

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

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.977/Del/2025, A.Y. 2020-21
ITA No.978/Del/2025, A.Y. 2021-22**

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| J R C Grid Engineers Pvt. Ltd. C-2/398, Pankha road, Janakpuri, C-4, S.O., New Delhi-110058 PAN: AAACJ0212C | Vs. | Deputy Commissioner of Income Tax, Central Circle-30, ARA Building, Jahandewala Extn. New Delhi |
| (Appellant) | | (Respondent) |

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| Appellant by | Sh. D. R. Anthwal, Advocate Sh. Rakesh Anthwal, Advocate |
| Respondent by | Sh. Dheeraj Kumar Jain, Sr. DR |

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| Date of Hearing | 26/08/2025 |
| Date of Pronouncement | 21/11/2025 |

ORDER

PER AVDHESH KUMAR MISHRA, AM

Common grounds and facts arise in the above captioned appeals of the assessee; therefore, these appeals were heard together and are being disposed off by this common order.

2. Both appeals for Assessment Years ('AYs') 2020-21 and 2021-22 filed by the assessee are directed against order dated 23.01.2025 passed by the Commissioner of Income Tax (Appeals)-30, New Delhi ['CIT(A)']. Vide two grounds of appeal, the assessee has challenged the taxability of bogus

purchases of Rs.1,94,82,242/- and Rs.2,14,03,994/- in AYs 2020-21 and 2021-22 respectively.

3. The relevant facts giving rise to these appeals are that the assessee, a civil contractor, filed its Income Tax Return ('ITR') declaring incomes of Rs.7,40,26,410/- and Rs.9,91,85,659/- of AYs 2020-21 and 2021-22 respectively. Search and seizure operations under section 132 of the Income Tax Act, 1961 ('Act') carried out on Sanjay Jain & Mehta Group of cases revealed that the assessee had taken accommodation entries aggregating to Rs.1,94,82,242/- and Rs.2,14,03,994/- in AYs 2020-21 & 2021-22 respectively in garb of purchases of cement. Hence, the Ld. Assessing Officer ('AO'), as per detailed reasoning mentioned in the assessment orders, disallowed entire bogus purchases of Rs.1,94,82,242/- and Rs.2,14,03,994/- in AYs 2020-21 and 2021-22 respectively and taxed the same accordingly. Aggrieved with both assessment orders, the assessee filed appeals before the Ld. CIT(A) who dismissed these appeals as under:

“7.3 The appellant during assessment as well as at the time of appellate proceeding, failed to provide credible evidence of receipt of goods at the store or site, such as stock registers or inward material records. The involvement of raw construction materials more specifically of cement, a high-GST commodity (28%), further indicated motive for inflated costs through accommodation entries.

7.4 There are various judicial decisions wherein only profit element has been taxed however in this case, there is complete absence of credible evidences showing that consumption has not taken place. The appellant argued that the burden of proving that expenses were genuine had been

discharged through documentary evidence. However, it is important to appreciate that under Section 37 of the Act, any expenditure incurred wholly and exclusively for the purpose of business or profession is allowable as a deduction, provided it is not expressly disallowed by the Act. The onus lies on the taxpayer to substantiate the genuineness, and business purpose of the expenditure.

Appellant has relied on various case laws to support its case. However, in the case of N.K. Proteins Ltd. vs. CIT (2017) (BC), Hon'ble Supreme Court affirmed that the genuineness of purchases must stand on its own. The Supreme Court held that just because sales are not doubted does not automatically establish the legitimacy of the corresponding purchases.

*7.5 The appellant submitted various documents, including invoices, banking records and ledgers to establish the genuineness of the purchases. However, the absence of critical evidence, such as stock registers, site receipts, or any physical verification records, undermines the claim. **The appellant failed to corroborate the documentary evidence with tangible proof of actual delivery of goods, which is a key requirement under Section 37.** In summation, the AO's reliance on statements from Mr. Sanjay Jain and intermediaries, coupled with the absence of receipt evidence, highlights the appellant's inability to discharge its onus under Section 37.*

7.6 Based on the above discussion it is evident that the appellant has not fully discharged its onus under Section 37 to substantiate the genuineness of the purchases. As a result, these grounds of appeal are dismissed.”

[Emphasis supplied]

4. Before us, the Ld. Authorized Representative ('AR') took almost similar pleas/arguments/contentions as mentioned in the impugned order. Further, alternatively, he, placing reliance on the decision of the Tribunal in the case of S. N. Malhotra & Sons in ITA No. 719/Del/2025, submitted that

the net Profit ("NP") rate of 18% instead of 100% should be applied as it could not be conclusively inferred that the assessee had not used/utilized/consumed cement costing Crores in Government contracts for which the said works done. He drew our attention to the Tribunal's order in the case of S. N. Malhotra & Sons (supra), wherein the Tribunal, on similar set of facts, has upheld the disallowance of 18% of purchases as against 20% of purchases upheld by the Ld. CIT(A). Relevant part of the finding of the Ld. CIT(A) reads as under:

"8. The evidence, including statements of Sanjay Jain and Nikhil Sachar, and the seized Tally data, unequivocally establishes that the purchases were accommodation entries. The absence of corresponding delivery challans or transport records further corroborates this conclusion. While the purchases are deemed bogus, the fact that the corresponding sales and consumption are undisputed indicates that the materials were obtained through back channels. The appellant's argument that only the profit element should be taxed is valid. Considering the nature of the industry and the high GST rate of 28% on cement, it is reasonable to assume that back-channel operations would involve additional costs, such as commissions and logistics. A GP addition of 20% on the bogus purchases adequately reflects the profit embedded in such transactions, accounting for industry norms and the specific circumstances of this case. In CIT vs. Simit P. Sheth, the court upheld a 12.5% GP addition. However, given the higher GST rate and the inherent costs in accommodation entry operations for cement, a GP addition of 20% is more appropriate. This approach aligns with the principle that the addition must reflect a fair estimate of the profit element. In light of the above findings, the appeal is partially allowed. The addition of ₹43,16,444/- is modified, and 20% of the disputed purchases, amounting to ₹8,63,289/-, is sustained as taxable income."

5. On the other hand, the Ld. Senior Departmental Representative (Sr. DR) contended that the Revenue did not file appeal in the case of S. N.

Malhotra & Sons (supra) as the tax effect in that case was less than 60 lakhs, though in principle, the Revenue had not accepted the said order of the Ld. CIT(A). To distinguish the present case with that of S. N. Malhotra & Sons (supra), the Ld. Sr. DR drew our attention to the finding of the Ld. CIT(A) in the case in hand in para 7.4, wherein the Ld. CIT(A) had categorically held that *“there was complete absence of credible evidences showing that consumption has taken place”*. Hence, the Ld. CIT(A), following the decision of the Hon’ble Supreme Court in the case of N K Proteins Ltd., upheld the disallowance of entire bogus purchases. The Ld. Sr. DR prayed for dismissal of the appeal on the reasoning that the Ld. CIT(A) had given a categorical finding that there was no proof of consumption of material. He further contended that the case in hand was not a case wherein it could be held that the appellant assessee had bought the said raw material/cement from some other person and took bills/entry from some other person; i.e. Sanjay Jain & Mehta Group (searched person).

6. In rejoinder, the Ld. Counsel submitted that the Ld. CIT(A) in the case of S. N. Malhotra & Sons, on similar sets of facts, upheld the addition @ 20% of bogus purchases. He argued that the consumption of material could not be ruled out from person(s) other than the person(s) from which bills taken as the said project of the Government for which the disputed purchases done should have not been completed without consumption of material. Normally, the material bought from unregistered dealers were

consumed/utilized for completing the Government contracts and bills were taken from the registered dealers to avail input credits of GST @ 28% (the rate of GST on all types of cement was 28% upto 2025). Further, it was contended that the assessee had already offered income @ 9-10% in the ITR. Hence, at most the income @ 18% as done in the case of S. N. Malhotra & Sons (supra), could be sustained. It was categorically submitted that the Ld. CIT(A) had not categorically held that the assessee had not utilized cement for completing the said Government project for which the disputed purchases done.

7. We have heard both the parties and have perused the material available on record. Keeping in view the facts in totality, we find merit in the arguments/contentions/submission of the Ld. Counsel that the assessee has utilized cement bought from unregistered dealers for completing the said Government projects and bills for the same were taken from the registered dealers to avail input credits of GST @ 28%. Since the assessee has already disclosed the Net Profit (NP) rate at around 10% in its ITRs; therefore, keeping in view the entire facts, material available on the record, the Tribunal decision in case of S. N. Malhotra & Sons (supra) and in the interest of justice, we are of the considered opinion that the NP rate of 18% of bogus purchases over and above the income already disclosed in ITRs will be sufficient as the assessee would have also given commission to take accommodation entries. Accordingly, we restrict the disallowance/addition

to 18% in both years. The appellant gets consequential relief in both appeals.

8. In the result, both appeals of the assessee are partly allowed as above.

Order pronounced in open Court on 21st November, 2025

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated:21/11/2025
Binita, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI