

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “A” BENCH: NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.4348/Del/2025  
[Assessment Year : 2018-19]**

Sandeep Kumar, C/o-B-50, LGF, South Extension Part-II, New Delhi -110049 <b>PAN-AUEPS5626A</b>	vs	ITO Ward-1 Panipat
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Shantanu Jain, Adv. Ms. Jahnvi Khanna, Adv. Shri Gurjeet Singh, CA	
<b>Respondent by</b>	Shri Khitesh Gupta, Sr.DR	
<b>Date of Hearing</b>	26.11.2025	
<b>Date of Pronouncement</b>	28.11.2025	

**ORDER**

**PER MANISH AGARWAL, AM :**

The captioned appeal is filed by assessee against the order dated 11.03.2025 passed by Ld. Pr. Commissioner of Income Tax, Rohtak [“Ld. Pr. CIT”] u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 24.03.2023 passed u/s 147 r.w.s. 144B of the Act pertaining to Assessment Year 2018-19.

2. This appeal is filed delayed by 62 days and an application dated 26.11.2025 for condonation of delay was filed wherein it is stated by the AR that due to negligence of Accountant who did not inform the

assessee about the passing of the impugned order, therefore, the appeal could not be filed within time and delay was of only 62 days. It is thus, requested that delay be condoned and appeal be admitted for adjudication.

3. On the other hand, Ld. CIT DR for the Revenue objected to the condonation of delay.

4. Heard both the parties. Considering the facts stated by AR of the assessee in the petition filed for condonation of delay, we find that delay is unintentional and inadvertent due to negligence of the Accountant of the assessee and the assessee should not suffer for the same. By filing the appeal delayed nothing would be earned on the part of the assessee. The reasons stated in the petition are not found to be false. We find that there is a reasonable cause in filing the appeal delayed. Therefore, the delay is hereby condoned and appeal is admitted for adjudication.

5. Brief facts of the case are that the assessee is an individual, engaged in the business of manufacturing, trading and dealing in all kinds of blankets in the trade name of "M/s. Khurana Wooltex", filed his return of income on 26.09.2018, declaring total income of INR 8,47,580/-. Based on the report of Investigation Wing that assessee had entered into fictitious transaction of bogus purchases of INR 26,81,300/- from M/s. Maa Karni Yarn which was alleged as engaged in issuing bogus bills. Accordingly, the case of the assessee was

reopened by way of issue of notice u/s 148 of the Act and after considering the replies filed by the assessee, reassessment order was passed wherein the total income of the assessee was computed at INR 35,208,880/- vide order dated 24.03.2023 passed u/s 147 r.w.s. 144B of the Act.

6. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 11.03.2025, which is pending for adjudication. In the meantime, the ld. PCIT in terms of the show cause notice dt. 07.08.2024, initiated proceedings u/s 263 and asked the assessee as to why the reassessment order should not be held as erroneous and prejudicial to the interest of revenue as the AO has failed to invoke the provisions of section 69C r.w.s. 115BBE of the Act on the disallowance made towards bogus purchases. After considering the reply filed by the assessee, the ld. PCIT vide impugned order dt. 11.03.2025 held that the reassessment order was passed by the AO in a very casual manner without due diligence and without applying correct provisions of Act and, therefore, the order is erroneous and prejudicial to the interest of revenue. The ld. PCIT thereafter in terms of the powers conferred as per Explanation 2 of section 263 has set aside the reassessment order and direct the AO to pass the order afresh after conducting necessary enquiries and verifications.

7. Aggrieved by the order of Ld. PCIT, assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in assuming jurisdiction u/s 263 of Income Tax Act, 1961 and has erred in holding the assessment order dated 24.03.2023 as erroneous, as well as prejudicial to the interest of revenue and that too by recording incorrect facts and findings and in violation of principles of natural justice.*
2. *That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in setting aside the order passed by the assessing officer u/s 147 r.w.s.144B of the Act dated 24.03.2023 with the direction to pass a fresh order after making proper enquiry and verification and that too by recording incorrect facts and findings and without observing the principles of natural justice.*
3. *That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in holding as under: (i) That penalty notice has not been issued in accordance with law. (ii) That the addition of bogus purchases should have been made u/s 69C of the Act and taxing the same @ 60% as per provisions of section 115BBE of the Act, as against normal rate of tax.*
- 3.1 *In any view of the matter and in any case, order passed under section 263 is bad in law, barred by limitation and against the facts and circumstances of the case as the Ld. AO has made detailed enquiry and verification during the reassessment proceedings regarding the issue involved.*
4. *That having regards to the facts and circumstances of the Act, the Ld. PCIT has erred in law in assuming jurisdiction u/s 263 of the Act as the challenge to the reassessment order u/s 147 r.w.s. 144B of the Act dated 24.03.2023 is already under challenge before the Ld. CIT(A), as such no revision proceedings u/s 263 of the Act could have been initiated against the Assessee.*
5. *That having regard to the facts and circumstances of the case, Ld. Pr. CIT has erred in law and on facts in assuming jurisdiction u/s 263 which is bad in law inter alia for this reason that the reassessment order passed u/s 147 r.w.s. 144B of the Act dated 24.03.2023 which is sought to be revised u/s 263 of the Act itself was invalid on various grounds and thus proceedings initiated u/s 263 of the Act against the invalid reassessment order is clearly bad in law.*
6. *That the appellant craves the leave to add, amend, modify, DLEETE any of the grounds of appeal before OR at the time of hearing and all the above grounds are without prejudice to each other.”*

8. As all grounds of appeal taken with respect to the action of the PCIT in holding the reassessment order as erroneous and prejudicial to the interest of the Revenue therefore they are taken together for consideration.

9. Before us, Ld. AR submits that the AO has made the addition by holding the purchases as bogus against which first appeal is pending before the Id. CIT(A). As per Ld. AR, the AO has taken a plausible view by disallowing the purchases u/s 37(1) of the Act after making proper and adequate enquiries. He submits that the purchases alleged as bogus are duly recorded in the books of accounts maintained in regular course thus, the immediate source of such purchases cannot be doubted more particularly, when the payments made were through payees account cheque. He submits that the provisions of section 69C of the Act can be invoked where the assessee failed to substantiate the source of the expenditure. He thus, submits that the provisions of section 69C cannot be invoked on the facts of the present case and, therefore, the assessment order is neither erroneous nor prejudicial to the interest of the Revenue. Regarding the directions of the Id. PCIT for making fresh enquiries and investigation, Ld. AR submits that from the perusal of the revisionary order, it could be seen that nowhere in the order it is stated by Id. PCIT that what enquires were left to be undertaken by the assessee who held the purchases as bogus which fact is not doubted by the Id. PCIT.

10. Ld. AR also placed reliance on the judgment of the Co-ordinate Bench of ITAT, Rajkot Bench in the case of ***Shashikant Bhavajjibhai Rajpara vs. PCIT in ITA No. 59/RJT/2022*** vide order dated **22.03.2023** and also in the case of the Coordinate Bench of the ITAT Rajkot in the ***Vijubha Jitubha Jadeja vs. PCIT in ITA No. 105/RJT/2022*** vide order dated **02.08.2023** wherein the Co-ordinate Bench has held that once the AO has disallowed the bogus expenditure u/s 37(1), the CIT(A) cannot direct to invoke the provisions of section 69C and further u/s 115BBE of the Act in the order passed u/s 263 of the Act. He thus prayed for quashing of the order of the ld. PCIT.

11. On the other hand, the Ld. Sr DR for the Revenue vehemently supported the orders of Ld. PCIT and submit that in the instant case, the assessee has failed to justify the purchases made thus the same is unexplained expenditure for which the source was not established to the satisfaction of the AO and therefore, Ld. Pr. CIT has rightly direct the AO to invoke the provisions of section 69C r.w.s. 115BBE of the Act. He thus requested that the order of Ld. PCIT deserves to be uphold.

12. Heard both the parties and perused the material available on record. The case of the assessee was reopened u/s 147 of the Act by alleging that the purchases claimed to have been made from M/s Maa Karni Yarn of Rs. 26,81,300/- is bogus and thereafter, the AO referred the statements of the persons managing and controlling

various firms including M/s Maa Karni Yarn and disallowed the purchase of Rs.26,81,300/- u/s 37(1) of the Act by holding the same as bogus purchase. The Ld. PCIT in terms of the show cause notice dated 07.08.2024, issued the show cause notice wherein it is observed that the purchases held as bogus should be disallowed u/s 69C of the Act. The provisions of section 69C are as under:

*“69C Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer the amount covered by such expenditure or part thereof at the case may be may be deemed to be the income of the assessee by such for such financial year.*

*Provided that notwithstanding anything standing contained in any other provision of this Act such unexplained expenditure which deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.*

13. The provisions of section 115BEE of Act are reproduced as under:-

*“115BEE (1) Where the total income of the assessee-*

- (a) Includes any income referred to in section 68, section 19, section 64 section 69B, section 69C, section 69D and reflected in the return of income furnished under section 139 or*
- (b) Determined by the Assessing Officer includes any income referred to in section 68 section 69, section 69A, section 69B, section 69C, Section 69D if such income is not covered under clause (a)*

*the income tax payable shall be the aggregate of*

- (i) the amount of income tax calculated on the income referred to in clause (a) and clause (b), at the rate of sixty percent, and*
- (ii) the amount of income tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).”*

14. From the perusal of section 69C, it is observed by us that provisions of section 69C are applicable where assessee incurred any expenditure for which he has failed to offer any Explanation or the Explanation given was not found satisfactory by the AO.

15. However, in the instant case, it is not the case of the revenue that the assessee has failed to explain the source of purchases made from M/s Maa Karni Yarn but it was the allegation of the AO the purchases made from the said party was bogus and nowhere in the assessment order, the AO raised any doubts about the source of such purchases. Therefore, he invoked the provisions of section 37(1) of the Act and disallowed the purchases made by the assessee. This being so, the provisions of section 69C of the Act are not applicable on the facts of the instant case.

16. The Co-ordinate Bench of ITAT, Rajkot in the case of Shashikant Bhavajjibhai Rajpara vs. PCIT (supra) has made following observations:

*“7. We have considered the above contentions made by the ld counsel for the assessee, we find merit in the same. As per the ld Pr. CIT the disallowance of Rs. 29 30,229/- made by the AO came within the purview of section 69C of the Act. We have gone through the provision of section 69C of the Act and also disallowance made by the AO in his assessment order which is reproduced above. **As is evident from bare perusal of the order of the AO, disallowance related to expenses incurred by the assessee in relation to subcontractor which were not found to be genuine. Section 69C on the other hand, brings to tax the disallowance related to expenses incurred by the assessee, source of which remain unexplained. Therefore, purview and scope of section 69C is totally different from the***

***disallowance of expenses found to be not genuine. The basic premise with the Id. Pr. CIT therefore for finding error in the order of the AO, that the disallowance made by him of contractors' expense came under the purview of section 69C of the Act is found to be untenable in law. This finding of error, as a consequence whereof, that the same not being subjected to tax at a special rate provided under section 1158BE of the Act also as a result does not survive.***

17. Further this view is followed by the Co-ordinate Bench of ITAT, Rajkot in the case of ***Vijuba Jutubha Jadeja vs. PCIT reported in [2023] (9TMI 206)***.

18. In view of the above discussion, in our considered opinion view for disallowance of purchases claimed in the Profit & Loss account held as bogus, provisions of section 69C of the Act could not be invoked and, therefore, the assessment order is neither erroneous nor prejudicial to the interest of revenue for not invoking the provisions of section 69C r.w.s. 115BBE of the Act. Accordingly, we quash the revisionary order passed by Id. PCIT u/s 263 of the Act. Thus, all the grounds of appeal taken by the assessee are allowed.

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

Order pronounced in the open Court on 28.11.2025.

***Sd/-***

**(MAHAVIR SINGH)  
VICE PRESIDENT**

**Date-28.11.2025**

*\*Amit Kumar, Sr.P.S\**

***Sd/-***

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

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ITAT, NEW DELHI