

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

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

**ITA No.3985/Del/2025
[Assessment Year : 2022-23]**

VSG Pan Industries Pvt.Ltd., SCO No.43, 1 st and 2 nd Floor, Emperor Square SCO, TDI City, Kundli, Nathupur, Sonipat, New Delhi-131029 PAN-AAHCV4675L	vs	DCIT/ACIT Central Circle-II Noida
APPELLANT		RESPONDENT
Appellant by	Shri Sudesh Garg, Adv. & Shri Prince Bansal, CA	
Respondent by	Ms. Rajinder Kaur, CIT DR	
Date of Hearing	19.11.2025	
Date of Pronouncement	16.01.2026	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by assessee against the order dated 26.05.2025 passed by Ld. Commissioner of Income Tax (A)-3, Noida [“Ld. CIT(A)”] in Appeal No. CIT(Appeals) Noida-3/10079/2021-22 u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 30.03.2024 passed u/s 143(3) of the Act pertaining to Assessment Year 2022-23.

2. Brief facts of the case are that assessee company is engaged in the business of manufacturing and trading of Pan Masala and filed its return of income on 04.10.2022, declaring total income of INR

16,27,86,890/-. A search and seizure action was carried out on 21.02.2023 at M/s. Montage Enterprises Pvt. Ltd. ("MEPL") wherein it was found that assessee has made certain cash purchases which were not recorded in the books of accounts amounting to INR 8,31,30,000/-. The AO applied G.P. rate of 20.20% and made the addition of INR 2,10,42,932/- on such cash purchases and further disallowed INR 1,03,17,871/- out of turnover incentive allowed by assessee and claimed in the Profit & Loss Account.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide impugned order dated 26.05.2025, deleted the disallowance of turnover incentives and confirmed the addition of INR 2,10,42,932/- made by estimating profits on cash purchases and thus, partly allowed the appeal of assessee.

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

1. *"The Ld. CIT(A) has erred on facts and in law in confirming the addition of Rs. 2,10,42,932/- made by the Ld. AO in gross violation of principles of natural justice without providing certified copies of the documents and statements on the basis of which adverse assumptions and erroneous inferences were drawn against the appellant.*
2. *The Ld. CIT(A) has erred on facts and in law in confirming the addition of Rs. 2,10,42,932/- made by the Ld. AO in gross violation of principles of natural justice relying upon the statement of certain person without providing any opportunity of cross examination of the said person in spite of repeated requests having been made for the same.*
3. *The Ld. CIT(A) has erred on facts and in law in drawing adverse assumptions and inferences against the appellant which cannot be even remotely derived from the alleged unilateral evidence mentioned by the AO.*

4. *The Ld. CIT(A) has erred on facts and in law in confirming the addition of Rs. 2,10,42,932/- made by the Ld. AO by rejecting the books of account of the appellant in gross violation of principles of natural justice and further erred in confirming the addition made contrary to specific provisions of section 145 of the Income Tax Act.*
5. *The Ld. CIT(A) has erred on facts and in law in confirming the addition of Rs. 2,10,42,932/- made by the Ld. AO @20.20% by comparing the same with gross profit declared by the appellant and further erred in assuming the identical amount to be the taxable income on the alleged unaccounted purchase of Rs.8,31,30,000/-.*
6. *All the grounds of appeal above are without prejudice to each other.”*

5. Since all the **Ground of appeal Nos. 1 to 6** raised by the assessee are with respect to the addition of INR 2,10,42,932/- made therefore, they are taken together and decided as under:-

6. Before us, Ld.AR for the assessee submits that except for some so-called statement of the employee, Shri Manoj Kumar Kandpal of M/s. Montage Enterprises Pvt. Ltd. no other material whatsoever was brought on record to hold that the assessee was indulged in making cash purchases/unrecorded purchases from the said party. Ld. AR further submits that the AO has not provided any opportunities to cross-examination the witnesses of the department whose statements were made basis against the assessee and reject the books of accounts solely for the reason that there were certain cash purchases were found. He submits that AO has failed to consider the fact that assessee has shown sales of INR 682.97 crores and the corresponding purchases were duly backed by necessary documentary evidences and had not been doubted at any stage. He further submits that M/s Montage Enterprises Pvt. Ltd. was supplying packing material which was used for packaging the Pan Masala and sales made have never been doubted. Therefore, he prayed for the deletion of additions made by the AO.

7. In the alternate, it is submitted that the G.P rate applied is exorbitant high and requested the same be suitably modified/reduced the profit rate on the alleged transactions looking to the facts of the case. He prayed accordingly.

8. On the other hand, Ld. CIT DR for the Revenue supported the orders of the lower authorities and requested for the confirmation of the additions made. He further submits that the AO has applied GP which is declared by the assessee itself and thus the same deserves to be upheld.

9. Heard the contentions of both parties and perused the material available on record. We find that as many as 40 diaries were found and seized from the possession of one of the employees of M/s. Montage Enterprises Pvt. Ltd. and in the statement recorded, it was accepted that the cash sales recorded were made to the assessee. Once it is established that the said transactions are with respect to unaccounted purchases made by assessee, trading results declared by the assessee cannot be accepted as such and therefore, the lower authorities have rightly invoked the provision of section 145(3) of the Act which is hereby, upheld. Now coming to the issue of application of reasonable profit rate, the AO has applied G.P. rate on such alleged cash/unrecorded purchases however, it is an established fact that in case of unrecorded sales net profit rate should be applied. Further, assessee has purchased packing material from the said firm which is used for packaging the Pan Masala and it is not the case of the revenue that assessee has sold the Pan Masal out of books through

the said cash purchases nor any cost of Pan masala is added and therefore the GP declared from the sale of packed Pan masala cannot be applied to unrecorded purchases of packaging material and the profit element on such unrecorded purchases of packing material is substantially very low.

10. Looking at the entirety of the facts and circumstances of the case, in our considered opinion, net profit rate of 3 % on the alleged undisclosed cash purchases of INR 8,31,30,000/- would meet the end of justice. Accordingly, we direct the lower authorities to apply N.P. rate of 3 % on such undisclosed purchases. The Grounds of appeal Nos. 1 to 6 raised by the assessee are thus, partly allowed.

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

Order pronounced in the open Court on 16.01.2026.

Sd/-

**(MAHAVIR SINGH)
VICE PRESIDENT**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date- 16.01.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

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2. Respondent
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ASSISTANT REGISTRAR
ITAT, NEW DELHI