

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI RAJESH KUMAR, AM**

**ITA No.249/PAT/2019
(Assessment Year: 2013-14)**

ACIT, Circle-2
ACIT, Circle-2, Patna, Bihar

**Shree Nanak Ferro Alloys Pvt.
Ltd.**
Room No.205, 2nd floor, Avrtar
Building, Bisturpur, Jamshedpur,
Jharkhand

Vs.

(Appellant) **(Respondent)**

PAN No. AAICS1706N

Assessee by : S/Shri A.K. Rastogi
Rakesh Kumar, AR

Revenue by : Shri MD AH Chowdhary, DR

Date of hearing: 27.11.2025
Date of pronouncement: 09.12.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the Commissioner of Income-tax (Appeals)-I, Patna (hereinafter referred to as the "Ld. CIT(A)") dated 12.09.2019 for the AY 2013-14.

2. The only issue raised by the Revenue is against the order of learned CIT (A) deleting the addition of ₹4,16,27,400/- as made by the learned Assessing Officer in respect of amount received from M/s Mahalaxmi Steel under the guise of sham transactions.

2.1. The facts in brief are that the assessee is engaged in the business of manufacturing of Ferro Alloys. The assessee filed the

return of income under Section 139(1) of the Act, declaring the total income of ₹18,41,971/-. The case of the assessee was reopened under Section 147 of the Act by issuing notice under Section 148 of the Act on 04.11.2015, which was not complied with by the assessee. Again, reminder dated 08.12.2015 was given, which was complied with by submitting a letter dated 28.02.2016, that original return filed on 30.09.2013, and revised on 02.02.2016, may be treated as return filed in response to notice u/s 148 of the Act. Thereafter, notice under Section 143(2) and 142(1) of the Act were issued along with questionnaire calling for the copy of bank account/statement along with details of deposits therein. Accordingly, assessee provided the bank statement of current account number 1539 with PNB Ramgarh Branch. The learned Assessing Officer noted that as per the investigation conducted by the ITO (I & CI) report, there was a huge deposit in the name of Mr. Annad Agarwal and Amit Purohit and then the cash was transferred to the current account of M/s Mahalaxmi Steel and then advanced ₹2,49,79,400, to the assessee's account. Thereafter, during the assessment proceeding the learned Assessing Officer noted that the assessee has stated that it had received payment to the tune of ₹4,16,27,400/- from M/s Mahalaxmi Steel during the A.Y. 2013-14 and the said amount was received towards payment of goods supplied to the said firm. The assessee also furnished the tax invoices, payments made to the commercial tax department of the government of Jharkhand and the bank statement etc. The assessee also paid to the State Authorities CST at the rate of 2%. In para no.10, the learned Assessing Officer noted that the assessee received total payment of ₹4,16,27,400/- from M/s Mahalaxmi Steel comprising in two installments. One of

₹2,41,29,400/- and second of ₹1,74,98,000/-. Finally, the said amounts were treated as unexplained cash credit by rejecting the plea of the assessee and added as unexplained cash credit under Section 68 of the Act in the assessment framed under Section 143(3) of the Act dated 30.12.2016.

2.2. In the appellate proceedings, the learned CIT (A) allowed the appeal of the assessee by observing and holding as under:-

"I have carefully considered the findings of the AO in the assessment order, submission of the appellant, Remand report of the AO and the comments of the appellant on the remand report. The undisputed fact is that the appellant is a Private Limited Company and engaged in the business of manufacturing of Ferro Alloys. The appellant filed its regular of income for the A.Y.2013-14 on 30.09.2013 declaring total income of Rs.18,41,971/-. Subsequently, the Assessing Officer (AO) was in receipt of information from Director of Income tax (I&CI), Bhopal that the appellant company had received bogus entries of cash credit from hawala operators. Accordingly, the AO after recording the reasons issued notice u/s 148 of the Act on 04.11.2015 calling for Return of Income. In response to notice u/s 148, the appellant filed a letter requesting the AO to treat the regular return filed u/s.139 as compliance to the notice u/s. 148. Further, as requested by the appellant the reasons for issuance of notice u/s.148 was conveyed to the appellant. Thereafter, the AO after issue of notice u/s.143(2) and 142(1) passed order u/s.143(3) r.w.s.147 on 30.12.2016 determining total income at Rs.4,34,69,370/-. As stated earlier the AO was in receipt of information from the Director of Income-tax (I&CI), Bhopal. In this report, ITO (I&CI) investigated huge cash deposits made in name of Anand Agrawal, Ashish Agrawal and Amit Purohit. These persons had made huge deposits in cash in their saving bank accounts without quoting PAN. On verification and through local enquiries conducted by the ITO (I&CI), it was revealed that all the three persons are fictitious/bogus as the query letters issued to them were returned un-served with the remarks "not known". On further perusal of the transaction in the bank accounts of the above persons it was noted that huge cash deposits were made and then on the very same day or on the next day, the cash was transferred to the current account of M/s Mahalaxmi Steels, Prop: Shri Shriram Naththu Kale, S/o Shri Naththuji Laharuji Kale, Balaghat. The report concluded that M/s Shri Mahalaxmi Steels is a bogus concern and never had any business activity at the address brought on record. The said bogus entity opened a current account bearing no. 9120200296338954 with the Axis Bank Limited, Chankhuri branch on 04-06-2012 and during the period from 08-06-2012 to 15-01-2013 a total of Rs.7,20,46,000/- was deposited in cash. Further deposits through RTGS /Cheques were also made by various bogus persons / entities as named in the assessment order. Hence the total amount of credit in the said current account was stood at Rs.34,13,13,634/ which is inclusive of cash deposits of Rs,7,20,46,000/-. These amounts were transferred to various ultimate beneficiaries through RTGS/Cheque and

the appellant M/s.Shree Nanak Ferro Alloys Pvt Ltd is stated to be one of the beneficiary who received Rs.2,41,29,400/- from M/s.Mahalaxmi Steels. Further, during the course of assessment proceeding the AO has also issued verification letter to M/s.Mahalaxmi Steels, however no response was received. In this back ground the AO show-caused the appellant as to why the amount of Rs.2,41,29,400/-received from M/s.Mahalaxmi Steels should not be considered as accommodation entry. In response, the appellant submitted that they have sold Manganese Ore to M/s Mahalaxmi Steels and received sale consideration of Rs.4,16,27,400/- through banking channels. In support of the same the appellant filed copy of ledger account of M/s.Mahalaxmi Steels, Copy of bank account statement, tax invoices, etc. However, the AO having not satisfied with the details submitted and taking into account circumstantial evidences surrounding the transactions treated Rs.4,16,27,400/- as cash credit u/s.68 of the Act added to the total income.

5.3.2 On the other hand the appellant submitted that it has sold Manganese Ore to M/s. Mahalaxmi Steels during the year and received sale consideration of Rs.4,16,27,400/- through banking channels and in support of the same filed copy of bank statement, ledger account of the said party in the books of the appellant, road permit issued by VAT Authorities of Jharkhand evidencing movement of the product so sold by the appellant (Jharkhand) to the said concern (MP), sales invoices detailing truck number, quantity, rate, CST, Form-C etc. The appellant has also submitted that the AO has not allowed cross examination of the party on the basis of which impugned addition was made. Accordingly, the appellant relying on various case laws (supra) contended that the allegation of being beneficiary is wholly misconceived and contrary to the facts on record.

5.3.3 On perusal of rival contention 1 find considerable force in the submission of the appellant. It is a fact that the AO based on the report of Director of Income tax (I&CI), Bhopal, doubted the amounts credited in the bank account of the appellant as hawala entry. Further, it is also a fact that the appellant by furnishing all the necessary direct evidences in the form ledger account of M/s. Mahalaxmi steels in the books of the appellant, Copy of bank statements, road permit issued by VAT Authorities, sales invoices detailing truck number, quantity, rate, CST, Form-C etc. submitted that the amounts credited in the bank account represents the sale consideration to the said party. However, inspite of all the documents submitted, Assessing Officer has not brought on record any evidence to prove that the transactions entered by the appellant which are otherwise supported by proper documents including third party documents are collusive/sham transactions so as to fasten the liability u/s.68 of the Act. Further, the assessing officer having failed to bring on record any material to prove that the transaction of the appellant was a collusive transaction could not have rejected the evidences submitted by the appellant. Certain facts as narrated in the report of NIT(I&CI) may appear highly suspicious but cannot take the place of evidence, and hence the addition made on surmise and suspicion by debunking all the direct evidences cannot be sustained. Moreover, the AO failed to accord cross examination of the party on the basis of which impugned addition was made nor is there any material on record to suggest that the appellant is also a party to this collusive / sham transaction. In this regard reliance is placed on the following decisions/judicial pronouncements.

The Hon'ble ITAT, Delhi Bench in the case of ITO Vs. Pawan Kumar Gupta [2011] 43 SOT 32 (Delhi Trib.) held that The issue was as to whether the Commissioner (Appeals) was justified in deleting the addition made by the Assessing Officer on the basis of the statements which were neither confronted to the assessee for rebuttal nor any opportunity was granted to the assessee to cross-examine the deponents in spite of repeated requests by the assessee to the Assessing Officer to allow such opportunity. Undeniably, the statements of 'B', his son 'R' and the accountant, were the basis of the addition made by the Assessing Officer under section 69A. Undeniably again, those statements were never provided to the assessee for rebuttal. Also, he was not afforded any opportunity to cross-examine the deponents of these statements. This was despite the fact that the assessee had made repeated requests to the Assessing Officer for providing the statements to him and for affording him an opportunity to cross-examine those deponents. Pertinently, even at the first appellate stage, the matter was remitted by the Commissioner (Appeals) to the Assessing Officer, however, once again, no such opportunity was provided to the assessee. It was on account of these facts that the Commissioner (Appeals) deleted the addition. The Commissioner (Appeals) further observed that the Assessing Officer had failed to establish any case against the assessee, nor was any corroborative evidence gathered by the Assessing Officer in relation to the assessee. The Assessing Officer as observed by the Commissioner (Appeals), merely summarized the salient features of the assessment proceedings relating to 'B' and thereafter, summarily rejected the reply of the assessee as not acceptable. Though the Assessing Officer referred to the statements of 'B' and others admitting their involvement in cash loan transactions, these statements were not provided to the assessee. The allegation on the assessee having entered into loan transaction with 'B' was not proved, since nothing was brought on record by the Assessing Officer regarding any further investigations to confirm any such loan transaction. In view of the above, no error whatsoever, was found with the order of the Commissioner (Appeals), and therefore, the same was hereby confirmed.

The Hon'ble ITAT, Jaipur Bench in the case of P.V.Jewellers Vs. ITO [1993] 45 TTJ 541 (JP) held that Where revenue had made additions under section 69 on basis of photocopies of documents, statements and oath given by a foreigner, such additions could not be sustained unless assessee had been given an opportunity either to see original documents or even to cross-examine party in whose books of account these entries were made.

The Hon'ble ITAT, Mumbai Bench in the case of ACIT Vs. I & E Trade Consultants (P.) Ltd. [2017] 88 taxmann.com 638 (Mumbai-Trib.) held that- Where director of searched company gave statement that they were providing accommodation entries to assessee by way of paper entry of bills allegedly for providing services to assessee's customers, but said statement of searched person was not furnished by Assessing Officer to assessee nor cross-examination was allowed, challenge to reopening of concluded assessment by assessee was to be restored to file of Assessing Officer for de novo determination of issue on merits.

The Hon'ble ITAT, Jaipur bench in the case of Smt. Renu Agarwal Vs. ACIT [2017] 88 taxmann.com 872 (Jaipur Trib.) held that Where seller had given a statement on oath that he had received Rs. 65 lakhs only from assessee on sale of land and that

agreement to sell plot of land after carrying out construction for Rs. 1.41 crore was cancelled, in absence of any evidence of payment of any on-money on purchase of vacant plot, lower authorities had erred in confirming addition of differential amount on account of unexplained investment in purchase of plot.

5.3.4 In view of the above factual discussion and relying on the case laws cited above, the AO is directed to delete the addition made of Rs.4,16,27,400/-."

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee is engaged in the business of manufacturing of Ferro Alloys as well as trading in goods. The case of the assessee was reopened by the AO under Section 147 of the Act by issuing notice under Section 148 of the Act on 04.11.2015, after the learned Assessing Officer received information from Director of Income Tax (I & CI) that appellant had received bogus entries of cash from hawala operators. The said notice was complied with by the assessee by stating that original return filed may kindly be treated as return in response to the said notice. It was submitted that assessee has sold Maganese Ore to M/s Mahalaxmi Steel during the financial year and received consideration of ₹4,16,27,400/- from banking channel in two installments of ₹2,41,29,400/- and ₹1,74,98,000/-. The assessee furnished before the learned Assessing Officer the copies of bank statement, ledger account of the said party, road permit issued by VAT authorities of Jharkhand government evidencing the goods sold by the assessee, sale invoices including the truck number, quantity rate GST and form C etc. The learned CIT (A) appreciated all these facts and noted that the assessee has proved beyond doubt that the goods were supplied by the assessee to the said party as corroborated along with all the evidences furnished and therefore, the payment received cannot be treated as unexplained cash credit in the hands of the assessee. Our attention was also drawn to the fact that during the year the learned

Assessing Officer also noted that there were deposits of ₹34,07,12,420/- in the account of M/s Mahalaxmi Steel and the said party had also filed the return of income with the Department. We also note that the assessee was not given any opportunity to cross-examine person, whose statement was relied by the learned Assessing Officer to make the addition. Therefore, we do not find any infirmity or defect in the order of learned CIT (A) and accordingly, uphold the same by dismissing the appeal of the Revenue. The case of the assessee find support from the decision of the co-ordinate bench of this Tribunal in case of DCIT Vs. Sincon Infrastructure Pvt. Ltd. in ITA No.212/PAT/2025 for A.Y. 2021-22, vide order dated 26.08.2025, wherein the similar issue has been decided by the assessee by observing and holding as under: -

"2.3 After hearing the rival contentions and perusing the materials available on record, we find that in this case the assessee has made purchases from the seven parties aggregating ₹4,98,11,922/- which according to the AO have not filed their returns of income and also have not replied to the notices under section 133(6) of the Act. We note that the assessee has filed all the evidences qua the purchases including the invoices, payment details and other bills and vouchers. The Learned AO has only made addition on the ground that the suppliers were non-filers of the returns of income and the purchases were not confirmed. We note that even the Learned CIT (A) in the appellate proceeding has called for remand report from the AO. The AO did not file any remand report despite the CIT (A) specifically asking the AO to submit the remand report.

2.4 We note that the assessee upon direction of the CIT (A) have furnished all the evidences before the AO and the Learned CIT (A) after examination and appreciation of the same allowed the appeal of the assessee by relying on the series of decisions as have been noted above. Therefore, we do not find any infirmity in the order of the Learned CIT (A). We also note that the assessee has also produced GST returns filed by the suppliers which are auto-populated from the website. Therefore, we do not find any reason to interfere in the order of the Id. CIT (A) who has passed a very reasoned and speaking order. Accordingly. We uphold the order of the Learned CIT (A) by dismissing the appeal of the revenue."

2.4. Considering the same and the facts and circumstances of the case in question , we find no infirmity in the order of learned CIT (A)

and accordingly confirm the same. The appeal of the Revenue is dismissed.

3. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 09.12.2025.

Sd/-
(DUVVURU RL REDDY)
(VICE PRESIDENT)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Patna, Dated: 09.12.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna