

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER

ITA No. 4025/Mum/2024
Assessment Year : 2018-19

DCIT-15(1)(1), Room No. 451, 4 th Floor, Aayakar Bhavan, Mumbai-400020.	vs.	Moksh Alloy Private Limited, 1404, Tulip Regency Gardens, Sector 6, Kharghar, Navi Mumbai-410210. PAN : AAHCM4191J
(Appellant)		(Respondent)

For Assessee :	Ms. Krupa Gurav
For Revenue :	Shri Umashankar Prasad, CIT-DR

Date of Hearing :	27-01-2026
Date of Pronouncement :	09-02-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 13-06-2024, pertaining to Assessment Year (AY) 2018-19, wherein the Revenue has raised the following grounds of appeal:

“A. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is not bad in law in deleting the additions made by the AO of Rs.83,66,39.954/ on account of bogus purchases, addition made by the AO of Rs. 10,60,34,000/- on account of unsecured loans and Rs. 89,12,635/- u/s. 40(a)(ia) by way of admitting the new evidences without

giving an opportunity to the Assessing Officer for verification as well as verification of those new evidences."

B. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is bad in law in deleting the additions made by the AO of Rs.83,66,39,954/- on account of bogus purchases on the basis of non-compliance from the respective parties, without proving the actual delivery, transportations, etc. with relevant supporting documentary evidences.."

C. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is bad in law in not holding that the goods purchased by the assessee in cash through grey market invokes provisions of section 40A(3) and hence, the assessee is not entitled for any relief."

D. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is not bad in law in deleting the additions made by the AO of Rs.83,66,39,954/-on account of bogus purchases without verifying the corresponding sales."

E. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is bad in law in deleting the additions made by the AO of Rs. 10,60,34,000/-on account of unsecured loans on the basis of non-compliance from the respective parties, without proving the identity, genuineness and creditworthiness of the lenders with supporting documentary evidences."

F. "Whether, on the facts and circumstances of the case and in law, the order of the CIT(A) is bad in law in deleting the additions made by the AO of Rs.89,12,635/-on account of non deduction of TDS from the respective transactions, without supporting documentary evidences from the respective parties."

G. The Appellant prays that the order of the CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored.

H. The Appellant craves leave to amend, or alter any grounds or add a new ground. which may be necessary."

2. Briefly the facts of the case are that the assessment in this case was completed u/s. 143(3) r.w.s. 144B of the Act, vide order dt. 25-06-2021, wherein the AO has brought to tax a sum of Rs. 83,66,39,954/- on account of bogus purchases u/s. 69C of the Act, Rs. 10,60,34,000/- on account of un-explained cash credit u/s. 68 of the Act and an amount of Rs. 89,12,635/- was disallowed u/s. 40(a)(ia) of the Act. The assessee thereafter carried the matter in appeal before the Ld.CIT(A), wherein the

addition so made by the AO were directed to be deleted and against the said order, the Revenue is in appeal before us.

3. During the course of hearing, the Ld. CIT-DR drawn our reference to the findings of the Ld.CIT(A) and it was submitted that the Ld.CIT(A) had admitted fresh evidences during the appellate proceedings, without giving an opportunity to the AO for verification of the additional evidences so admitted and which has been relied upon by the Ld.CIT(A) while allowing relief to the assessee. In this regard, our reference was drawn to the findings of the Ld.CIT(A), which reads as under:

“7.2 During the appellant proceedings, the appellant has submitted that all the purchases are duly recorded in the regular books of account. The appellant has submitted partywise details of purchase made along with name, GST Number, address and amount of the party, Sample copy of purchase bill, Bank statement etc. The appellant has also submitted the GSTR-1 return and GST-Form 2A regarding sale consideration.

7.4 Further, the appellant provided the evidence related to purchase, such as Original bill, Government E-way bill, delivery challans, Transport receipts, sale register, purchase register and mode of transportation and payment etc. The appellant also provided details of sales along with name of the party, GST number, PAN, address and sale amount. The appellant also provided GSTR-1 Form, GSTR-2 & GSTR-3B Form.

7.5 It is clear that no sales could have been effected if there were no corresponding purchases. A sale could be made only if the goods were available with appellant.

7.6 Further, the appellant has filed copies of bills of purchase from the various / parties were registered dealers that ledger accounts of the parties in assessee's books showed bills accounted for, that payment was made by cheques, that a certificate from the banker giving details of cheque payment to the said parties was also furnished. Copies of the consignment, received from the Government approved transport contractors showing that material purchased were actually delivered at the site.

7.7 After considering the facts and circumstances of the case that the transactions were supported by proper documentary evidences, that the payments made to the parties by the assessee were in confirmation with bank certificate, that the AO had not brought any independent and reliable evidences against the assessee to prove the non-genuineness of the purchases.

7.11 Therefore, it is clearly seen that the appellant furnished all evidences in the form of Purchase and sale bill, purchase and sale register and ledger a/c copy of purchase parties. These evidences were neither found by the Ld. AO to be false nor fabricated. The facts of the case and the evidences in support of the appellant's case clearly support the claim of the appellant that the transactions of the appellant were bonafide and genuine.

7.12 Considering the facts and circumstances of the case, and following the decisions of Hon'ble court, the addition of Rs. 83,66,39,954/- as bogus purchase u/s. 69C of the Act, made by the AO is deleted and ground No. 1 is allowed."

"8.7 During the appeal proceedings, the appellant filed the copy of Bank Accounts. Confirmation Statement, Balance Sheet, ITR and Capital Account of all the five parties. In this case, the identity of the creditors proved from the Copies of ROIs. The genuineness and creditworthiness of the transaction are explained through the bank statements, Balance Sheet and Capital Account.

8.8 Therefore, it is clearly seen that the appellant furnished all evidences regarding the unsecured loan from the various parties. These evidences were neither found by the Ld. AO to be false or fabricated the facts of the case and the evidences in support of the appellant's case clearly support the claim of the appellant that the transactions of the appellant were bonafide and genuine.

8.9 Considering the facts and circumstances of the case, and following the decisions of Hon'ble Supreme Court, the addition of Rs. 10,60,34,000/- as unsecured loan is treated as unexplained credit u/s. 68 of the Act, made by the AO is deleted and ground No. 2 is allowed."

"9.3 During the appeal proceedings, the appellant submitted that as per provision of section 194C, if the transporter provides PAN Number then TDS is not required to be deducted. Since, in this case the transporter has already provided Pan No., so the TDS deduction is not required.

9.6 Considering the facts and circumstances of the case, and following the decisions of Hon'ble ITAT, the addition of Rs. 89,12,635/- u/s. 40(a)(ia) of the Act, made by the AO is deleted and ground No. 3 is allowed."

4. It was accordingly submitted that the matter may be remanded to the file of the Id CIT(A) to allow the necessary opportunity to the Assessing officer for verification and examination of additional evidences.

5. The Ld.AR has been heard, who has relied on the findings of the Ld.CIT(A) and it was submitted that the Ld.CIT(A) has already gone

through the documentation and has deleted the addition and in view of the same, there is no necessity to remand the matter back to the file of the ld CIT(A).

6. We have heard the rival contentions and perused the material available on record. As per the record, it is evident that the Ld.CIT(A) had admitted fresh evidences during the appellate proceedings, without giving an opportunity to the AO for verification of the additional evidences so admitted. There is nothing on record either in the body of the impugned order or otherwise which has been brought to our notice during the course of hearing that the remand report was called for from the AO in relation to the additional evidences so submitted by the assessee and which have been admitted and considered by the Ld.CIT(A) while deciding the matter under appeal.

7. The law no doubt empowers the Ld.CIT(A) to admit the additional evidences during the appellate proceedings and the Ld.CIT(A) has the powers to admit the additional evidences, however the same is subject to fulfillment of conditions as so specified which prevented the assessee from furnishing such evidences before the Assessing officer and the Ld.CIT(A) has to record specific findings while admitting the additional evidence. Further, given that these additional evidences are sought to be submitted by the assessee for the first time during the appellate proceedings, the Assessing officer is also required to be provided an opportunity and his report should be called for as specifically provided in Rule 46A(3). Basis the assessee's application and after taking into consideration the remand report submitted by the Assessing officer, the Ld.CIT(A) can pass appropriate order u/s Rule 46A(2) either accepting or rejecting the

additional evidences and thereafter, the matter can be proceeded within examining the merits of the case.

8. In the instant case, on perusal of the impugned order, it is not clear whether the assessee has moved any application under Rule 46A for admittance of additional evidences, whether any remand report was called for and submitted by the AO and how the conditions enabling the admittance of additional evidence were found to be satisfied by the Ld. CIT(A). We also couldn't find any specific findings of the Ld. CIT(A) for admission of additional evidences. During the course of hearing, the Ld. AR couldn't controvert the aforesaid factual position as emanating from the impugned appellate order or brought to our notice any documentation which proves otherwise. We thus, find that the whole procedure so laid down under Rule 46A for admission of additional evidence has been completely side-stepped and not adhered to by the Ld. CIT(A) for reasons best known to him. In our considered opinion, the same is not just a technical breach but goes to very foundation and core of subject matter of dispute which require not just dispensation of justice but at the same time, fair opportunity to both the sides which has been statutorily mandated under the aforesaid Rules and which evidently has not been adhered to in the instant case. We therefore find merit in the contentions advanced by the Ld. CIT-DR that the Ld. CIT(A) was not justified in admitting the additional evidences without even confronting the AO regarding the additional evidences so sought to be submitted by the assessee for the first time during the appellate proceedings.

9. The matter is accordingly set aside to the file of the Ld. CIT(A) so that appropriate opportunity is provided to the AO to verify the additional

evidences submitted by the assessee and to decide the matter afresh as per law after providing reasonable opportunity to the assessee.

10. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 09-02-2026

Sd/-
[MS. KAVITHA RAJAGOPAL]
JUDICIAL MEMBER

Mumbai,
Dated: 09-02-2026

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai