

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI NARENDER KUMAR CHODHRY, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.247/Bang/2025
Assessment Year: 2020-21

Hanumanthappa Pathrera Laxmana, Proprietor of M/s Sri Om Traders, Shop No.2, 2/1-612/1, Ward No.27, New Mandli, Shivamogga – 577 202. PAN – ADCPL 4413 F	Vs.	The Income Tax Officer, Ward – (1) & TPS, Shimogga.
APPELLANT		RESPONDENT

ITA No.1066/Bang/2025
Assessment Year: 2020-21

The Income Tax Officer, Ward – (1) & TPS, Shimogga.	Vs.	Hanumanthappa Pathrera Laxmana, Proprietor of M/s Sri Om Traders, Shop No.2, 2/1-612/1, Ward No.27, New Mandli, Shivamogga – 577 202. PAN – ADCPL 4413 F
APPELLANT		RESPONDENT

Assessee by	:	Shri Atul K Alur, Advocate
Revenue by	:	Shri Shivanand H Kalakeri, JCIT (DR)

Date of hearing	:	13.08.2025
Date of Pronouncement	:	09.10.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

These cross appeals, one by the assessee and the other by the Revenue, are directed against the order of the Commissioner of Income Tax (Appeals), NFAC, dated 01.01.2025 for the assessment year 2020-21. Since both appeals pertain to the same order and involve common issues, they were heard together and are disposed of by this consolidated order.

First, we take up ITA No. 247/Bang/2025, an appeal by the assessee

2. The first issue raised by the assessee that the Id. CIT-A erred in treating the purchases to the extent of 10% as bogus (₹30,66,03,197) and further alleged that the Id. CIT-A erred in treating the sundry creditors (₹8,62,40,984) as bogus.

3. The Assessing Officer during the assessment proceedings found that there are certain purchases which do not seem to be genuine and accordingly disallowed such purchases of ₹30.66 crores on the ground that the suppliers were either non-filers, had negligible turnover, or their GST registrations were cancelled. The list of such supplier is placed on pages 3 to 4 of the assessment order. He concluded that the assessee failed to establish genuineness and treated the purchases as bogus u/s 69C of the Act.

3.1 Similarly. the AO further noted that the assessee has shown high amount of liabilities in the balance sheet whereas it has shown low-

income /receipt in the income tax return and therefore the AO added sundry creditors of ₹8.62 crores, treating them as unexplained liabilities. On appeal, the Id. CIT(A) noted that sales of ₹54.66 crores had been accepted. In a trading business, sales cannot be achieved without corresponding purchases. Therefore, the Id. CIT(A) held that complete disallowance of purchases was unsustainable. At the same time, since the suppliers were untraceable and their GSTINs were cancelled, he concluded that the purchases were not fully genuine and restricted the disallowance to 10% of purchases, treating it as profit element from grey market procurement.

4. Regarding sundry creditors, he deleted the addition, holding that once purchases were taxed through estimation of profit, a separate addition for creditors would amount to double taxation.

5. Being aggrieved by the order of the Id. CIT-A, both the assessee and Revenue are in appeal before us. The assessee is in appeal against the confirmation of the addition to the extent of 10% and the Revenue is in appeal in ITA No. 1066/Bang/2025 against the deletion of the addition of the purchases to the extent of 90% of alleged bogus purchases.

6. Before us, the Id. AR for the assessee filed a paper book having 361 pages and argued that once sales are accepted in entirety, purchases cannot be disbelieved. All purchases were recorded in books, supported by GST returns and bank payments. The ad hoc disallowance of 10% was arbitrary since books were not rejected u/s 145(3) of the Act.

6.1 It was also contended that sundry creditors represented outstanding trade balances arising out of the very purchases, and once purchases are accepted, creditors cannot be questioned.

7. The Revenue, on the other hand, argued that the Id. CIT(A) erred in granting 90% relief on purchases and in deleting sundry creditor addition, placing reliance on the judgment in the case of *NK Industries Ltd. v. DCIT* [73 taxmann.com 289 (Guj.)].

8. We have carefully considered the rival contentions of both the parties and perused the materials available on record. The approach of the AO in disallowing entire alleged purchases cannot be sustained. It is illogical to accept sales of ₹54.66 crores and simultaneously reject all purchases. As held in *CIT v. Simit P. Sheth* [356 ITR 451 (Guj.)] and *CIT v. Bholanath Polyfab Pvt Ltd* [355 ITR 290 (Guj.)], in cases where sales are accepted but purchases are doubtful, only the profit element embedded in such purchases can be taxed.

8.1 The reliance on *NK Industries Ltd.* by the Revenue is distinguishable because in that case even sales were disbelieved and no evidence of movement of goods was produced. Here, sales are undisputed, GST returns were filed, and payments were made through banking channels.

