

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2544/DEL/2024
(Assessment Year: 2013-14)**

Aggarwal Agro Industries,
Pingli Road,
Karnal – 132 001 (Haryana).

vs.

ITO, Ward 1,
Karnal.

(PAN : AAXFA4681L)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Manav Agarwal, AR

REVENUE BY : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing : 17.11.2025

Date of Order : 30.12.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [“Ld. CIT(A)”, for short] dated 02.05.2024 for the Assessment Year 2013-14.
2. Brief facts of the case are, based on the information received from the DDIT(Inv), Panipat, during the year under consideration, the assessee has entered into the transactions of Rs.1,23,09,876/- with entry operators for

taking accommodation entries, the JAO initiated action u/s 147 of the Income-tax Act, 1961 by issuing notice u/s 148 of the Act dated 20.03.2020 requiring the assessee to file its return of income. However, the assessee has not filed its return of income in response to the notice issued u/s 148 of the Act. Thereafter, notices u/s 142(1) of the Act on were issued to the assessee for submission of required details/documentary evidences/clarifications related to transactions of Rs.1,23,09,876/- made with the dummy concerns. In response, the assessee filed its reply through e-communication dated 24.03.2021 and stated that, “.....*Return of income filed originally u/s 139(1) may be treated as filed in response to notice u/s 148....*”. On perusal of acknowledgment of return, Assessing Officer observed that the assessee has shown total income of Rs.1,950/-. Thereafter, notice u/s 143(2) of the IT Act dated 30.06.2021 was issued to the assessee. In reply, assessee submitted that :-

- (i) Assessee have maintained complete record of all the transactions carried out during the year including those in question. All the necessary documents with regard to these transactions are being submitted alongwith this reply to prove the genuineness of the transactions;
- (ii) Assessee have duly declared all the transactions in the quarterly VAT returns filed with the HVAT Authorities Karnal;

- (iii) that the VAT assessment for the year under consideration has already been completed and all the transactions have duly been accepted by the VAT authorities.
- (iv) that mere statement of a third party cannot be the basis of any additions. This principle has been established by various court judgments like Concept Communication Ltd Vs DCIT (ITAT Mumbai)
- (v) If Assessing Officer is still not convinced with the genuineness of the transactions, assessee seek an opportunity to cross examine the party on whose statement the department is relying upon. In the case of Bhatia Diamonds Pvt Ltd Vs ITO, The Hon'ble Delhi ITAT has held that" addition under section 69C on the basis of statement of third party without granting opportunity of cross examination to assessee was not valid as it amounted to violation of principle of natural justice and against the law." Similarly the Hon'ble Supreme Court in the case of CIT Vs Sunita Dhadda has held that, "If the AO wants to rely upon documents found with third parties, the presumption u/s 292C against the assessee is not available. As per the principles of natural justice, the AO has to provide the evidence to the assessee & grant opportunity of cross-examination. Secondary evidences cannot be relied on as if neither the person who prepared the documents nor the witnesses are produced. The violation of natural justice renders the assessment void"
- (vi) Accordingly, assessee requested that the returned income of the assessee be accepted.

3. However, Assessing Officer did not find the submissions acceptable because the assessee has not provided complete details and documentary evidences to prove the genuineness of the transactions made with the following concerns and requested for an opportunity to cross examine the party on whose statement the department is relying upon. The transactions made with the dummy concerns are produced hereunder.

Sr.No.	Name and address of the dummy/ shall/ paper concerns	Amount of accommodation entries provided by the dummy/ paper concerns.
1	M/s Aggarwal Trading Company, Prop Ashok Kumar, PAN:BSBPK2526H A/c No.4205135000000355 (The Karur Vysya Bank Ltd)	Rs.52,10,000/-
2	M/s Gagan Enterprise, Prop of Sanjeet Kumar, PAN:AYGPK6223R A/c No. 4205135000000343 (The Karur Vysya Bank Ltd)	Rs.10,00,000/-
3	M/s Gurudev Trading Company, Prop. Prem Chand Maheshwari, PAN:AJCPM3339B A/c No. 4205135000000331 (The Karur Vysya Bank Ltd)	Rs.25,50,000/-
4	M/s Shree Shiva Agro Traders, Prop. Ram Karan PAN:CDCPK2482D A/c No.4205135000000530 (The Karur Vysya Bank Ltd)	Rs.35,49,876/-
	Total	Rs.1,23,09,786/-

Assessing Officer further observed that the assessee has not provided complete details and documentary evidences of transactions made with the above concerns and, therefore, notice u/s 142(1) of the IT Act was issued and duly served upon the assessee through its registered e-mail

address on 03.08.2021 for submission of following complete details and documentary evidences of the transactions made with the above concerns and prove the genuineness of the transactions made with them.

- Nature of transactions made with the above concerns.
- Confirmation accounts alongwith ID, signature and address proof of the proprietors of the above concerns.
- Copies of ITRs and copies of bank accounts of the above concerns.
- Copies of bills and complete details and documentary evidences of goods sold/purchased to/from the above concerns.
- Complete details and documentary evidences of transportation of goods alongwith vehicle No. and documentary evidences of taxes/ duties/road tax etc paid during the transportation of goods(sold/purchased to/from the above concerns).
- Stock register for the period from 01.04.2012 to 31.03.2013 alongwith complete details and documentary evidence of goods purchased/sold during the year under consideration.

4. However, Assessing Officer observed that the assessee has not responded and has not provided the above mentioned details/documentary evidences in support of its claim and also not proved the genuineness of transactions made with the above mentioned concerns.

5. Further, Assessing Officer observed that in the case of Manidhari Stainless Wire (P) Ltd. v. Union of India 88 taxmann.com 10, the High Court of Andhra Pradesh while dealing with the case of Central Goods

and Services Tax Act 2017 has held that: The right to cross examine is not absolute at least in so far as the cases of this nature are concerned. If there are factual grounds to show that the denial of cross examination was based upon the sound logic, then the order of adjudication cannot be interfered with and also relying on other decisions, he did not allow the cross objection.

6. In this case, Assessing Officer observed that during the search and seizure operation u/s 132 of the Act dated 23.05.2017, Shri Hitesh Jain, Prop. of M/s Mittersain Rajeshkumar, has in his statement, admitted that, he was involved in providing accommodation entries to various beneficiaries with the help of 39 shell/ paper concerns. Further, during the post search investigation, the DDIT(Inv) had issued summons u/s 131(1A) of the Act to all the shell /paper concerns for verification and existence of these concerns. However, all the summons were returned unserved. The DDIT(Inv), also deputed inspectors of the Income tax department to verify existence of these concerns. In their reports, the inspectors of income tax department reported that, none of these concerns were existing at their ITR addresses.
7. Accordingly, he observed that the assessee has not made any sales/ Purchase of material to/from the dummy/ paper concerns M/s Aggarwal Trading Company, M/s Gagan Enterprise, M/s Gurudev Trading

Company and M/s Shree Shiva Agro Traders. The said concerns were created by Shri Hitesh Jain for providing accommodation entries to various beneficiaries. During the year under consideration, the assessee has received cash credits of Rs.1,23,09,876/- for the purpose of evading tax. Therefore, the accommodation entries of Rs.1,23,09,876/- received by the assessee from the dummy concerns is added to the total income of the assessee on account of unexplained cash credit received by the assessee from unaccounted sources of income as per the provisions of section 68 of the IT Act.

8. Further, for the purpose of providing accommodation entries, he observed that the assessee may have paid minimum amount of Rs.61,549/- at the rate of 50 paise per hundred rupee of Rs.1,23,09,876/- in cash for the said purpose. Thus, the amount of Rs.61,549/- is added to the total income of the assessee as per the provisions of Act. Accordingly, Assessing Officer assessed the total income of the assessee at Rs.1,23,73,375/-.
9. Aggrieved assessee preferred an appeal before the Id. NFAC, Delhi and filed grounds of appeal as well as additional evidences. Ld. CIT (A) after going through the submissions and relying on various judgments did not accept the additional evidences filed by the assessee. Further Id. CIT (A), after going through the submissions

of the assessee, dismissed the appeal filed by the assessee.

10. Aggrieved against the above order, assessee is in appeal before us raising following grounds of appeal :-

“1. That in the absence of the mandatory existence of the conditions precedent to the assumption of jurisdiction under section 147 of the Act, the action of the A.O in framing an assessment order for the AY 2013-14 is wholly illegal and deserves to be quashed and the Ld. CIT(Appeals) as further erred in confirming the same.

2. That without prejudice to the above ground of appeal, by not following the procedure and principles laid down by the Hon'ble Apex Court in GKN DRIVERSHAFTS INDIA LTD [2002] 125 TAXMAN 963 (SC) in the present case, the Ld. A.O has rendered the re-assessment order framed as an illegal order and void ab-initio and the Ld. CIT(Appeals) has further erred in confirming the same.

3. That without prejudice to above grounds of appeal, the re-assessment proceedings have been initiated on fundamentally wrong facts clearly demonstrating non application of mind and the subsequent action of the Ld. A.O in framing a re-assessment order for the AY 2013-14 based on same wrong facts is wholly illegal and deserves to be quashed and the Ld. CIT(Appeals) has further erred in confirming the same.

4. That without prejudice to above grounds of appeal, re-assessment proceedings have been initiated on mere suspicion, conjectures and surmises, demonstrating non-application of mind and the re-assessment order thus framed by the Ld. A.O for the AY 2013-14 is wholly illegal and deserves to be quashed and the Ld. CIT(Appeals) has further erred in confirming the same.

5. That without prejudice to above grounds of appeal, the Ld. A.O has initiated re-assessment proceedings solely on some third party information on which no further and independent mind was applied and resultant re-assessment order thus framed by the Ld.

A.O for the AY 2013-14 on borrowed satisfaction is wholly illegal and deserves to be quashed and the Ld. CIT(Appeals) has further erred in confirming the same.

6. That without prejudice to above grounds of appeal, the Ld. A.O has framed an assessment order u/s 147 of the Act with a pre-conceived intent and in complete defiance of the basic principles of natural justice and equity as the opportunity of cross examination despite specific request was arbitrarily rejected, rendering the said assessment order an illegal order which deserves to be quashed and the Ld. CIT(Appeals) has further erred in confirming the same.

7. That without prejudice to above grounds of appeal, the Ld.CIT (Appeals) has grossly erred in not admitting the Additional evidence under Rule 46A of the Income Tax Rules.

9. That without prejudice to the first six grounds of appeal, the A.O has miserably failed in appreciating the information in his possession in a proper, logical and legal manner and has thus framed an assessment order which is highly illogical and arbitrary and the Ld. CIT(Appeals) has further erred in confirming the same.

10. That without prejudice to the first six grounds of appeal, the A.O has miserably failed in appreciating the submissions, replies and documents submitted in support of Sales made in the ordinary course of the business of the assessee in a proper, logical and legal manner and has thus added Rs.1,23,09,876/- to the Returned Income of the assessee u/s 68 of the Act as cash credits which is highly illogical, arbitrary and based merely on suspicion, conjectures and surmises and the Ld. CIT(Appeals) has further erred in confirming the same.

10. That without prejudice to the first six grounds of appeal, the Ld. A.O has failed to peruse and appreciate the assessment orders passed in similar cases and the non application of the same in the present case of the assessee is violative of the principles of judicial consistency, rendering the assessment order passed as highly arbitrary & illogical and the Ld. CIT(Appeals) has further erred in confirming the same.

11. That Without prejudice to the first six grounds of appeal, the Ld. A. O has erred in concluding the assessment proceedings in an arbitrary, casual and Vague manner wherein without even first ascertaining or identifying the specific credit entries in the books of the assessee, an amount of Rs.1,23,09,876/- has been treated as unexplained cash credit u/s 68 of the Act through a non- speaking and perverse order which deserves only to be quashed and the ld. CIT(Appeals) has further erred in confirming the same.

12. That Without prejudice to the first six grounds of appeal, the Ld. AO has erred in law and on facts in making addition of Rs.61,549/- on account of alleged commission paid by treating it as alleged income Under the head 'Income from Other Sources' and that too by recording incorrect facts and findings and without any basis, material or evidence available on record and the Ld. CIT(Appeals) has further erred in confirming the same.”

11. At the time of hearing, ld. AR of the assessee brought to our notice relevant facts and submitted that ld. CIT (A) has not accepted the additional evidence. He prayed that the additions proposed are not justified.
12. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
13. Considered the rival submissions and material placed on record. We observed that the assessee has taken the abovesaid unsubstantiated purchase and sale from the parties verified by the Department. Considering the overall facts on record, for the sake of justice, we are inclined to direct the Assessing Officer to sustain

only 10% of the alleged purchase and sale based on the cash credit received by the assessee. It is also observed that even though the assessee has recorded such huge transaction, declared only meagre profit. The proposed addition of 10% of the cash credit will be just and proper profit, they would have earned in this transaction. Further, the alleged commission of 0.50% of the cash credit is uncalled for.

14. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on this 30th day of December, 2025.

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 30.12.2025
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**