellate order unsustainable in law. The Hon'ble Bangalore Bench of the Tribunal in **Enzen Global Solutions (P.) Ltd. v. Income-tax Officer [2022] 144 taxmann.com 2 (Bang. - Trib.)** held that where the Commissioner (Appeals) admitted additional evidences submitted by the assessee to prove genuineness of trade payables and allowed relief without calling for a remand report, it amounted to a clear violation of Rule 46A(3) and the matter had to be remanded to the

Assessing Officer for fresh consideration. Similarly, in **Sai Prasad Properties Ltd. v. Joint Commissioner of Income-tax [2014] 51 [taxmann.com](#) 507 (Panaji - Trib.)**, it was held that when the CIT(A) admitted additional evidences but failed to seek a remand report or examine them, the order could not be sustained and required to be restored to the lower authority. The same principle was reiterated by the Mumbai Bench of the Tribunal in **Assistant Commissioner of Income-tax v. R & B Infra Projects (P.) Ltd. [2018] 98 [taxmann.com](#) 456 (Mumbai - Trib.)**, where it was held that the CIT(A) cannot rely upon additional evidences furnished for the first time before him to delete additions without obtaining the Assessing Officer's comments.

9. Applying the ratio of the above judicial pronouncements to the facts of the present case, we find that the learned CIT(A) has allowed complete relief to the assessee solely on the basis of evidences that were not before the Assessing Officer and without complying with the procedural requirement of calling for a remand report. This omission has deprived the Assessing Officer of an opportunity to examine the veracity of the evidences and to offer his comments thereon. In such circumstances, the appellate order suffers from a serious procedural infirmity and cannot be sustained.

10. Accordingly, in the interest of justice, we set aside the impugned order of the learned CIT(A) and restore the matter to his file with the direction to admit and examine the additional evidences in accordance with Rule 46A, after obtaining a remand report from the Assessing Officer and affording due opportunity of hearing to both parties. The CIT(A) shall thereafter pass a speaking order in accordance with law.

11. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 29/10/2025 at Ahmedabad.

**Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER**

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 29/10/2025

टी.सी. नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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