8.2 At the same time, the assessee has not conclusively proved the identity and financial capacity of the suppliers. The possibility of purchases being made from grey market at inflated values cannot be ruled out. Therefore, the approach of CIT(A) in restricting the addition to

the profit element is correct. However, in our view, estimation of 10% is on the higher side given the nature of scrap trade where margins are generally low. We consider 6% to be a fair and reasonable estimation. We accordingly direct the AO to sustain addition at 6% of ₹30,66,03,197 only.

8.3 As regards sundry creditors, we note that they are merely trade liabilities arising from the very purchases which have been accepted (subject to profit element addition). Once purchases are accepted as having been made, the corresponding creditors cannot be held bogus without disturbing the purchases themselves. The logic is simple: if purchases are held to be genuine for purposes of sales, then the liabilities arising from such purchases cannot be independently treated as unexplained. The Id. CIT(A) rightly deleted the addition of ₹8.62 crores. We uphold his decision.

8.4 Accordingly, the assessee's ground on bogus purchases is partly allowed whereas the ground relating to sundry creditors is allowed, and the Revenue's ground challenging deletion of bogus purchases is dismissed.

9. The second issue raised by the assessee is that the learned CIT-A erred in treating the unsecured loan (₹1,35,39,150) as unexplained cash credit under section 68 of the Act.

10. The AO treated unsecured loans of ₹1.38 crores as unexplained. The basis adopted by the AO was the absence of sufficient documentary evidence filed by the assessee.

11. On appeal, the Id. CIT(A) accepted Bank of Baroda loan of ₹2.97 lakh but sustained addition of ₹1,35,39,150 u/s 68 of the Act, observing that the assessee failed to prove creditworthiness of lenders such as Sahyadri Chit Fund and individual creditors.

12. Being aggrieved by the order of the Id. CIT-A, the assessee is in appeal before us.

13. Before us, the Id. AR for the assessee contended that confirmations, PAN, and bank details were filed and that once prima facie evidence is given, the burden shifts to the Department.

However, the Id. DR on behalf of the Revenue supported the order of the authorities below.

14. We have considered the rival submissions and examined the materials placed before us. The Assessing Officer made an addition under section 68 of the Act in respect of unsecured loans aggregating to ₹1,35,39,150 on the ground that the assessee had not established the creditworthiness of the creditors. The Id. CIT(A) upheld this view, observing that the assessee had filed only confirmations and ledger extracts which were insufficient.

14.1 It is, however, important to note that the scheme of section 68 of the Act requires the assessee to discharge a primary burden by placing on record evidence to establish the identity of the creditor, the genuineness of the transaction, and the creditworthiness of the creditor. Once such primary evidence is produced, the onus shifts upon the

Revenue to verify the veracity of the claim and, if not satisfied, to bring on record material to rebut the assessee's explanation.

14.2 In the present case, the assessee had furnished confirmations from the creditors, PAN and Aadhar details, and established that the transactions were routed through banking channels. These constitute prima facie evidence sufficient to discharge the assessee's initial burden under section 68 of the Act. Once this material was before the AO, the onus shifted upon the Department. The AO, having in his possession all relevant particulars of the creditors, could have easily issued notices or conducted enquiries to verify the correctness of the assessee's claim. However, the AO chose not to do so and simply brushed aside the evidence as inadequate.

14.3 The Hon'ble Supreme Court in *CIT v. Lovely Exports Pvt Ltd* [216 CTR 195 (SC)] has clearly held that if share applicants or creditors are identifiable and their details are furnished, the Department is free to proceed against them, but the addition cannot be made in the hands of the assessee for failure of the Department to pursue enquiries. Similarly, in *CIT v. P. Mohankala* [291 ITR 278 (SC)], it has been emphasised that the nature of evidence and shifting of burden must be appreciated in the facts of each case. Once basic details are on record, the ball lies in the Revenue's court.

14.4 In our considered view, therefore, the assessee had discharged the primary onus cast upon him. The failure, if any, was on the part of the AO who did not make the necessary verification or enquiries despite having complete information about the creditors. When the ownership of

further enquiry shifts upon the Revenue and the Revenue does not act, the assessee cannot be penalised for such failure. The addition made by the AO and confirmed by the CIT(A) is thus not sustainable in the given facts and circumstances. Accordingly, we hold that the addition of ₹1,35,39,150 made under section 68 of the Act is liable to be deleted, and the ground of appeal of the assessee is allowed.

15. In the result, the assessee's appeal is partly allowed whereas the Revenue's appeal is dismissed.

Order pronounced in court on 9th day of October, 2025

Sd/-

(NARENDER KUMAR CHODHRY)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 9th October, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore