

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 451/RPR/2025
(निर्धारण वर्ष Assessment Year: 2019-20)

Income Tax Officer-4(1), Aayakar Bhawan, 1 st Floor, Civil Lines, Raipur-492001, C.G.	v s	Smita Mukesh Kedia, B-503, Kohinoor, Ashoka Ratan, VIP Estate, Vidhan shabha Road, Raipur-492001
PAN: BBJPK5074K		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri G. S. Agrawal, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	21.11.2025
घोषणा की तारीख / Date of Pronouncement	:	26.11.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the revenue against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 23.05.2025, for the Assessment Year 2019-20, which in turn arises from the assessment order u/s 147 r.w.s. 144B of the Act, dated passed by 16.03.2024 (in short "Ld. AO").

2. The grounds of appeal raised by the revenue are as under:

1. *Whether in law and on the facts and in the circumstances of the case, the Ld. CIT(A)/NFAC has erred in deleting the addition of Rs. 45,58,005/- made by the Assessing Officer on account of bogus purchases, despite the fact that the assessee failed to furnish complete transportation details like bulky, driver name and the statement of the concerned entry provider admitted to issuing accommodation bills without actual supply of goods.*
2. *Whether in law and on the facts and in the circumstances of the case, the Ld. CIT(A)/NFAC has erred in deleting the addition of Rs. 45,580/- made by the Assessing Officer U/S. 69C of the Act towards unexplained expenditure (commission), without appreciating that such expenditure is inerent in transactions involving bogus purchases, and the assessee failed to provide any evidence to rebut the presumption drawn by the Assessing Officer.*
3. *“The Order of the Ld. CIT(A)/NFAC is erroneous both in Law and on facts.”*
4. *“Any other ground that may be adduced at the time of hearing.”*

3. The brief facts of the case are that the case of assessee was reopened u/s 147/148 of the Act, as certain credible information identified in accordance with the risk management strategy formulated by the board as per the provisions of clause (i) of Explanation 1 to Section 148 of the Act was received by the jurisdictional AO of the assessee. According to the said information, the assessee has made bogus purchases from M/s Pratyush Steels during the year under consideration. Further on analysis of the information, it is observed by the Ld. AO that M/s Pratyush Steels was engaged in providing bogus bills without delivery of goods. Therefore, the expense in the garb of purchase claimed by the assessee from M/s Pratyush

Steels is to be disallowed. Statutory notices, u/s 148A(b) issued on 20.03.2022 and the assessee was required to furnish her explanation to the queries raised therein, in response, assessee submitted that she engaged in trading of coal under her proprietorship concern M/s UCL Enterprises and had computed her taxable income as per provisions of Section 44AD of the Act at 6% of the total turnover of Rs.1,47,34,855/-, which comes to Rs.8,84,092/-. Assessee also furnished before the Ld. AO, the details regarding M/s Pratyush Steels such as copy of ITR, copy of GST return, copy of stock register of M/s Pratyush Steels, evidence of mode of purchase and utilization of the purchases, copy of Invoice of Ms Pratyush Steels for purchase made were furnished. The invoices contain the weight of the goods and transportation details. It is also explained by the assessee that from online information, it is visible that M/s Pratyush Steels had filed relevant returns under GST Rules such as GSTR-1 and GSTR-3B etc. for the period i.e., July 2018, during which period the impugned purchases were made. It was the request by assessee before the Ld. AO that all the transactions carried out by the assessee are genuine purchase transactions and the primary onus to furnish evidence have been duly discharged by the assessee. The submissions of assessee could not find favour before the Ld. AO, as the assessee was unable to furnish evidence of transportation of both purchase and corresponding sales, though details of vehicle transporting the goods

have been provided but no details of driver, copy of bill, payment evidences etc. could be provided., ledger of purchase, sales, expenses viz. octroi, labour, transportation, day to day stock ledger reflecting the impugned purchase and its corresponding sales, Video footage of CCTV showing stock inward/out ward movement could not be furnished by the assessee before the Ld. AO, accordingly, the Ld. AO concluded that the assessee could not give any satisfactory explanations with respect to impugned purchase transactions, therefore, the purchase transaction amounting to Rs.45,58,005/- in absence of the verification with supporting evidence, should be treated as bogus/fictitious and required to be disallowed from the trading account and should be added to the total income of the assessee. Ld. AO also added amounting to Rs.45,580/- u/s 69C of the Act, presuming that the commission would have paid by the assessee in cash to M/s Pratyush Steels for the aforesaid bogus transactions. With the aforesaid addition, assessed income of the assessee has been determined at Rs.50,22,435/-. Ld. AO also made necessary adjustments in the working of profit of the assessee by reducing the amount of bogus purchases plus 6% of profit calculated by the assessee on the provisions of section 44AD of the Act and, therefore, the taxable income was reduced by Rs. 2,89,890/-.

4. Being aggrieved with the aforesaid additions u/s 69C of the Act, the assessee preferred an appeal before the Ld. CIT(A), wherein the appeal of assessee has been allowed by the Ld. CIT(A) with the following observations:

6. Decision :-

I have perused facts of the case, assessment order of the AO, submission of the appellant and the documents available on record & after considering the same adjudication of various grounds of appeal is as under:

6.1 **Ground No.1** of the appeal is general in nature.

6.2 **In Ground No.2** of the appeal, the appellant has contended that AO passed order without following principle of natural justice. The contention of the appellant is factually incorrect as it is clear from the assessment order that AO had given proper opportunities to the appellant by issuing notice u/s 142(1) and show cause notice. Further, the addition has been made by the AO only after considering the reply of the appellant. **Accordingly; there is no force in Ground No.2 of the appeal and the same is therefore dismissed.**

6.3 **Grounds No. 3 & 4** pertains to the addition of Rs. 45,58,005/- to the business income and Rs. 45,580/- u/s 69C made by the AO. The appellant has contended that it had submitted copy of purchase bill, confirmation from M/s Pratyush Steels, GST returns of M/s Pratyush Steel, bank statement reflecting mode of payment, copy of mails received from M/s Pratyush Steels dated 01.09.2018 & 03.09.2018, transportation details etc. to the AO.

Regarding the AO's contention that e-way bills were not submitted, the appellant contended that coal was purchased from party within a distance of 50 km and provision of e-way bill on the said purchase was not applicable. It was also contended by the appellant that details of vehicle through which coal was delivered were given in invoice itself and if AO had any doubt regarding the genuineness of the same, he could have confirmed the same by calling information from vehicle owners

Further, the appellant contended that she had filed return under the provision of presumptive taxation scheme u/s 44AD and therefore, has not maintained day to day books of accounts including quantitative details and ledger copy of freight charges

In addition to the above, it was also stated by the appellant that nowhere in the statement recorded during survey, Abhishek Agarwal has mentioned the name of the appellant or her proprietorship concern i.e. M/s UCL Enterprises as persons to whom he had issued bills without actual supply of goods.

In support of her contention, the appellant placed reliance on case laws which are as under:

- 1. PCIT Vs Tejua Rohit Kapadia [2018] 94 taxmann 325 (SC)*
- 2. Bhotika Trade & services Pvt. Ltd Vs DCIT (2020) 60CCH 0121 (ITAT Delhi)*
- 3. Prabhat Gupta & Anr. Vs ITO (2017) 51CCH 0713 (ITAT Mumbai)*

6.3.1 On perusal of the facts of the case, it is noticed that during assessment proceedings, the appellant filed confirmation of purchase from M/s Pratyush Steels, copy of ITR, GST return, copy of stock register of M/s Pratyush steels, evidence of mode of purchase through banking channels and utilization of purchases, copy of invoice of M/s Pratyush Steels for purchases made. The purchase invoices contain weight of the goods and transportation details. Further, the appellant stated that it received two mails from M/s Pratyush Steels regarding payment of balance amount of invoice or else return pending payment material. Copy of said mails dated 01.09.2018 & 03.09.2018 along with copy of confirmation was attached by the appellant in submission.

By furnishing the aforesaid details, the appellant has duly discharged the primary onus casted on her to prove the genuineness of the purchases. The AO has also acknowledged the same at Page 4 of the assessment order.

However, the AO made addition stating that though details of vehicles transporting goods have been provided but no details of driver, copy of builty etc has been provided.

Further, at page 10, para 4.5 of the order, AO has stated as under:

“The assessee has argued that during survey proceedings, Shri Abhishek Agarwal prop of M/s Pratyush Steels has stated that he has issued original bills to some parties without supply of goods but name of the assessee is not confirmed by him in his statement. This argument is not admissible because in his statement Shri Abhishek Agarwal confirmed

that he has issued bills without actual supply of goods though name of the assessee is not confirmed but modus operandi was explained. Hence, not quoting the name exclusively of the assessee did not entitle her to claim that goods were actually purchased by her from M/s Prayush Steels.”

The above reasoning given by the AO for making addition is illogical and contradictory as the appellant has furnished the details to discharge the primary onus cast upon her to prove the genuineness of the transaction and the AO has himself noted that name of the appellant was not confirmed by Sh. Abhishek Aggarwal in his statement. Once the primary onus has been discharged by the appellant, the onus shifts on AO to conduct independent enquiries for bringing evidence on record to prove that transaction was bogus in nature. However, the AO has made addition without bringing any corroborative evidence and without conducting any independent enquiry. Further, the AO could not bring on record any evidence to prove that cash was recycled back in the hands of the appellant in respect of said purchase transaction. Further, If the AO had any doubt regarding the genuineness of the transaction, he could have issued notice u/s 133(6) to the sellers/ transporters to verify the same. However, the AO has not done so.

In the decision of CIT vs Kamdhenu Steel & Alloys Ltd. [2012]19 Taxmann.com 26, it has been held as under :

“38. Even in the instant case, it is projected by the Revenue that the DIT (Investigation) had purportedly found such a racket of floating bogus companies with sole purpose of lending entries. But it is unfortunate that all this exercise is going in vain as few more steps which should have been taken by Revenue in order to find out casual connection between the cash deposited in the bank accounts of the applicant banks and the assessee were not taken. It is necessary to link the assessee with the source when that link is missing, it is difficult to fasten the assessee with such a liability.”

The above judgment held that the AO ought to conduct an independent enquiry & bring some conclusive evidence to prove that transaction is non-genuine before king addition u/s 68 of the Act. However, the AO has not done so. The AO has made addition on the basis of presumption only.

6.3.2 In the present case, the appellant submitted copy of purchase bill, invoices containing transport details, stock register of the seller, confirmation from seller, GS return of seller, bank statement highlighting mode of payment etc to the AO. Further, the AO himself in order acknowledged that name of the appellant has not been admitted by Abhishek Agarwal in his statement for providing accommodation entries. Also, nowhere in the order, AO has bring anything substantive on record to prove that the transaction was bogus or the money was recycled back to appellant.

In the case of PCIT, Surat-1 Vs Tejua Rohitkumar Kapadia (2018) 94 Taxmann 325 (SC) , it has been held that where purchases made by assessee-trader were duly supported by bills and payments were made by account payee cheque, seller also confirmed transaction and there was no evidence to show that amount was recycled back to assessee, Assessing Officer was not justified in treating said purchases as bogus.

Further, various higher courts have ruled that AO cannot make addition just on the basis of presumptions and surmises only. There has to be conclusive evidence before making addition. However, in the present case, AO has made addition on the basis of presumptions only.

6.3.3 *Considering the facts of the case and the above judicial pronouncements, I am of the view that addition made by AO is unwarranted in this case. Accordingly, addition of Rs. 45,58,005/- made by the AO on account of alleged bogus purchases is deleted. Consequently, addition made by AO of Rs. 45,580/- u/s 69C on account of commission on alleged bogus purchases is also deleted. Ground No. 3 and 4 of the appeal are allowed.*

Further, since the additions made by AO are deleted, therefore, reworking of net profit u/s 44AD made by the AO has also become irrelevant and unwarranted and the same is therefore annulled and accordingly, the profit of the appellant as declared by the appellant as per the provisions of section 44AD of the Act at Rs. 8,84,092/- being 6% of total turnover of Rs.1,47,34,855/- is accepted.

6.4 *Since, the addition made by the AO has been deleted, ground No. 5 of the appeal has no relevance left in it and accordingly the same is dismissed as infructuous.*

6.5 *Regarding Grounds No. 6 to 8, the AO is directed to calculate interest u/s 234A and 234B as per provisions of the Act after giving effect to this order.*

6.6 *Grounds no. 9 and 10 are related to penalty proceedings. The same are being dismissed as premature at this stage.*

6.7 *Ground No. 11 is general in nature.*

5. As the appeal of the assessee has been allowed by the Ld. CIT(A), being aggrieved, the revenue has filed the present appeal before us.

6. At the outset, Ld. Sr. DR, submitted that in the present case, the appeal of assessee has been allowed by the Ld. CIT(A) with the erroneous finding that Ld. AO has made an addition just on the basis of presumption and surmises, there was no conclusive evidence before him for making the addition, however, the Ld. AO has made necessary enquiries and also ask the assessee to furnish necessary evidence from time to time but the assessee squarely fails in furnishing the complete transportation details like copy of bilty, driver name etc. As per the statement of the concerned entry provider, it was an admitted fact that the said concern M/s Pratyush Steel was engaged in issuing accommodation bills without actual supply of goods. Ld. Sr. DR vehemently supported the order of Ld. AO and argued that the order of Ld. CIT(A) was not under proper appreciation of the facts and therefore, the same needs to be set aside and the additions made by Ld. AO needs to be restored back.

7. Per contra, Ld. AR representing the assessee submitted that the order of Ld. CIT(A) was just and proper order, as the AO has no evidence to prove that the transaction made by the assessee with M/s Pratyush Steel are bogus

transactions. Even during the survey u/s133A, as per statement of Mr. Abhishek Agrawal, Proprietor of M/s Pratyush Steel recorded u/s 131(1A) he admitted that he had issued bills without actual sale of coal, however, Mr. Agrawal neither have mentioned the name of assessee that the transactions with the assessee are also bogus in nature. The AO has taken the stand that transaction of purchase with Pratyush Steel were bogus only with his presumed conviction that Shri Abhishek Agrawal, proprietor of M/s Pratyush Steel engaged in bogus accommodation entry transaction, and He had admitted about the modus Operandi of his work. Ld. AO also disregarded the information that the name of appellant was never alleged by Shri Abhishek Agrawal in his statement and therefore, no charge was made against the assessee, neither any adverse information has been collected or enquired about the assessee so as to conclude that the transaction with M/s Pratyush Steel are non-genuine or bogus. On this count, Ld. CIT(A) has clearly observed that Ld. AO ought to conduct independent enquiry and to bring some conclusive evidence and to prove that the impugned transactions are non-genuine before making the addition u/s 68 of the Act. However, the Ld. AO has not done so, therefore, the addition made are not on the basis of facts and evidence but are on the basis of presumption only. Ld. AO squarely failed to establish involvement of assessee in bogus transactions. Under such facts and circumstances, it was prayer by Ld. AR that the First Appellate Authority

has decided the issue in just and proper way under well appreciation of the facts of the case and therefore, has allowed the appeal of assessee. The order of Ld. CIT(A), thus, deserves to be upheld.

8. To explain the aforesaid facts and contentions, a written synopsis has been furnished by the Ld. AR for the sake of completeness, the synopsis submitted by the assessee is extracted as under:

<u>Particulars</u>	<u>Page No.</u>
➤ No bogus purchases	
➤ No motive to make bogus purchase	
• No GST case against Assessee	
• <u>GST records:</u>	
○ of Seller - GSTR 2A	22
○ of Appellant – GSTR 3B	21, 23 to 25
➤ <u>Abhishek’s Statement: Relevant para ignored intentionally</u>	
• Statement of Abhishek	4 – 17
• AO did not reproduce statement of Abhishek Q.No. 5,6,7,8 Partly reproduced	7, 8, 9
• Abhishek categorically confirmed	8
<i>“I do trading in Pratyush Steel. I trade coal and steel. Sometimes Sellers and sometimes buyers approach and as per demand, I purchase goods and supply the goods.”</i>	
Abhishek really supplied the goods.	
• <u>Named 2 parties</u>	
• <u>No Supply of goods – 2 Parties</u>	9
1) M/s. Moonlight Commotrade Pvt. Ltd. – F.Y. 2018-19	
2) M/s. Omax Minerals – F.Y. 2017-18	

Submission:

- Abhishek confirms actual delivery
- No name of Assessee: for without delivery

Therefore the addition is under presumption and surmises

<u>Particulars</u>	<u>Page No.</u>
➤ No cross-examination of Abhishek Agrawal permitted.	
• Kisinchand Chellaram Vs. CIT 129 ITR 713 SC	
• PCIT Vs. Orient Power Cable Ltd. (2022) 143 taxmann.com 371 SC	
➤ <u>Sales not doubted:</u>	
➤ <u>Goods sold by Assessee</u>	23 Read
Sales accepted	
➤ <u>Records produced:</u>	
• Appellant produced following records:	
1) Confirmation of Account	18
2) Invoice & Truck Numbers	19 & 20
3) Bank Statement from where payment was made	26 to 29
4) GSTR of Supplier – 2A, GSTR1, GSTR 3B	22
5) GSTR of Assessee	21, 23 to 25
6) E-waybill not required for delivery within 50 KMs	
7) Two reminders on Email for making balance payment which was made 05.09.2018.	52 - 53
➤ <u>Commission:</u>	
<u>Submission: - No such payment</u>	
• Order under presumption	
•	
• All genuine transaction	
• 'A' discharged burden	
• No evidence that Appellant received cash	
• No evidence that Appellant paid commission	
• Actual purchases are- Rs. 41,04,918/-, not Rs. 45,58,005/-	

<u>Particulars</u>	<u>Page No.</u>
Prayed to that the Ld. CIT (Appeals) rightly deleted the disallowance	
<ul style="list-style-type: none"> • Rs. 45,58,005/- • Rs. 45,580/- 	
➤ <u>Case Law:</u>	
SC – PCIT Vs. Tejna Rohit Kumar Kapadia (2018) 94 taxmann.com 325 (SC)	



9. We have considered the rival submissions, perused the material available on record and the case laws relied upon. In present case, the allegation by the revenue on the assessee was based on statement of a third party recorded during survey u/s 133A of the Act, with a presumption that the third-party M/s Pratyush Steels was engaged in providing of bogus invoice of sale, and the assessee is beneficiary of such invoices. The entire allegation was based on *modus operandi* of M/s Pratyush Steel, who had issued bills to many entities including the assessee under consideration. However, to establish the authenticity of the statements of a third party no independent inquiry was made neither any corroborative evidence to justify that the assessee was also benefited with such bogus transactions and the transactions recorded in the books of assessee, though were primarily substantiated by the assessee by submitting evidences like ITR, GST return, mode of purchase, utilization of purchase, copy of invoices, but disregarded by the Ld.

AO in absence of certain transportation evidences. Such finding of Ld. AO are not commensurate with the facts and evidence available on record rather found to be presumptive in nature based on bare statements with no corroborative support. Such conviction on the foundation of surmises and conjecture has no standing in the eyes of law, which Ld. CIT(A) has rightly observed therefore, we have a reasonable basis to concur with the findings of Ld. CIT(A) in allowing the relief of both the additions u/s 68 as well as u/s 69C of the Act in the hands of assessee. In backdrop of aforesaid observations, facts and circumstances, we do not find any cogent reason to interfere with the finding of Ld. CIT(A).

10. Before us, Ld. AR has raised certain more contentions *qua* the presumptive taxation u/s 44AD thereby the assessee was not obliged to maintain record of expenses claimed on presumptive basis rather the assessee would be required to show 6% profit on the turnover through banking channel and to offer the same for taxation, there was no motive for the assessee to make bogus purchases once the profit is declared on a fixed percentage on presumptive basis, the statements of Shri Abhishek were not produced entirely in the assessment order but are furnished in part at the convenience by Ld. AO, furthermore, there are arguments regarding no cross examination, sales of the assessee was accepted, the assessee has produced sufficient records for verification, there was no evidence for payment of commission etc. Be that as it may, as we have already held to

sustain the decision of Ld. CIT(A) and the substantive additions are thereby deleted therefore, the remaining contentions by the Ld. AR need not be separately adjudicated the same, therefore, remains academic only.

11. In conclusion, the appeal of revenue in absence of any justifiable argument, submission or material to contradict the findings of Ld. CIT(A), has been rendered as *devoid* of merits and bereft of substance, therefore, stands dismissed.

12. In result, the appeal of revenue stands **dismissed** in terms of our aforesaid observations.

Order pronounced in the open court on 26/11/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 26/11/2025
Vaibhav Shrivastav, Stenographer

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- ITO-4(1), Raipur
2. प्रत्यर्थी/ The Respondent- Smita Mukesh Kedia
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR,
ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur