

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “DB” BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

ITA No.19/DDN/2025

[Assessment Year: 2018-19]

Mr. Atul Kumar Agarwal Prop.M/s. R.K. Industries, Manpur Road, Kashipur, U.S. Nagar, Uttarakhand- 244713 PAN-AAOPA9970H	vs	National e-Assessment Centre, New Delhi
APPELLANT		RESPONDENT
Assessee by	Shri Deepak Joshi, Adv. & Shri Rudra Pratab, Adv.	
Revenue by	Shri Amar Pal Singh, Sr.DR	
Date of Hearing	13.11.2025	
Date of Pronouncement	16.01.2026	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 04.12.2024 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. NFAC/2017-18/10235798 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising from the assessment order dated 15.03.2023 passed u/s 147 r.w.s. 144B of the Act pertaining to Assessment Year 2018-19.

2. Brief facts of the case are that assessee filed his return of income on 15.08.2018, declaring total income at INR 5,81,560/-.

The case of the assessee was re-opened u/s 147 of the Act. Accordingly, notice u/s 148 was issued on 30.03.2022, in response to which the assessee filed return of income on 03.05.2022, declaring same income as was declared in the return filed u/s 139(1) of the Act. Thereafter notice u/s 143(2) of the Act was issued followed by notices u/s 142(1) alongwith questionnaires. In response filed replies from time to time. After considering the submissions made by the assessee, AO completed the assessment vide order dated 15.03.2023 passed u/s 147 r.w.s. 144B of the Act wherein the total income was assessed at INR 54,23,320/-.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 04.12.2024, dismissed the appeal of the assessee.

4. Aggrieved by the order of Ld. CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That the appellant is engaged in the business of ‘Rice Milling’, i.e. manufacturing of Rice, Rice Bran & Paddy Husk out of hulling of Paddy. The Rice Mill unit is under Proprietorship constitution, of which appellant, Atul Kumar Agarwal, having PAN: AAOPA9970H, is Proprietor.*
2. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of alleged bogus purchases of Rs. 48,41,760/- u/s 69C which was made merely relying on the statement of the party (alleged entry operator), without making any independent enquiry or finding any corroborative evidence in this regard.*
3. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of Ld. AO without appreciating the fact that the Appellant produced all invoices of purchases, the ledger of the party concerned, bank statements (extracts)*

evidencing payment through RTGS/NEFT, Goods Receipts & thereby discharging his primary onus of proving the transaction to be genuine.

4. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating that the Ld. AO has not discharged its burden of proof as the Ld. AO has neither pointed out a single error or discrepancy in documents/evidences the submitted by the Appellant nor conducted any independent investigation.*
5. *In the facts and circumstances of the case and in law, the Learned CIT(A) has erred in confirming the addition of Rs. 48,41,760/- being 100% of the alleged bogus purchases of Rs. 48,41,760/-merely on surmises and conjectures.*
6. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the fact that the alleged bogus purchases constituted only a meagre 7% of the total purchases (of raw material & trading items) of the Appellant.*
7. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of 100% of the alleged bogus purchases whereas only the profit element on such alleged bogus purchases can be added to income and not the entire purchase amount.*
8. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of Ld. AO in completing the reassessment proceedings without providing any opportunity of cross examination of the witnesses/statements of the third party relied upon by the Ld. AO and thus violating the principle of natural justice laid down by the Hon'ble Supreme Court.*
9. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of Ld. AO only on the basis of statements recorded u/s 133A r/w 131(1) which do not hold any evidentiary value.*
10. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in disregarding the fact that the Ld. AO has made addition under section 69C without disputing the corresponding sale transactions which are borne out of the very same purchases.*
11. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming action of the Ld. AO in levying interest u/s 234A/B/C/D of the Act.*
12. *In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming action of the Ld. AO in initiating penalty u/s 271AAC of the Act.”*

5. Regarding **Ground of Appeal Nos.1 to 10**, Ld.AR for the assessee submits before us that assessee had made purchases from one party, Shri Mahavir Prasad Suresh Kumar amounting to INR 48,41,760/- which was alleged as bogus based on the statement of Shri Ashok Kumar Gupta and Shri Suresh Kumar recorded on oath during the survey action u/s 133A of the Act conducted on 30.11.2018. As per AO, they admitted engaged in providing accommodation entries of purchases to various persons and one of the beneficiaries was M/s. Mahavir Prasad Suresh Kumar from whom assessee made the purchases of Rs. 48,41,760/- during the year under appeal. Ld.AR submits that assessee is engaged in the business of rice milling i.e. manufacturing rice, rice bran and paddy husk out of hulling of paddy. The books of accounts of the assessee were duly audited and during the course of assessment proceedings, all the documents pertaining to alleged purchases were filed before the AO which includes copy of invoices, goods receipts bilties, bank statements evidencing the payment made through banking channel. Ld.AR further submits that assessee is maintaining day to day stock register which was never doubted by the lower authorities. He submits that assessee has purchased total quantity of 19246.08 Qtls. out of which only 2200.80 Qtls. were purchased from M/s Mahavir Prasad Suresh Kumar which is approx. 11% of total purchases used in the manufacturing activities and the price paid were at Arm's Length Prices ("ALP") which fact has not been controverted by AO/CIT(A). Ld. AR submits that AO based on the information received through High-Risk CRU that assessee has purchased goods from parties who either is entry provider or had purchased goods

from entry operators however, no independent inquiry whatsoever was carried out by the AO before alleging so. Ld. AR further submits that once the books of accounts of assessee were accepted including trading results declared, no further addition is required to be made on account of purchases by alleging the same as bogus. He further submits that assessee has filed all the evidence and discharged the burden casted upon it therefore, the entire purchases alleged bogus cannot be added. Alternatively, it is submitted that under these circumstances at the most, a reasonable profit rate be applied to the facts of the present case. He also placed reliance on the following judgements in support of his claim:-

- (i) Diamond Tradex Co. Ltd. Vs. CIT, 2023 SCC OnLine ITAT 539 (ITAT DELHI)
- (ii) Sunita Grover vs. ITO (ITA.NO.3233/DEL/2024)
- (iii) Vinod Karsanbhai Patel, vs. The ACIT, Central Circle 17 Delhi (ITA NO. 7384/DEL/2018)
- (iv) Bhartiya International Ltd. v. CIT, (2024) 112 ITR (Trib) 207
- (v) PCIT vs. Mr. Sanjay Dhokad, Ita (It) No. 795 Of 2018 (BOM HC)
- (vi) PCIT vs. Shapoorji Pallonji & co. Ltd. ITA NO. 1298 OF 2017 (BOM HC)
- (vii) Pr. CIT vs. Jagdish Thakkar [2022] 145 taxmann.com 414 (BOM HC)
- (viii) Pr. CIT vs. Nitin Ramdeoiji Lohia (2022) SCC OnLine Bom 11894

- (ix) CIT vs. S. Khader Khan Son. (2008) 300 ITR 157
- (x) Pr. CIT-19 vs. SV Jiwani (ITA NO. 552 OF 2018) (BOM HC)
- (xi) CIT-7, New Delhi vs Odeon Builders Private Ltd. (2020) 17 SCC 311
- (xii) ACIT, Central Circle-7 vs. Karam Chand Rubber Industries (P) Ltd. (ITA NO. 6599/DEL/2014)

6. Heard the contentions of both parties and perused the material available on record. From the perusal of details filed before the AO, it is seen that the assessee has filed all the evidence to prove the genuineness of purchases made from the party alleged as bogus which includes purchasing invoices, bills containing the details of the vehicles through which the goods were transported to assessee's factory premises. He further submits the bank statements wherein all the payments made to the alleged bogus party are debited. The AO except making reference to the information available at the portal of assessee, has not been able to controvert the evidence filed by the assessee to discharge the burden of proving genuineness of purchases alleged as bogus. It is seen that AO has not made any effort to even issue summons u/s 133(6) to the suppliers to re-affirm the facts stated by the assessee nor were any further inquiries made. It is seen that though he referred to certain statements of Shri Ashok Kumar Gupta and others recorded during the survey on 30.11.2018 however, none of the statements were provided to the assessee.

7. Under these circumstances, when the assessee has been able to discharge the burden casted upon it of proving the genuineness of

the purchases made. The assessee also has been able to establish that only 11% of the total purchases were made by the parties and no defect was pointed out in the quantitative details submitted by the assessee. The AO cannot disallow the entire purchases made from the supplier alleged as bogus when he has accepted the production and sales thereof. However, it is admitted by Shri Ashok Kumar Gupta that he was indulged in providing accommodation entries to various parties and one of the beneficiaries was M/s. Mahavir Prasad Suresh Kumar from whom assessee had purchased raw material thus, there can be an attempt on the part of assessee to suppress the profits by introducing bogus purchases from such supplier. It is also an admitted fact that sales have not been doubted therefore, looking to the entirety of the facts, in our considered opinion and further considering the Gross Profit and Net Profit declared by the assessee which is 7% and 1.5% respectively, a profit rate of 4% on alleged bogus purchases of INR 48,41,760/- as additional income of the assessee would be reasonable to meet the end of justice. With these directions, Ground of appeal Nos. 1 to 10 raised by the assessee are partly allowed.

8. **Ground of appeal No.11** raised by the assessee is with respect to the levy of interest u/s 234A/234B/234C/234D of the Act which are consequential in nature.

9. **Ground of appeal No.12** raised by the assessee is with respect to the initiation of penalty u/s 271AAC of the Act, which is premature hence, dismissed.

10. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 16.01.2026.

Sd/-

**(YOGESH KUMAR U.S)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:- 16.01.2026

Amit Kumar, Sr.P.S

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