

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.1921/Kol/2025  
(Assessment Year 2012-2013)**

**R S Ispat Limited,**

Bengal Eco Intelligent Park,  
Block-EM, 9<sup>th</sup> Floor, Sector-V,  
Salt Lake, North 24 Parganas - 700091

[PAN: AABCR1890D] ..... **Appellant**

**vs.**

**DCIT, Circle 12(1), Kolkata,**

Aayakar Bhawan, P-7, Chowringhee Square,  
Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by : Akkal Dudhewala, Adv.  
Vidhi Ladia, FCA

Department represented by : S.B. Chakraborty, Sr. DR

Date of concluding the hearing : 28.10.2025

Date of pronouncing the order : 20.11.2025

**ORDER**

**PER RAJESH KUMAR, ACCOUNTANT MEMBER**

The present appeal has been preferred by the assessee against the order dated 14.08.2025 passed by the Commissioner of Income-tax (Appeals), NFAC, Delhi [hereinafter referred to as the "CIT(A)"] u/s 250 of the Income Tax Act, 1961 [hereinafter referred to as the "Act"] for the AY 2012-13.

2. The assessee has challenged the re-opening of assessment u/s 147 of the Act which has been done invalidly by the AO and as such the assessment framed consequently is also invalid and nullity.

3. The assessee had filed return of income for AY 2012-13 on 26.09.2012 which was later on revised on 08.08.2013, declaring total income of Rs.2,94,85,510/-. The assessee was in receipt of a show cause / intimation from the Commercial Tax Officer (hereinafter referred to as the 'CTO'), West Bengal dated 11.02.2013 wherein it was stated that the Input Sales Tax Credit availed in respect of purchases of Rs.3,46,77,884/- was not allowable due to mis-match of vehicle numbers in consignment notes vis-à-vis the tax invoices. In the meantime, the case of the assessee was selected for scrutiny vide issue of notice u/s 143(2) of the Act dated 13.08.2013. In the course of assessment, the AO was in receipt of the aforesaid information shared by the Commercial Tax Officer, West Bengal. The assessment u/s 143(3) is noted to have been completed at total income of Rs.10,52,91,990/- after inter alia disallowing the purchases of Rs.3,46,77,884/- on the ground that the Commercial Tax Department had found these purchases to be in-genuine.

4. The assessee had preferred an appeal against this assessment order which was still pending for adjudication. The Ld. AR thereafter brought to our notice that the Commissioner, Commercial Taxes, West Bengal vide his order dated 03.08.2015 had stated that, the Addl. Commissioner, Commercial Taxes, West Bengal had quashed the show cause issued by the Commercial Tax Officer, West Bengal. He pointed out that, the Addl. Commissioner, Commercial Taxes had recorded a categorical finding that the assessee had duly reconciled the vehicle numbers in consignment

notes vis-à-vis the tax invoices and thus the input tax credit claimed in relation to purchases of Rs.3,46,77,884/- was allowable.

5. Subsequently, the case of the assessee was reopened by issue of notice u/s 148 of the Act dated 07.03.2018. The AO supplied the reasons recorded for reopening vide letter dated 17.08.2018, according to which, the AO was in receipt of information from the Joint Commissioner of Sales-tax, West Bengal vide letter dated 30.05.2013 / 03.06.2013 that the assessee had claimed fake purchases of Rs.3,46,77,884/- and that the aforesaid amount along with the corresponding Input-tax Credit of Rs.13,87,115/- represented income which was escaping assessment. The assessment u/s 147 / 143(3) was completed vide order dated 14.12.2018 wherein the AO again disallowed the purchases of Rs.3,46,77,884/- along with ITC credit of Rs.13,87,115/-. The AO also separately added sum of Rs.10,00,000/- received from M/s Maa Amba Towers Limited by way of unexplained cash credit u/s 68 of the Act.

6. Being aggrieved by this reassessment order dated 14.12.2018, the assessee preferred an appeal before the CIT(A).

7. Simultaneously, the assessee is noted to have filed a rectification application u/s 154 of the Act wherein it was inter alia pointed out that, the reasons for which the assessment was reopened viz., unexplained purchases of Rs.3,46,77,884/- had already been added back in the original assessment u/s 143(3) and therefore the addition made in the impugned reassessment order u/s 147 of the Act, amounted to double

addition of the same amount i.e. Rs.3,46,77,884/-. The AO is noted to have acted upon the rectification application and deleted addition made to the extent of Rs.3,46,77,884/- in the rectification order dated 10.01.2024 by observing as under:

*“3. At present, on perusal of the rectification petition filed by the instant assessee vis-a-vis on close analysis of information available on records, wherefrom it is deduced that the erstwhile AO's had made additions of Rs.3,46,77,884/- in twice in their assessment orders under section 143(3); dated 19.03.2015 and in the re-assessment order under section 143(3)/147; dated 14.12.2018. The gist of double additions made by the erstwhile AOs are provided as hereinunder:-*

<i>Particulars</i>	<i>Order under section 143(3); dated 19.03.2015</i>	<i>Order under section 143(3)/147; dated 14.12.2018</i>
<i>Nature of addition</i>	<i>Information received from West Bengal Sales Tax Officer regarding bogus transactions made with Aanchal Iron &amp; Steels Pvt. Ltd., Maa Amba Towers Ltd., Shivam Meltech Pvt. Ltd., Amit Metaliks Ltd. and Shri Ramrathi Steels Pvt. Ltd.</i>	<i>Information Received from Jt. Commissioner of Sales Tax, West Bengal regarding bogus purchases made with Aanchal Iron &amp; Steels Pvt. Ltd., Maa Amba Towers Ltd. Durgapur Steel Ltd. and Shri Ramrathi Steel Pvt. Ltd.</i>
<i>Amount of addition</i>	<i>3,46,77,884/-</i>	<i>3,46,77,884/-</i>

*4. Thus, it is evident from the above table That the erstwhile AO had double addition of the same amount of Rs.3,46,77,884/- in their orders. Since this mistake is apparent from record, the case is now rectified under section 154/143(3)/147/143(3)/263/143(3) of Income Tax Act, giving credit of prepaid taxes as per 26AS alongwith correction of Income tax liabilities as per Income Tax Law, is provided hereinbelow”*

8. The Ld. AR further submitted that in the pending appellate proceedings, the CIT(A) had also called for a remand report from the AO. It is seen that the Ld. DCIT, Circle 1(1), Kolkata in his remand report dated 20.08.2025 had inter alia observed that though, the CTO vide his

report dated 23.06.2014 had alleged that the assessee had claimed excess Input tax credit of Rs.13,87,115/- by reporting bogus purchases of Rs.3,46,77,884/- but later on, his order was duly revised by the Addl. Commissioner and the Commissioner of Commercial Taxes vide orders dated 27.07.2015 and 03.08.2015 accepting the claim of the assessee. The AO therefore observed that the impugned purchases were no longer being disputed by the Sales Tax authorities. The AO also made enquiries u/s 133(6) from the suppliers and noted that, each of them had furnished the relevant evidences and the transactions of the assessee reconciled with the details furnished by the parties. The relevant portion of the remand report is noted to be as under:

*“On close perusal of the submissions filed by the instant assessee alongwith supporting documentary evidences, wherefrom it is seen that the Sr. Jt. CST, 24Pgs, Circle, had reported vide its order; dated 23.06.2014 that the instant assessee had claimed excess input tax credit of Rs.13,87,115/- by reporting bogus purchases of Rs.3,46,77,884/- from five parties, as the vehicle registration numbers of the lorries were not properly mentioned in their challans. During the course of remand proceedings, it is noticed that the order; dated 23.06.2014, passed by the Sr. Jt. CST, were duly revised vide orders; dated 27.07.2015 & 03.08.2015, by the Addl. Commissioner and by the Commissioner of Commercial Taxes, West Bengal, accepting the claim of the instant assessee. Thus, it is seen that the alleged purchases were not disputed by the Sale Tax Authorities. Moreover, on close perusal of the details corroborated with supporting documentary evidences, wherefrom it is noticed that all the purchases were duly recorded in its books of accounts. The purchases, sales and the profit derived from those transactions were disclosed in the Audited accounts of the assessee.*

*However, as per the kind directions of the Ld. CIT(A) as well as in order to verify the genuineness of purchases of Rs 3.46 crores, notices under section 133(6) Income Tax Act, were issued to the five parties/companies on 04.07.2025 and in response to the said notices, the suppliers have filed their responses alongwith supporting documents corroborated with Ledger copies, bank statement. The details of purchases made from the parties in question, are provided as hereinbelow:-*

<b>Sl. No.</b>	<b>Name of the Supplier</b>	<b>PAN</b>	<b>FY</b>	<b>Nature of Transac</b>	<b>Opening Balance</b>	<b>Amount of transactions reported in</b>	<b>Closing Balance</b>	<b>Amount of transactions report by</b>
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				<b>tions</b>		<b>its Ledger A/c</b>		<b>the instant assessee</b>
1	Aanchal Iron & Steel Pvt. Ltd	AAGCA9337 B	2011-12	TMT Bars	0/-	7,94,41,335	0/-	7,94,41,335
2	Maa Amba Towers Ltd	AAFCEM0147 A	2011-12	TMT Bars	0/-	4,47,62,771	0/-	19,94,95,469
3	Shivam Meltech Pvt. Ltd.	AACCK5618 B	2011-12	TMT Bars	0/-	19,94,95,469	8,96,95,469	19,94,95,469
4	Amit Metaliks Ltd	AACCD1133 E	2011-12	TMT Bars	0/-	8,36,47,437	1,80,73,494	8,36,47,437
5	Shriramrathi Steels Pvt Ltd	AAKCS7512 A	2011-12	TMT Bars	7,84,28,344	4,85,26,478	5,43,67,252	4,85,26,478

*Thus, it is evident that the transactions as reported by the instant assessee in its books of accounts were duly matched with the details furnished by the parties. In view of the above documentary evidences furnished by the instant assessee, orders passed by the Commercial Officer, are found to be in order, satisfactory and permissible submission in response to the remand report.”*

9. It is seen that, the Ld. CIT(A) without considering the above rectification order and the remand report, dismissed the appeal of the assessee against the reassessment order u/s 147 / 143(3) dated 14.12.2018. Being aggrieved by the appellate order of the CIT(A), the assessee is now in appeal before us.

10. Assailing the action of the CIT(A) before us, the Ld. AR for the assessee submitted that the reasons which were recorded for reopening the assessment was unsustainable as the AO's predecessor had already considered and added the alleged bogus purchases of Rs.3,46,77,884/- in the original assessment completed u/s 143(3) of the Act dated 19.03.2015 and therefore, there was no income-escaping assessment on the basis which, the concluded assessment could be validly reopened u/s 147 of the Act. The Ld. AR vehemently stressed on the rectification order

dated 10.01.2024 passed by the AO, wherein he had acknowledged his mistake and accordingly deleted the addition of Rs.3,46,77,884/- after recording a categorical finding that the said issue had already been considered and added in the original assessment and therefore it amounted to double addition in the impugned reassessment order. The Ld. AR thus claimed that it was a case of sheer non-application of mind at the time of reopening of assessment. He further pointed out that the basis on which the assessment was reopened viz. the information received from the CTO dated 30.05.2013 / 03.06.2013 had already been quashed by the Addl. Commissioner and the Commissioner of Commercial Taxes vide orders dated 27.07.2015 and 03.08.2015 and the Sales Tax authorities much prior to the reopening had accepted the genuineness of the purchases and allowed the ITC claimed thereon. He thus submitted that the foundational basis for reopening was no longer existent and that this material fact had also been accepted by the AO in his remand report furnished before the CIT(A). He thus argued that the impugned reopening stood vitiated in law and urged us to quash the impugned reassessment order dated 14.12.2018.

11. Per contra, the Sr. DR appearing for the Revenue submitted that the order of the CIT(A) was non-speaking and thus urged us to remit the matters back to the CIT(A) with a direction to consider and adjudicate the appeal afresh after considering the rectification order and the remand report.

12. We have heard both the parties and perused the material on record. The assessee has challenged the validity of the reopening of assessment u/s 147 of the Act. For the sake ready reference the reasons recorded for reopening the assessment are extracted below:-

*“In the aforesaid case, the assessee filled his return of income on 08/08/2013 of Rs. 29491010/-. The assessment was completed u/s 143(3) on 19/03/2015 with assessed income of Rs. 105291990/-. An information was received against this assessee from the office of the DDIT(Inv.),Unit-III(4), Kolkata where the said information was received from the Joint Commissioner of Sales Tax, West Bengal, Vide Additional Commissioner of Customs letter F.No VIII(48)-89/Kol/Cus/08/Pt.XV/2725 dated 30/05/2013/03.06.2013. In the said information it is found that M/s R.S. Ispat Limited registered under the West Bengal Value Added Tax Act, 2003 made bogus sale bills and showed fake purchase to claim input tax credit facility fraudulently. In the F.Y. 2011-12 the assessee M/s R.S. Ispat Limited had claimed 1387115/- fake input tax credit by showing fake purchase Rs. 34677884/-. The information is mentioned below:-*

Name of the Assessee	VAT RC No	Period	Purchase Amount	Fake ITC Claimed
R.S. Ispat Limited	19677107079	2011-12	Rs. 34677884/-	Rs. 1387115/-

*There is a failure on the part of the assessee to disclose fully and truly all materials facts before the AO necessary for assessment. In view if the above I have reasons to believe that income of approximately Rs. 13,87,115/-has escaped assessment for the AY 2012-13 and hence needs to be reassessed.”*

13. We note that the case was reopened vide notice u/s 148 of the Act dated 07.03.2018 on the basis of information received from the CTO,

West Bengal vide their report dated 30.05.2013 / 03.06.2013 that the assessee had claimed fake ITC of Rs.13,87,115/- in relation to fake purchases of Rs.3,46,77,884/-. The assessee has rightly pointed out that, this report was already available with the AO in the course of original assessment and after considering the same, the purchases of Rs.3,46,77,884/- was disallowed and added back in the original assessment order completed u/s 143(3) dated 19.03.2015. We thus find merit in the Ld. AR's plea that, when the reasons for which the assessment was sought to be reopened, had not only been considered and examined in the original assessment but had also been already added in the original assessment, then, there cannot be any valid case of reopening the assessment u/s 147 of the Act in as much as there is no income remaining which has escaped tax in the original assessment. Hence, according to us, this vital condition to assume jurisdiction for reopening the assessment was not met. We also note that , even the AO had tacitly acknowledged the above fact by passing the rectification order u/s 154 of the Act dated 10.01.2024 wherein he deleted the addition of Rs.3,46,77,884/- made in the impugned reassessment order by observing that, this addition had already been made in original assessment and therefore the same item cannot be added back twice. This contemporaneous development supports the assessee's case that the reasons recorded for reopening the assessment on the ground of fake purchases was without application of mind in as much as he had failed to take note of the simple fact that the impugned issue had already been

added in original assessment, which was pending in dispute before CIT(A).

14. Moreover, we also find that, the basis of reopening which was the report of the CTO, Commercial Taxes dated 30.05.2013 / 03.06.2013 had already been quashed by the Addl. Commissioner and the Commissioner of Commercial Taxes vide orders dated 27.07.2015 and 03.08.2015 and it was held by the Sales tax authorities that, the purchases of Rs.3,46,77,884/- made by the assessee was genuine and also allowed the ITC claimed thereon. We observe that, the orders of Addl. Commissioner and the Commissioner of Commercial Taxes was passed much prior to the reopening notice dated 07.03.2018 and therefore there is merit in the assessee's contention that, the reasons recorded for reopening was ex-facie based on incorrect facts and erroneous specifics and hence the reopening of assessment was not tenable on this ground as well. It is also seen that, the AO in his remand report had also taken cognizance of the later developments with the sales tax authorities and after verification found the purchases to be acceptable.

15. Considering the aforesaid reasons, we accordingly hold that, the reopening of assessment stood vitiated in law and is thus held to be ab initio void and therefore the reassessment order dated 14.12.2018 is accordingly quashed.

16. Since the legal issue raised by the assessee in their grounds has been allowed, all other grounds assailing the several addition(s) on merits have been academic and is therefore dismissed as infructuous.

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

Order pronounced on 20.11.2025

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 20.11.2025

AK. Sr. PS

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches