

IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI
VIRTUAL HEARING AT KOLKATA

**Before Shri Sonjoy Sarma, Judicial Member
and Shri Ratnesh Nandan Sahay, Accountant Member**

I.T.A. No.75/Ran/2022
Assessment Year: 2009-10

M/s Anjeneya Ispat Ltd.....Appellant
29, Rain Basera, Sanjay Nagar Colony,
Adityapur, Saraikela, Jharkhand- 831013.
[PAN: AAGCA1031N]

vs.

DCIT, Circle-1, Jamshedpur.....Respondent

Appearances by:

Shri Devesh Poddar, Adv., appeared on behalf of the appellant.

Shri Kanhaiya Lal Kanak, CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : December 18, 2025

Date of pronouncing the order : January 06, 2026

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee is directed against the order of the CIT(A), Jamshedpur (hereinafter referred to as "CIT(A)") dated 25.09.2017 passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2019-20 declaring a total income of ₹62,64,116. The case was selected for complete scrutiny. During the relevant previous year, a survey operation under section 133A of the Income-tax Act, 1961 was conducted at the business premises of the assessee on 16.02.2019. Subsequently, statutory notices under sections 143(2) and 142(1) of the Act were issued. In response thereto, the assessee appeared from time to time and furnished various details and documents as called for. The same were examined and discussed by the Assessing Officer during the course of assessment proceedings. During

the course of survey, physical inventory of stock was taken and the total stock was valued at ₹1,73,76,122. As per the books of account, the closing stock of raw material was shown at ₹66,49,227. Accordingly, the Assessing Officer worked out an alleged excess stock of ₹1,07,26,895. In response to Question No. 7 of the statement recorded under section 133A(3) at the time of survey, it was stated that the books of account were not updated as on the date of survey and therefore the difference had arisen. It was also stated that the assessee was unable to immediately explain the discrepancy and an amount of ₹25,00,000 was offered as income, on which advance tax was paid. The Assessing Officer, however, treated the statement as an admission of undisclosed investment and added the entire amount of ₹1,07,26,895 as unexplained investment under section 69 of the Act. During physical verification of cash, a difference of ₹4,08,000 was found as compared to the cash balance reflected in the cash book. The assessee explained that on the date of survey, i.e., 16.02.2019, the books of account were not updated and several entries were yet to be passed, resulting in such difference. The explanation was not accepted by the Assessing Officer, who treated the amount as unexplained expenditure and made an addition of ₹4,08,000 under section 69C of the Act. The Assessing Officer noticed that the assessee had paid asset management fee of ₹14,38,359 to ICICI Prudential AMC. According to the AO, the said expenditure related to management of mutual fund investments, income from which was exempt under section 10(23). Accordingly, the AO disallowed the amount under section 14A of the Act. The AO also observed that tax was not deducted at source on the said payment. The Assessing Officer further made the following additions:

1. Unexplained investment of ₹17,70,410 under section 69, as the assessee failed to produce supporting evidence.

2. Unutilized CENVAT of ₹20,55,972, which was added back under section 145A of the Act. Consequently, the total income of the assessee was assessed at ₹2,26,64,752.

3. On appeal, the CIT(A) partly allowed the appeal. The issues relating to unexplained investment of ₹17,70,410 and unutilised raw material of ₹20,55,972 were set aside to the Assessing Officer for fresh verification. However, the CIT(A) sustained the addition of ₹1,07,26,895 towards excess stock, sustained the addition of ₹4,08,000 towards short cash, sustained disallowance of ₹14,38,359, but while doing so, changed the section from 14A to 40(a)(ia), treating it as a clerical error, without issuing any notice to the assessee.

4. Aggrieved by the order of the CIT(A), the assessee is in appeal before the Tribunal challenging the sustenance of additions comprising (i) CIT(A) erred in enhancing the addition by making an addition of ₹4,26,23,878 over and above the addition of ₹1,07,26,895 made by the Assessing Officer (ii) addition of ₹4,08,000 on account of alleged short cash, and (iii) disallowance of ₹14,38,359 towards diesel allowance, wherein the CIT(A) changed the applicable provision from section 14A to section 40(a)(ia) without issuing any notice or granting opportunity of being heard to the assessee.

4.1 The learned counsel for the assessee further submitted that the CIT(A) erred in enhancing the addition by making an addition of ₹4,26,23,878 over and above the addition of ₹1,07,26,895 made by the Assessing Officer, which is bad in law. Even assuming, though not admitting, that during the survey proceedings the assessee agreed to a disclosure of ₹25,00,000 on account of excess stock, if the alleged excess stock is taken at ₹5,33,60,773, the assessee has already offered additional income of ₹25,00,000, which works out to approximately

4.68% of the total alleged excess stock, whereas the book profit rate for the year under consideration is only about 2.05%. Thus, even the enhanced addition sustained by the CIT(A) stands adequately covered by the disclosure already made. The alleged excess stock is based solely on a stock valuation report prepared during the course of survey, without any corroborative evidence. It is a settled position of law that in the absence of corroborative material, the entire value of excess stock cannot be brought to tax and, at best, only the profit element embedded therein can be assessed. The ld. AR relied on the decision of the ITAT Ranchi Bench in the case of M/s Alope Steel Industries Pvt Ltd Vs ACIT in ITA No. 86/Ran/2024 dated 09/10/2025 wherein it has categorically been held that no addition of stock can be made solely on basis of the valuation report in absence of any corroborative evidence.

4.2 It was further submitted that the alleged short cash of ₹4,08,000 ought to be telescoped against the excess stock, and making a separate addition would amount to double taxation, which is impermissible in law. Accordingly, it was prayed that both the additions relating to excess stock and short cash deserve to be deleted, especially when sufficient additional income had already been offered by the assessee during the survey operation itself.

4.3 With regard to the disallowance of disallowance of ₹14,38,359, it was contended that the CIT(A) committed a serious legal error in changing the applicable section from section 14A to section 40(a)(ia) without issuing any show-cause notice or granting reasonable opportunity of being heard to the assessee. Such an action is in clear violation of the principles of natural justice and, therefore, the disallowance so sustained is bad in law. The ld. AR relied on the decision of Hon'ble ITAT Chennai Bench in the case of Smt. Sekar Jayalakshmi

vs. Income-tax Officer [2023] 150 taxmann.com 120 (Chennai - Trib.)[21-12-2022] wherein it has been held as under:-

7. Both the sides have been heard, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. In this case, the Assessing Officer made addition of Rs. 6,00,000/- as unexplained credit. However, the Assessing Officer has not mentioned the relevant section under which, the addition was made, but "unexplained credit" comes under section 68 of the Act. In the appellate order, in page No. 7, para (v), the ld. CIT(A) has noted that "However, I am also in agreement with the appellant that the provisions of section 68 are not applicable to the appellant". Therefore, the ld. CIT(A) treated the addition of Rs. 6,00,000/- as unexplained money under section 69A of the Act and confirmed the addition. Section 68 of the Act deals with "unexplained Credit" in the books of the assessee and section 69A of the Act deals with "unexplained money, bullion, jewellery or other valuable article". Both are entirely different. Though the Assessing Officer has not mentioned the section 68 of the Act in his order, the very fact that he calls it "unexplained credit" and not "unexplained money" as done by the ld. CIT(A), while he invoked section 69A of the Act, it proves that the Assessing Officer invoked section 68 of the Act. I find merit into the contention of the ld. Counsel for the assessee that there is no power conferred upon the ld. CIT(A) to assess a particular item under different provision of the Act what the Assessing Officer had done without giving a specific notice to the assessee regarding such action. I am of the considered view that law does not permit for such change of provision of law. As per section 250 of the Act, the ld. CIT(A) is empowered to make further inquiry as he thinks fit or may direct the Assessing Officer to make further inquiry and report to the ld. CIT(A). As per section 251(1)(a) of the Act, in appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment, but there is no such power provided by the law that ld. CIT(A) could change the provision of law qua the item of which assessment was made. Therefore, in the absence of such power, learned CIT(Appeals) could not have treated the addition made under section 69A of the Act. Therefore, the addition made by the ld. CIT(A) under section 69A of the Act is liable to be deleted.

4.4 The ld. AR stated that as such, since both section 14A as well as section 40(a)(ia) are two different provisions of law and that the Ld AO has invoked the provisions of section 14A while making the addition, the Ld CIT(A) had no jurisdiction to wonder on any fresh issue which was not the subject matter before Ld AO. He quote the decision of Hon'ble Delhi High Court in the case of Shapoorji Pallonji Mistry Vs CIT 34 ITR 342 (confirmed by Apex Court in 44 ITR 891) and also the decision of Full Bench of Hon'ble Delhi High Court in the case of CIT Vs Sardari Lal

& Co 251 ITR 864 to state that the action of Ld CIT(A) upholding the addition of Rs. 14,38,359/- as under U/s 40(a)(ia) is without jurisdiction and uncalled for and fit to be deleted in totality since no addition either U/s 14A is applicable (as conceded by Ld CIT(A) while changing the section which is not disputed by the revenue department).

5. On the other hand, the learned Departmental Representative supported the orders of the lower authorities and contended that the assessee had admitted discrepancies during the survey operation and had paid advance tax on the additional income offered, which indicates acceptance of the additions. It was further contended that the change of section by the CIT(A) was only a clerical error and does not vitiate the addition.

6. We have heard the rival submissions and carefully perused the material available on record. It is an undisputed fact that during the survey operation, the assessee offered a sum of ₹25,00,000 as additional business income. In our considered view, the said disclosure sufficiently covers the profit element embedded in the alleged excess stock of ₹1,07,26,895. The entire value of excess stock cannot be brought to tax, particularly when the books of account were admittedly not updated on the date of survey and stock valuation was carried out on the basis of incomplete records. Accordingly, the addition of ₹1,07,26,895 is directed to be deleted.

6.1 As regards the addition of ₹4,08,000 on account of alleged short cash, we find merit in the contention of the assessee that the same stands covered by the excess stock and the additional income already offered. Separate addition of short cash would result in double taxation, which is not permissible. Accordingly, this addition is also directed to be deleted.

6.2 Coming to the disallowance of ₹14,38,359, we find that the CIT(A) changed the applicable provision from section 14A to section 40(a)(ia) without issuing any notice or granting opportunity of being heard to the assessee. Such action is in gross violation of the principles of natural justice. It is well-settled that no adverse decision can be taken without affording a reasonable opportunity to the assessee. On this ground alone, the disallowance sustained by the CIT(A) cannot be upheld. Accordingly, the disallowance of ₹14,38,359 is also directed to be deleted. In view of the above discussion, all the three additions challenged by the assessee are deleted.

7. In the result, the appeal of the assessee is allowed.

Kolkata, the 6th January, 2026.

Sd/-
[Ratnesh Nandan Sahay]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 06.1.2026.

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