

**IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI 'SMC' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 171/GTY/2025  
Assessment Year: 2017-18**

Ram Chandra Agarwala <b>(Appellant)</b>	Vs.	ITO, Ward-1, Bongaigaon <b>(Respondent)</b>
<b>PAN: ABAPA4632P</b>		

**Appearances:**

**Assessee represented by** : S. P. Bhati, FCA.

**Department represented by** : Santosh Kumar Karnani, Addl. CIT.

Date of concluding the hearing : 29-January-2026

Date of pronouncing the order : 03-February-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Addl/JCIT(A)-1, Nashik [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 30.05.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*"1. For that the learned A.O. is not justified in disallowing Rs 6,40,000/- u/s 40A(3) & CIT(A) is not justified in upholding the same.*

*2. The Appellant craves the leave to take Additional Grounds and/or amend the above grounds of appeal at the time of hearing of appeal."*

3. Brief facts of the case are that the assessee is an individual and during the year under consideration he was engaged mainly in the business of wholesale and retail business under the name and style of



'M/s. Bagheswari Cycle Company'. The assessee had disclosed gross turnover of ₹9,66,47,918/- and net profit of ₹15,01,349/- for the year under consideration and had e-filed his return of income on 17.01.2018 showing total income of ₹14,99,425/-. The return was processed u/s 143(1) of the Act and the case was selected for scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') for the reason 'Large cash deposit during demonetization period and abnormal increase in sales with decrease in profitability as compared to preceding previous year'. In response to the notice, the assessee furnished copies of audit report in Form 3CB and 3CD, audited balance sheet, profit and loss account, bank statements, cash book, monthly summary of purchase and sales, cash-flow statement, VAT returns etc. The Assessing Officer (hereinafter referred to as 'the Ld. AO') passed the order u/s 143(3) of the Act and assessed the total income at ₹20,66,650/- after making addition of ₹6,40,000/- under section 40A(3) of the Act (incorrectly mentioned at ₹5,67,225/- on account of disallowances of the income from other sources and deductions under Chapter -VIA of the Act in the appellate order of the Ld. Addl./Joint CIT(A)). Aggrieved with the assessment order, the assessee filed an appeal before the Ld. Addl./JCIT(A) who has considered the facts of the case, written submission of the assessee, the assessment order and the grounds of appeal filed by the assessee. The Ld. Addl./JCIT(A) noted that the assessee had made payment to M/s. S K Bikes Pvt. Ltd. against purchase. Before the Ld. Addl./Joint CIT(A), the assessee claimed to be a trader of Cycle and its parts, the goods were claimed to be supplied by the supplier M/s. S K Bikes Pvt. Ltd. on FOR basis and any amount of freight paid by the assessee was being reimbursed by the supplier of goods, accordingly freight paid to transporter/truck owner was being debited to the supplier for



reimbursement. The Ld. Addl/JCIT(A) noted that these facts established a straight transaction between the assessee and M/s. S K Bikes Pvt. Ltd. There was no evidence produced by the assessee during the assessment stage regarding payment made directly to any transporter. The assessee had also failed to establish any direct transaction with any of the transporters. Therefore, the Ld. Addl/JCIT(A) confirmed the order of the Ld. AO and dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that the disallowance u/s 40A(3) of the Act had been made for which no show cause notice was issued nor any explanation could be filed before the Ld. Addl/JCIT(A). The assessee had submitted that the payments were made to the transporters, which were reimbursed by the supplier M/s. S K Bikes Pvt. Ltd., however, the Ld. CIT(A) dismissed the appeal by holding that the assessee had failed to establish any direct transaction with any of the transporters. The notices were to be issued to the transporters and not to the supplier and the details were stated to be mentioned at pages 8 and 9 of the appeal order which give the corresponding bill number and the bill date. It was submitted that the transporters' bills could not be submitted and it was requested to remand the matter to the Ld. AO. The Ld. DR opposed the request and drew our attention to para 8 of the appeal order and as the payments to supplier were on FOR basis, he queried as to how the assessee could produce the bills of the transporters.



6. We have considered the facts of the case, the submissions made and the documents filed. The assessee had claimed that a sum of ₹6,40,500/- was paid to the transporters on behalf of the supplier and it was to be reimbursed by the supplier and therefore, the same was debited in the account of the supplier. None of the payments to any of the transporters was more than amount which required deduction of TDS. It was submitted that none of the payments was above ₹ 35,000/- and therefore, all the payments to the transporters were covered under the exception to the liability for deduction of TDS.

7. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The assessee had contended that the amounts were paid in cash to the transporters on behalf of the supplier and therefore, they were debited in the account of the supplier for reimbursement. The same have been incorrectly treated as payment for supplies, both by the Ld. AO as well as by the Ld. Addl./Joint CIT(A). The Bench was of the view that in the interest of justice and fair play, the request of the assessee to set aside the case before the Ld. AO may be allowed so that a proper opportunity of being heard to the assessee may be provided in the required evidence could be filed before him. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. Addl/JCIT(A) and remit the matter back to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.



8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced in the open Court on 3<sup>rd</sup> February, 2026.**

*Sd/-*

**[Pradip Kumar Choubey]**

Judicial Member

*Sd/-*

**[Rakesh Mishra]**

Accountant Member

Dated: 03.02.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Ram Chandra Agarwala, Bageswari Cycle Company, Main Road, Bongaigaon, Bongaigaon City, Assam, 783380.**
2. **ITO, Ward-1, Bongaigaon.**
3. Addl/JCIT(A)-1, Nashik.
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata