

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOMETAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

ITA No.1257/Kol/2025

Assessment Year: 2020-21

DCIT, Central Circle-4(3), Kolkata.....Appellant

vs.

Gaurang Alloys and Iron Ltd.....Respondent

402A, Mangalam, 24/26, Hemanta

Basu Sarani, Kol-1..

[PAN: AACCG1485A]

Appearances by:

Dr. Anup Biswas, CIT-DR, appeared on behalf of the appellant.

Shri S. Jhajharia, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 30, 2025

Date of pronouncing the order : December 23, 2025

ORDER

Per Rajesh Kumar, Accountant Member:

This is an appeal preferred by the revenue against the order of the CIT(Appeals)-27, Kolkata (hereinafter referred to as the "Ld. CIT(A)") dated 25.02.2025 passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') for the AY 2020-21.

2. The only issue raised by the revenue in this appeal is against the order of Ld. CIT(A) treating the undisclosed cash sales/receipts of Rs.7,54,07,283/- as business transaction and directing the AO to apply G.P rate @ 6.5% to determine the profit from the undisclosed sales/receipts.

3. Facts in brief are that a search and seizure operation u/s 132(1) of the Act was conducted on 'Agarwal Group of cases' on 25.09.2020 and on subsequent dates and the being one of the group entities of the said group, the assessee was also covered under this search. Later, the

assessee filed its return of income u/s 139(1) of the Act declaring total loss of Rs. 70,77,348/- and the return of the income was processed u/s 143(1) of the Act. Thereafter, assessment proceeding u/s 153A of the Act was initiated by issuing notice u/s 153A of the Act and in compliance to the notice u/s 153A of the Act, the assessee furnished its return declaring total loss of Rs.70,77,348/-. Subsequently, statutory notices 143(2) &142(1) of the Act along with questionnaire were issued and in reply to the notices, the assessee appeared and furnished the details, submissions & explanations of entries found in the seized/impounded materials. In the course of assessment proceeding, on perusal of the seized/impounded material (MVL-03 & AGH/HD/1), it appeared to the AO that the assessee had made cash sales of manganese ore and other raw materials from its factory in the relevant A.Y 2020-21 amounting to Rs.6,77,57,463/- and the assessee was asked to explain and substantiate those cash sales. Thereafter, after considering the explanations submitted by the assessee, the AO passed the assessment order u/s 153A of the Act by making an addition of Rs.6,77,57,463/- in respect of unexplained cash credit u/s 68 of the Act of the Act.

4. In the appellate proceedings, the Ld. CIT(A) partly allowed the appeal of the assessee after taking into account the contentions and submissions of the assessee by observing and holding as under:

“6.2.1. I have perused the assessment order as well as the submission of the assessee. On examining the same, it is observed that on analysis of seized/impounded documents with identification mark MVL/03 and AGH/HD/1, the AO noticed that the assessee has made cash sales of manganese ore & other raw materials amounting to Rs. 6,77,57,463/-. It is also found that the Bills corresponding to these cash sales are not genuine as details of the persons, to whom sales were made, were not real. The assessee also not provided the complete contact details of any of the buyers to whom sales were made. With regard to the authenticity of these Bills, it is imperative to mention that all these Bills have registration number of the trucks which were used for transportation purpose, nevertheless, when these registration numbers were randomly verified from the E-Vahan portal of Govt. of India, it was found that several of these numbers pertained to Motorcycles and Scooters. It is also noteworthy to mention that no weighbridge receipt or any other relevant

records has been produced by the assessee to substantiate these cash sales. The AO also found it illogical that the raw materials were supplied to the steel making companies and sales were restricted to the ceiling of Rs. 50,000/- only. On the part of revenue generation of the assessee, it is observed that the assessee has made last sale of Rs. 19.09 lakhs in the F.Y 2013-14 and thereafter, no sales took place in F.Y 2014-15 to F.Y 2018-19 and from 01.04.2019 to 20.09.2019. The assessee, in the course of assessment proceeding or at the time of appellate proceeding, failed to submit any cogent explanation, for the sudden/extraordinary surge in their business revenue and also to getting those buyers who were ready to buy the assessee's products/stocks in cash, during the period of AY 2020-21.

6.2.2. In its submission in the course of appellate proceeding, apart from submitting the stocks details (which already been submitted in the course of assessment proceeding) no any other relevant documents/evidences has been adduced by the assessee which could establish the genuineness of the induced cash sales in the period of AY 2020-21. There was no details, pertaining to the immediate & sudden buyers of raw materials/products of Rs.6,77,57,463/-, made available in the course of appellate proceeding. It, clearly reflects that the sales so recorded in the books are bogus and the assessee had deposited its own unaccounted cash in its bank accounts and created bogus bills showing these sales to appear the normal business transactions. Extraordinary event of unaccounted cash sale is nothing but to justify cash deposit in the bank account of the assessee. Moreover, in his statement, Sri Amar Kumar Agarwal, key person of the Agarwal group, also admitted the hidden fact of generating unaccounted cash over the years. In view of above, Rs.6,77,57,463/- was held by the AO as unexplained cash credit of the assessee in terms of section 68 of the Act as the assessee had failed to satisfy the genuineness of the cash sales made in the period of AY 2020-21.

6.2.3. During the appellate proceedings, the assessee had also argued that the sales made during the period was Rs. 7,54,07,283/- and the AO has accepted such sales booked in the P&L account and part of sales of Rs. 6,77,57,463/- doubted and added u/s 68 of the Act. Further, the assessee pleaded that, if at all, only profit embedded in such sales can be added because the stock was existing in the books since so many years. The assessee, stopped its operations, therefore, the stocks could not be consumed. The unconsumed stocks lying in godowns put for distress sale. The assessee further argued that the stock was lying with the assessee in its books of account only the profit element can be added to the income of the assessee for the AY 2020-21.

6.2.4. In this context, reliance is placed in the case of '**Commissioner of Income Tax v. Gurubachhan Singh J. Juneja, reported in (2008) 302 ITR 63 (Guj.)**', the Hon'ble High Court, Gujrat had held as under:

".....the assessee was engaged in the business of trading of tyres. Search proceedings were carried out at the residential and business premises of the assessee. On the basis of loose sheets which were seized during such search operation, the Assessing Officer held that sales to the extent of 10.85 lakhs was not found in the books of account. Such amount was included in the total income of the assessee. **The Commissioner (Appeals) gave substantial relief to the assessee and reduced the income on the basis of gross profit rate. The Tribunal confirmed the order of the Commissioner (Appeals). On further appeal before the High Court by the revenue, the High Court**

refused to refer any question holding that in absence of any material on record to show that there was any unexplained investment made by the assessee which was reflected by the alleged undisclosed sales, the finding of the Tribunal that only the gross profit on the said amount can be brought to tax does not call for any interference.”

6.2.5. Reliance is also placed in the case of **‘M/S. Alokik Steels Pvt. Ltd Village vs Principal Commissioner Of Income on 3 March, 2021, ITA No. 861/JP/2019’**, the Hon’ble ITAT, Jaipur had held as under:

“Further, there is no dispute regarding the quantum of unaccounted turnover of Rs.1,77,95,859. The assessee has declared the same in its return of income and which has been accepted by the AO as well as by Ld. Pr. CIT as there is neither any material on record nor any adverse finding recorded by Ld. Pr. CIT disputing the same. Therefore, as far as the quantum of unaccounted turnover of Rs 1,77,95,859/- is concerned, the order so passed by the AO cannot be held as erroneous and prejudicial to the interest of Revenue. Therefore, the limited issue that remains to be examined is the rate of profit so declared by the assessee on such unaccounted turnover which has not been examined by the AO which renders the assessment order as erroneous and prejudicial to the interest of the Revenue and therefore, to this limited extent, the directions of the Ld. Pr. CIT are sustained and the matter is set-aside to the file of the **AO to examine the rate of gross profit so declared by the assessee on such unaccounted turnover and decide as per law.**

In the result, appeal of the assessee is partly allowed in light of aforesaid directions.”

6.2.6. In the case of **‘Commissioner of Income Tax v. President Industries, reported in (2002) 258 ITR 654’** the Hon’ble High Court, Gujrat had taken a similar view. In the said case, during the course of survey conducted on the premises of the assessee, from the excise records found, an inference was drawn by the Assessing Officer that sales accounting to Rs. 29 lakhs and odd had not been disclosed in the books of account. The Assessing Officer made addition of the entire sum of the said undisclosed sales as income of the assessee for the assessment year 1994-95. Such addition was confirmed by the Commissioner (Appeals). The Tribunal, however, held that **“the entire sales could not have been added as income of the assessee, but only to the extent the estimated profit embedded in the sales for which the net profit rate was adopted entailing addition of income on the suppressed amount of sales.”** Such decision was carried in appeal by the revenue before the High Court. The High Court rejected the appeal, observing that “unless there is a finding to the effect that investment by way of incurring the cost in acquiring the goods which have been sold has been made by the assessee and that has also not been disclosed, such addition could not be sustained.”

6.2.7. Further I rely on the decision in the case of **‘Commissioner of Income Tax v. Samir Synthetics Mill, reported in (2010) 326 ITR 410’**, wherein the Hon’ble Gujrat High Court confirmed the view of the Tribunal accepting only the profit of unaccounted sale for the purpose of collecting tax.

6.2.8. In the case of **‘PR. Commissioner of Income Tax-2 Vs. Rameshwar Textile Mills Ltd’ ITA 527 & 528 of 2015’**, the Hon’ble Gujrat High Court had held the following:

“Commissioner (Appeals) was of the view that if the entire addition was confirmed, the gross profit ratio would go upto 23% which was definitely a distorted result looking to the present profit of the assessee concern. Considering the past trend of loss, the margin of profit in the earlier year and the large volume of turnover and also the possibility that some expenses might have been incorporated in the regular books of accounts, the Commissioner (Appeals) was of the view that the profit margin from the unaccounted additional turnover should be on the higher side as compared to the margin shown in the regular books of accounts due to which it could be safely assumed that the assessee must have earned at least 10% of the gross margin of the additional turnover which was almost double the normal gross margin as reflected in the regular books of accounts. He, accordingly, directed the Assessing Officer to estimate the income at 10% of 4,20,73,972/- and sustained the addition to the extent of 42,07,397/- as against the addition of 4,20,73,972/- made by the Assessing Officer. Thus, in the assessee's appeal challenging the rate of gross profit estimated at 10% on the ground that it was on the higher side, the Tribunal has found that the Commissioner (Appeals) while estimating the gross profit at 10% had not given any basis for the same, though he had referred to the gross profit rate of the assessee at 5.22% in assessment year 2006-07 and 4.85% in the current assessment year. The Tribunal was of the view that having regard to the fact that the highest rate of gross profit shown by the assessee in assessment year 2006-07, which was 5.22%, had been accepted by the department, the gross profit rate disclosed by the assessee at 4.85% was on the lower side and, accordingly, estimated the gross profit of the unrecorded receipt at 6.50%. The Tribunal, accordingly, modified the order passed by the Commissioner (Appeals) to that extent and directed the Assessing Officer to accept the gross profit rate of the suppressed receipt of 4,20,73,972/- at 6.50%. It was evident that the Commissioner (Appeals) had estimated the gross profit at 10%, whereas the Tribunal having regard to the gross profit of the previous year, which **was 5.22% and which had been accepted by the revenue has, on the very same material, estimated the gross profit at 6.50%**, which is higher than the gross profit accepted by the Department in relation to the previous year. Nonetheless, both, the Commissioner (Appeals) as well as the Tribunal, have resorted to estimation for the purpose of computing the gross profit. **Thus, ultimately the gross profit has been determined on the basis of an estimate. As to whether the estimate of gross profit by the Commissioner (Appeals) was to be accepted or that by the Tribunal was to be accepted, cannot in any manner be said to give rise to a question of law, much less, a substantial question of law, so as to warrant interference.”**

6.2.9. In view of the aforesaid judicial pronouncements as well as the discussions held above, to meet the ends of justice, I estimate the profit in the cash sales of raw materials by applying GP rate at 6.5 % on the same. Hence, the profit element embedded in the undisclosed cash sales/receipts of Rs. 7,54,07,283/- (supra) becomes Rs. 49,01,473/- [6.5% of Rs. 7,54,07,283/-]. Hence, the addition of Rs. 49,01,473/- is upheld and Rs. 6,28,55,990/- is deleted. Therefore, these grounds raised by the assessee are partly allowed.”

5. After hearing the rival contentions and perusing the materials on records including the appellate order passed by the 1d CIT(A) , we observe that it is undisputed fact, the assessee accepted the undisclosed

sales in the impounded materials during search. The AO added the entire amount of such undisclosed sales whereas the Id CIT(A) directed the application of G.P. rate to assess the profit element embedded in the said sales. We have perused the appellate order and find that Id. CIT(A) has passed a very reasoned and speaking order by taking a reasonable view in the matter. Certainly the undisclosed sales have to be brought to tax by applying G.P. rate and in no way the entire sales can be allowed to be added to the income of the assessee. Consequently, we uphold the appellate order passed by the Id. CIT(A). The appeal of the revenue is dismissed.

6. In the result, the appeal of the revenue is dismissed.

Kolkata, the 23rd December, 2025.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 23.12.2025.

RS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches