

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH, DEHRADUN**  
**Before Sh. Satbeer Singh Godara, Judicial Member**  
**&**  
**Sh. Manish Agarwal, Accountant Member**

**ITA No. 160/DDN/2025 : Asstt. Year: 2023-24**

DCIT, Central Circle, Dehradun-2488001	Vs	Om Prakash Gupta, 19/A, Raj Vihar, Dehradun-248001
(APPELLANT)		(RESPONDENT)
<b>PAN No. ABIPG9323M</b>		

**Assessee by : Sh. S. K. Matta, CA**

**Revenue by : Ms. Poonam Sharma, CIT-DR**

<b>Date of Hearing: 13.01.2026</b>
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<b>Date of Pronouncement: 13.01.2026</b>
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**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

This Revenue's appeal for Assessment Year 2023-24, arises against the CIT(A)-3, Noida's DIN & order No. ITBA/APL/M/250/2025-26/1076723333(1) dated 04.06.2025, in proceedings u/s 143(3) of the Income Tax Act, 1961.

2. Heard both the parties at length. Case file perused.

3. Coming to the Revenue's former substantive ground seeking to revive the assessee's alleged bogus purchase expenses of Rs.19,50,000/-; we note that the learned CIT(A)'s detailed discussion deleting the same against the department reads as under:

*"5.1 Ground of Appeal No. 1 In this ground of appeal, the AR has contested the addition of Rs. 19,50,000/- made by the AO on account of disallowance of expenses claimed by the assessee against income earned from renunciation of agreement rights during sale of property. It needs to be highlighted here that Sh. Om Parkash Gupta is father of Sh. Manoj Kumar Gupta and Sh. Mayank and Sh. Yash are grandsons of Sh. Om Parkash Gupta. An agreement was signed between Xi Sh. Anurag Pundeer (owner of land) and Sh. Manoj Kumar Gupta and Sh. Om Parkash Gupta on 12.11.2018 for development of the said land by construction of flats in lieu of which Rs. 19.35 crore would be paid to Sh. Anurag Pundeer.*

*Subsequently, joint venture agreement was executed on 12.12.2018 between Sh. Anurag Pundeer and M/s. Pearl Heights (through partners Sh. Om Parkash Gupta, Sh. Manoj Kumar Gupta, Sh. Jitender Joshi and Sh. Pritam Singh Rawat) regarding the development of the same land and the firm would pay Rs. 27 crores to Sh. Anurag Pundeer in lieu of that. The difference in the two agreements i.e. Rs. 7.65 crores was the profit earned by Sh. Om Parkash Gupta and Sh. Manoj Kumar Gupta in the said deal out of which Rs. 3 crore was received by Sh. Om Parkash Gupta and Rs. 4.65 crores was received by Sh. Manoj Kumar Gupta. The AO has not disputed the above facts.*

*Further, as per AO, the assessee claimed expenses of Rs. 19.5 lacs on the above receipts. The AO has further reported that during the search proceedings some documents were found which indicated that the commission of Rs. 20 lacs have been paid to grandsons of Sh. Om Parkash Gupta i.e. Sh. Mayank and Sh. Yash. When confronted with the said issue, Sh. Om Parkash Gupta stated that the said commission has been paid at the instance of his CA. Sh. Om Parkash Gupta was also directed to produce copy of agreement, if any, to justify the genuineness of the said expenditure. Further, as per the AR, it was stated during the course of assessment proceedings that Sh. Om Parkash Gupta retracted from his statement immediately after the search. The assessee further stated during the assessment proceedings that the commission agreement could not be produced during the course of search as the same was lying with the second party. The AO did not accept the contentions of the assessee and disallowed the said expenditure which was added to the income of the assessee.*

*Perusal of the assessment order reveals that there is a clear chronology of events in the matter under consideration. The first agreement was signed with Sh. Anurag Pundeer and the assessee on 12.11.2018 which was revised to an agreement dated 12.12.2018 between Sh. Anurag Pundeer and M/s. Pearl Heights (in which the assessee is a partner). The commission income of Rs. 3 crores has been reflected in the return filed. The appellant has further stated that being an old person of 78 years and a heart patient, he had engaged Sh. Yash Gupta to look after and do the running around in connection with the matter of arrangement of sale of land of Mr. Anurag Pundeer. An agreement was also signed with Sh. Yash Gupta with respect to the same on 01.04.2020 wherein, the said facts have been clearly highlighted. Further, as per AR, the payment to Sh. Yash Gupta was made through banking channel and tax was also deducted. Further as per AR, Sh. Yash Gupta has disclosed the said commission income in his return filed. Finally, as per AR, the AO has wrongly relied upon the statement of Sh. Om Parkash Gupta which has been retracted.*

*Perusal of the above facts & submissions reveal that the assessee has made payment to Sh. Yash Gupta on the basis of an agreement signed between the two. As per appellant, Sh. Yash Gupta was deputed to do the running around in connection with the matter of sale of land of Anurag Pundeer. Also, as per the appellant, all the above evidences were brought to the knowledge of the AO during the course of assessment proceedings. The AO has not disputed the genuineness of the agreement under consideration. The AO in the assessment order has not been able to prove as to why the expenses paid to Sh. Yash Gupta are not allowable specially when the details of the responsibilities which were delegated to Sh. Yash Gupta vide the agreement between Sh. Yash Gupta and the assessee clearly stated that the second party shall be liable to obtain all permissions from local and other Government Departments, handle all communications and be physically present on behalf of the first party at every development and at any situation which requires the physical presence of the first party. From the agreement under consideration, it is obvious that the assessee had delegated substantial work to Sh. Yash Gupta for which a payment of Rs. 19.50 lacs was made. The AO has solely relied upon the statement of Sh. Om Parkash Gupta wherein, he had stated that the payment to Sh. Yash Gupta was made in consultation with the CA. The*

*consultation with CA cannot be a solitary basis for making the said disallowance for the reason that:*

*a. The statement of Sh. Om Parkash Gupta was retracted.*

*c. The advice of the CA is taken by the business houses on many occasions and merely an acknowledgment of the role of CA with respect to the payment made to Sh. Mayank Gupta and Yash Gupta does not make the whole transaction shady.*

*In view of above discussion and the facts as discussed above, the AO has not been able to prove that the expenditure of Rs. 19.5 lacs is not genuine whereas, the assessee has provided the reasoning and basis for making the said expenditure. Accordingly, this ground of appeal of the assessee is allowed."*

4. Suffice to say, it has already come on record that the assessee had duly corroborative his impugned purchases by filing the cogent supportive evidence of the supplier along with TDS deduction and payment through banking channel etc. We thus conclude in this factual backdrop that the Revenue approach in support of the impugned purchase disallowance is found to be based on mere conjecture and surmises. Rejected accordingly.

5. Next comes the second substantive issue between the parties regarding correctness of the CIT(A)'s action partly upholding the assessment findings making unexplained investment addition of Rs.1,40,00,000/- to the extent of Rs.57,97,400/- in the lower appellate discussion.

6. Both the parties are fair enough in informing us that this tribunal in assessee's appeal ITA No. 130/DDN/2025 dated 09.01.2026 has deleted the remaining alleged on-money addition of Rs.63,87,000/- against the department as not based on any supportive evidence. We thus adopt judicial consistency to reject the Revenue's instant latter substantive ground as well.

7. No other ground or argument has been pressed before us.

8. This Revenue's appeal is dismissed.

Order Pronounced in the Open Court on 13/01/2026.

Sd/-

**(Manish Agarwal)**  
**Accountant Member**  
**Dated: 13/01/2026**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Satbeer Singh Godara)**  
**Judicial Member**

**ASSISTANT REGISTRAR**