

IN THE INCOME TAX APPELLATE TRIBUNAL
‘SMC’ BENCH KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.2091/Kol/2025
Assessment Year: 2022-23

Vista Tie Up Pvt. Ltd.....Appellant

C/o J P Tex, Bidhan Road,
Beside Gostho Pal Statue,
Siliguri-734001.

[PAN: AACCV9542K]

vs.

ITO, Ward-1(1), Kolkata..... Respondent

Appearances by:

Shri S. K. Tulsian, Advocate, appeared on behalf of the appellant.

Shri S. B. Chakraborty, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 13, 2025

Date of pronouncing the order : November 14, 2025

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (hereinafter referred to as “Id. CIT(A)”) dated 16.07.2025 passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”).

2. Brief facts of the case are that the assessee is engaged in the business of wholesale and retail trading of garments. The assessee filed the return of income on 15.10.2022, declaring a total income of ₹6,70,907/-. The case was selected for scrutiny under the Computer Aided Scrutiny Selection (CASS) system. Accordingly, notices under sections 143(2) and 142(1) of the Act were issued and duly served upon the assessee. The assessee complied with the notices and submitted the

details and evidences as called for by the Assessing Officer (AO) from time to time. During the course of assessment proceedings, the AO referred to a search operation conducted under section 132 of the Act on 28.05.2022 in the case of M/s J.M. Jain LLP. It was noticed from the seized materials found during the said search that the name PJ Garments, appeared in one of the seized ledgers allegedly maintained by M/s J.M. Jain LLP. Based on this, the AO inferred that the assessee had entered into unrecorded purchase transactions with the said concern amounting to ₹7,68,63,023/-. The AO issued a show-cause notice dated 26.03.2024 asking the assessee to explain why such unaccounted purchases should not be treated as undisclosed transactions. In response, the assessee submitted that it had no business or financial relation with M/s J.M. Jain LLP. The alleged ledger copy was never supplied to the assessee. All purchases were recorded in the regular books of account, duly supported by purchase bills, confirmations, and supplier details. The alleged documents did not belong to or relate to the assessee and were third-party materials recovered from someone else's premises. The AO, however, was not satisfied with the explanation and, without furnishing the complete seized material or ledger copies to the assessee for rebuttal, proceeded to pass an assessment order under section 143(3) read with section 144B on 28.03.2024, making an addition of ₹61,49,041/-, being 8% of the alleged unaccounted purchase transaction of ₹7,68,63,023/- to the returned income.

3. The assessee carried the matter in appeal before the Ld. Commissioner of Income Tax (Appeals). It was contended that the AO had made the addition purely on the basis of third-party documents seized from M/s J.M. Jain LLP, without providing any opportunity to

the assessee to cross-examine the said party or verify the authenticity of such material. The assessee further contended that the AO had not rejected the books of account under section 145(3) of the Act. Therefore, the estimated addition of 8% on alleged purchases was contrary to law. The Ld. CIT(A), however, confirmed the addition, observing that the AO had relied on material found during search, and that the assessee could not produce any credible evidence to prove that the transactions mentioned in the seized documents were unrelated to it.

4. The assessee is in further appeal before this Tribunal challenging the action of the authorities below on various legal and factual grounds. He contended that the assessment order passed under section 143(3) read with section 144B is bad in law and against the principles of natural justice and that the addition of ₹61,49,041/- based on third-party material is illegal, arbitrary, and without evidentiary support and that the AO has made estimation of income without rejecting the books of account under section 145(3) of the Act. Accordingly the Ld. CIT(A) erred in upholding the addition without appreciating that no ledger copy or seized material was ever supplied to the assessee. The learned counsel for the assessee reiterated the submissions made before the lower authorities. It was contended that the AO had acted merely on suspicion derived from information collected during search in a third-party case, without any independent verification or corroboration. The assessee had never been confronted with the alleged seized ledger. The AO relied on partial extracts of unidentified documents but did not provide copies thereof, violating the basic tenets of fair hearing. The learned counsel further argued that unless the AO rejects the books of account under section 145(3) of the Act no estimation of income can be made. Reliance was placed on the Hon'ble Delhi High Court decision in

PCIT v. Forum Sales Pvt. Ltd. (ITA No. 862/2019, dated 01.03.2024), where it was held that estimation of income can only be resorted to after rejecting the books of account by recording dissatisfaction as to their correctness or completeness. The Ld. counsel also placed reliance on the Hon'ble Bombay High Court judgment in ACIT v. Ms. Lata Mangeshkar [1974] 97 ITR 696 (Bom), wherein it was held that third-party statements or documents cannot form the sole basis for addition in absence of any corroborative evidence linking the assessee. Suspicion, however strong, cannot substitute proof. The assessee had submitted purchase invoices, party-wise confirmations, and ledger extracts of regular suppliers, which were not controverted by the AO. Therefore, the addition was based on conjectures and deserves to be deleted.

5. The learned DR supported the orders of the AO and the Ld. CIT(A), submitting that the seized material recovered during search at M/s J.M. Jain LLP was a credible source indicating unaccounted transactions of the assessee. However, the DR fairly admitted that the assessment order does not contain any discussion on rejection of books of account nor any independent verification to confirm the ownership of the seized ledger.

6. We have carefully considered the rival submissions, examined the record, and perused the judicial precedents cited. The addition of ₹61,49,041/- has been made solely on the basis of information emanating from seized documents found in the case of M/s J.M. Jain LLP, which allegedly contained entries of PJ Garments. It is undisputed that the said documents were not seized from the assessee's premises and were never provided to the assessee for rebuttal. The law is well settled that additions cannot be made on the basis of unverified third-

party material. In ACIT v. Ms. Lata Mangeshkar (97 ITR 696, Bom), the Hon'ble High Court held that tax authorities cannot make additions merely relying upon third-party documents or statements without independent corroboration. Suspicion, however strong, cannot replace evidence. In the present case, the AO did not establish any direct nexus between the assessee and the seized material. The assessee categorically denied having any business transaction with M/s J.M. Jain LLP and produced purchase bills and confirmations from other regular suppliers. The AO did not disprove the genuineness of such records. Further, as rightly contended, the AO did not invoke section 145(3) to reject the books of account. The Hon'ble Delhi High Court in PCIT v. Forum Sales Pvt. Ltd. (supra) has clearly held that estimation of income is permissible only after rejection of books of account on valid grounds. In the absence of such rejection, the AO's estimation of 8% on alleged unaccounted purchases is legally unsustainable. We also note that the alleged seized ledger has not been authenticated or proved to belong to the assessee. Section 292C of the Act creates a rebuttable presumption of ownership only when documents are found in possession of the assessee or its authorized agent. In the present case, the documents were found in the possession of a third party; hence, such presumption is inapplicable. The AO's failure to furnish copies of seized material relied upon against the assessee amounts to violation of natural justice, as held by the Hon'ble Supreme Court in Kishan Chand Chellaram v. CIT [1980] 125 ITR 713 (SC),. The Hon'ble Supreme Court in the case of Kishan Chand Chellaram v. CIT [1980] 125 ITR 713 (SC), *the Court held that though the proceedings under the Income are not governed by the strict rules of evidence, the department is bound to afford an opportunity to controvert and cross-examine the evidence on*

which the department places its reliance on. Therefore, the addition made by the AO and confirmed by the CIT(A) is not supported by any tangible material, is based on mere suspicion and third-party information and cannot be sustained in law. Considering the totality of facts and circumstances, and in light of judicial precedents, we hold that the AO was not justified in making an addition of ₹61,49,041/- without rejecting the books of account under section 145(3), furnishing seized materials to the assessee and (establishing any nexus between the assessee and the alleged unaccounted purchases. Accordingly, we hold that the said addition of Rs.61,49,041/- is unjustified and is hereby deleted.

7. In the result, the appeal of the assessee is allowed.

Kolkata, the 14th November, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 14.11.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches