

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'G': NEW DELHI**

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

AND

SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

**ITA No.4630/Del/2024
[Assessment Year: 2013-14]**

Income Tax Officer, Sector-12, Bay No.25-28, Urban Estate, Karnal, Haryana-132001	Vs.	SHIV SHANKAR RICE MILLS, GOGRI PUR ROAD KARNAL, KARNAL, Haryana-132001
PAN :AADFS3923K		
(Revenue)		(Assessee)

**Cross Objection No.199/Del/2025
ITA No.4630/Del/2024
[Assessment Year: 2013-14]**

M/s SHIV SHANKAR RICE MILLS, GOGRI PUR RAILWAY PHATAK KARNAL, RURAL, PART-1 Haryana-132001	Vs.	Income Tax Officer, Sector-12, Bay No.25-28, Urban Estate, Karnal, Haryana-132001
PAN :AADFS3923K		
(Assessee)		(Revenue)

Assessee by	Shri Somil Aggarwal, Advocate and Shri Deepesh Garg, Advocate
Revenue by	Shri Mahesh Kumar, CIT(DR)

Date of Hearing	13.11.2025
Date of Pronouncement	06.02.2026

ORDER

PER KRINWANT SAHAY, AM:

Appeal in this case has been filed by the Revenue against the order dated 02.08.2024 passed by Id. Commissioner of Income

Tax(Appeals)/National Faceless Appeal Centre, New Delhi, against the assessment order dated 25.03.2022 passed under section 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter 'the Act') pertaining to Assessment Year 2023-24. The assessee has also filed Cross Objection.

2. Grounds of appeal raised by the Revenue are as under:-

"1. Whether on the facts and in the circumstances of the case the Ld. CTT(A) was right in law in deleting the addition of Rs.8,28,42,938/- made on account of bogus purchases and sales of Rs.3,19,75,000/-and Rs.5,08,67,938/- respectively as the assessee failed to prove the physical movements of goods?

2. Whether the Ld. CTT(A) was right in law in deleting the addition of the unsecured loans of R\$.39,70,657 - in the absence of any confirmation from the lenders?

3. Whether the Ld. CIT(A) was right in law in deleting the addition of Rs.55,90,520/- made on account of bogus creditors, in the absence of any confirmation from the creditors?"

3. Grounds of appeal in Cross Objection raised by the assessee are as under:-

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the impugned reassessment order passed by Ld. AO as the same has been passed without assuming jurisdiction as per law and without complying with mandatory and statutory conditions laid down u/s 147 to 151 of Income Tax Act, 1961 and without recording 'reason' and without obtaining approval u/s 151 in accordance with law.

2. That in any case and in any view of the matter, action of Ld. CIT(A) in not quashing the impugned reassessment order passed by Ld. AO u/s 147/144 which is bad in law and against the facts and circumstances of the case.

4. Brief facts of the case are that the assessee is a partnership firm, which filed its return of income for Assessment Year 2013-14 on

23.09.2013 and the same was processed and assessment was made under section 143(3) of the Act vide order dated 09.03.2015 assessing total income at Rs.2,02,310/-. Later on receipt of the information from the office of DDIT(Investigation Wing), Karnal, the case was reopened and the notice under section 148 was issued 21.04.2020. In the reassessment order passed under section 147/144B of the Act, the Assessing Officer made certain additions, which were deleted by the Id. CIT(A). Against the order of the Id. CIT(A), the Revenue is in appeal before us and the assessee has filed cross objection in this case.

5. During the proceedings before us, the Id. CIT-DR heavily relied on the order passed by the Assessing Officer on the addition of Rs.8,28,42,938/-. The Id. CIT(A) has given his detailed finding on this issue as under:-

“During the course of appellate proceedings, appellant has submitted all the documents before the AO which he has also confirmed during the course of appellate proceedings in the form of copies of date wise purchase/sales, incoming/outgoing, stock register containing incoming Purchase Transactions with parties were recorded, copies of Purchase invoice, copy of Sales Tax Return in which purchase from the above parties had been shown & order from sale tax department, copies of Ledger account with the alleged parties as well as copies of bank statements through which payments were made were also filed. Appellant has further contended and submitted the evidence on record in respect of sales, weight of goods sold, vehicle number and bill number against which goods have moved as well as transporter Bilty issued by the third party transporter to the assessee in token of Receipt of goods which contain the name of the sender, the destination of delivery along with name of the consignor. Further, appellant submitted that it holds a valid food grain license from

the state agriculture produced market committee and is mandatorily required to maintain stock register. All the purchases and sales are duly entered in the stock register and this stock register is subject to regular and random checking by market committee, Haryana state sale tax officials by physically checking the stock in hand of all kinds that entered in the stock register. And lastly, all the payments for the supply of rice has been made by third party to the assessee by way of RTGS. Appellant has further contended that bank account is opened by the bank only after meeting out the requirements for opening a new bank account and verifying the KYC norms of the firm by whom the desired accounts to be opened. So it cannot be said that the above firms/parties are bogus. The contention of the appellant is that he has not made any bogus sale/purchases and AO has conveniently not mentioned e evidences submitted before him in his orders and proceeded to make addition of Rs.8,28,42,938/- only on the basis of information of DDIT investigation Karnal wing. Therefore, merely depending on the statement without corresponding enquiry is illegal & uncalled for.

5.6 Having carefully perused the documents available on record and the other documents uploaded by the appellant during the course of appellate proceedings, it transpires that AO made the impugned addition amounting to Rs. 8,28,42,938/- /- u/s 68 of the Act on account of bogus sale/purchase (debit and credit entries being unverified and unexplained). The addition of the AO constitute of two components i.e. credit entries amounting to Rs. 5,08,67,938/- i.e. sales made and Rs. 3,19,75,000/- i.e. purchases from the alleged dummy/bogus concerns. From the above observation of the AO, it is now important to adjudicate the issue on the basis of the supporting documents which have been uploaded by the appellant and which were also produced by the appellant during the course of assessment proceedings as well as on the basis of judicial pronouncements on the issue relied upon by the appellant. It is found that AO has not made any adverse comment on the sale/purchase bill and the other supporting documents submitted before him during the course of assessment proceedings in respect of the alleged sale and purchases treated by the AO as bogus. Further, on perusal of the documents uploaded by the appellant, it is clear that appellant has discharged the primary onus cast upon it in respect of the sale and purchase. The sale and purchase bills were uploaded along with the supporting evidence as proof of transportation of the subject goods in the form of transport bilty issued by third party transporter providing to and fro transportation of goods for

purchase and sale both, proof of payment of VAT of the said trading of goods, bank statement evidencing payment to and from respective parties as well as stock registers and other documents as mentioned above were also uploaded by the appellant. Therefore, I find force in the contention of the appellant that AO has miserably failed to point out any defect in the above supporting documents submitted during the course of assessment proceedings and he has not properly appreciated the material and documents available on record before making the impugned addition.

5.7 The other contention raised by the appellant in its written submission is that the impugned addition has been made both on account of bogus sales and purchasee by the AO without rejecting the books of accounts of the appellant u/s 145(3) of the Act. AO has not doubted the book results of the assessee. The books of accounts and accounting method regularly followed by the assessee has been duly accepted. Since there is no rejection of books under sub-section (3) of section 145 of the Act, the action of the AO to exclude certain items from the books results and subsequent addition is not sustainable. Appellant has alternatively taken a plea that if at all addition is to be made it can only be sustained on the gross profit margin of the net sales (i.e., sales - purchases alleged to be from an entry operator). The addition of the total amount is bad in law and liable to set aside.

5.8 Considering the above facts and submission of the appellant as well as various judicial pronouncements made by the Hon'ble High Courts and ITATs, it is apposite for the AO to reject books of accounts before making addition on account of bogus sales and purchase. The sales were accepted by the A.O. which were duly reflected in the VAT forms. Once the sales of the appellant have not been doubted and has already been taken in the P&L A/c of the appellant, the same cannot be added as undisclosed income u/s 68 of the Act. Hence, I find force in the contention of the appellant that the sale of Rs. 5,08,67,938/- cannot be taxed twice as firstly the same was treated as sales and secondly the same is being treated as unexplained cash credit by the AO u/s 68 of the Act. The Ahmedabad Bench of the Hon'ble Tribunal in the case of Shree Sanand Textile Industries Ltd. vs. DCIT ITA No. 995/Ahd/2014 while deleting the addition made by the A.O. under section 68 of the I.T. Act, 1961 has observed as under:

"9.3. Admittedly, the amount of sale as claimed by the assessee was offered to tax by reflecting the same in the trading and profit

and loss account. This fact has not been doubted by the authorities below. However, the existence of the parties was not proved by the assessee based on the documentary evidence during the proceedings. Accordingly, the learned CIT (A) treated the amount received from such parties as unexplained cash credit under section 68 of the Act. In this connection we note that the impugned amount has been taxed twice firstly the same was treated as sales and secondly the same was treated as unexplained cash credit under section 68 of the Act. Even if we assume that the action of the learned CIT (A) is correct i.e. the impugned amount is representing the cash credit as provided under section 68 of the Act. Then, the learned CIT (A) was duty-bound to reduce the same from the amount of sales as the same does not represent the sale but unexplained cash credit. As such, the same amount cannot be held taxable twice as per the wish of the learned CIT (A). In our considered view the action of the learned CIT (A) is erroneous to the extent of treating the same as sale proceeds and the unexplained cash credit simultaneously.

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9.4. However, we are also conscious to the fact that there is no allegation from the authorities below that the impugned amount represents the unexplained cash credit over and above the sale proceeds. We also find important to refer the provisions of section 68 of the Act which reads as under:

.....

9.5 From the above, we note that the provisions of section 68 of the Act can be attracted where there is a credit found in the books of accounts and the assessee failed to offer any explanation or the offer made by the assessee is not satisfactory in the opinion of the assessing officer. The assessee has explained to the authorities below that the impugned amount represents the sale which has not been doubted by the authorities below. Thus in our considered view, the impugned amount cannot be treated as unexplained cash credit under section 68 of the Act merely on the ground that the assessee failed to furnish the details of the existence of the parties. 9.6. We also note that the provisions of section 68 cannot be applied in relation to the sales receipt shown by the assessee in its books of accounts. It is because the sales receipt has already been shown in the books of accounts as income at the time of sale only. 9.7. We are also aware of the fact that there is no iota of evidence having any adverse remark on the purchase shown by the assessee in the books of accounts. Once the

purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding. In view of the above we are not convinced with the finding of the learned CIT(A) and accordingly we set aside the same with the direction to the AO to delete the addition made by him".

Therefore, in the light of the above factual matrix of the case and judicial precedents, I am of the view that no addition can be sustained against the appellant on account of impugned sale made (credit entries) being unverified amounting to Rs.5,08,67,938/-. A.O. is directed to delete the addition of Rs.5,08,67,938/- made u/s 68 of the Act on account of bogus sales. Appellant gets partial relief to the extent.

5.9 Now coming into the impugned addition of remaining Rs.3,19,75,000/-on account of bogus purchase made by the appellant u/s 68 of the Act being unverified from the alleged bogus parties. As mentioned above, appellant has contended that the case of the appellant has been re-opened solely on the basis of statement recorded by the Investigation Wing of third party without proper enquiry and without providing the statement of the party to the appellant in spite of specific request and denying the opportunity of cross examination of the person. Therefore, the impugned addition will not sustain in view of the judicial pronouncements made by the Hon'ble Supreme Court in the case of Andaman Timber Industries v. CCECE [2015] 62 taxmann.com 3/52 GST 355, wherein it has been categorically held by the Hon'ble Apex Court that,

"Not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity in as much as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far

as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the assessee themselves to explain as to why their ex-factory prices remain static. It was not for the Tribunal to have guess work as to for what purposes the assessee wanted to cross-examine those dealers and what extraction the assessee wanted from them".

5.10 Before going into the legality of the issue and the denial of opportunity of providing the statement given by the third party based on which the impugned addition has been made, I will examine the case of the appellant on the basis of factual matrix and the documents available on record. As discussed in the preceding paras, the appellant has submitted all the related documents to support its sale as well as purchases made with the different parties and the evidences appear to be very sound as are supported with the transportation bill mentioning the date, vehicle no., weight and amount of the subject good transported. Further, appellant has also submitted that since it is dealing with the trading of food grains and also holds a valid food grain license from the state agriculture produced market committee, is mandatorily required to maintain stock register and is subject to regular and random checking by market committee, Haryana, state sale tax officials by physically checking the stock in hand of all kinds. Agricultural market produce committee and his day-to-day stock register as well as periodic check of his stock and quantity detail is being done by the authorities of Mandi. As discussed, and pointed out above AO has not pointed out any defect in respect of the sale and purchase made by the appellant verifiable through the various documentary evidences which were submitted before the AO and also uploaded during the course of appellate proceedings. Further, various High Courts and ITATs in a number of decisions have held that entire purchase cannot be added in case of unverifiable purchases. Only the G.P. of the said purchase can be added where assessee failed to produce the documentary evidence to substantiate the purchases made such as Lorry receipts, weighment slips, Octroi receipts etc. and assessee has failed to substantiate movement of goods from the suppliers to the assessee because in such circumstances possibility of assessee purchasing the goods from grey market cannot be denied. Hence, the fact that sales have been accepted and obviously, the sales could not have been made without the purchases. But in the present case, as pointed out above in the preceding paras, appellant has successfully demonstrated with the various supporting documents submitted before the AO with

respect to the purchases made and movement of goods. Therefore, addition made by the AO amounting to Rs. 3,19,75,000/- on account of bogus purchase u/s 68 of the Act will not sustain. Thus, the entire addition of Rs. 8,28,42,938/- made by the AO is hereby deleted.”

6. We have gone through the findings given by the Assessing Officer in the assessment order and ld. CIT(A) in the appellate order. We have also heard the arguments of ld. CIT-DR as well as of the ld. Counsel for the assessee. We find that the ld. CIT(A) has given very detailed finding on this issue which is adequately supported by the documents and details filed by the assessee before the Assessing Officer as well as before the Ld. CIT(A). Since, all the aspects of both the addition of alleged bogus purchase and sale of Rs.3,19,75,000/- and Rs.50,86,798/- totaling Rs.8,28,42,938/- have been verified by the ld. CIT(A) and then these additions have been deleted. Therefore, we find no reason to make any inference in the findings given by the ld. CIT(A).

7. Grounds of appeal no.2 is against the deletion of Rs.39,70,657/- on account of unsecured loan obtained by the assessee. On this issue, the ld. CIT(A) has given his finding as under:-

“5.18 I have carefully gone through the grounds of appeal, facts of the case assessment order passed by the AO, written submission as well as supporting documents uploaded by the appellant. While AO has made the addition of Rs. 39,70,657/-on account of unsecured loan, but appellant has submitted that unsecured loan amounting to Rs. 21,80,000/- only is fresh loan taken during the F.Y. 12-13 and rest loans are carried forward from last year or interest had been paid. The same had also been mentioned by the auditor at point No 24A of Form

3CD and also all the PAN no of the parties is already mentioned as under:-

S. No.	Name, PAN No.	Amt. of loan taken of accepted (interest)
1.	Jai Prakash Garg PAN: AGAPG8794M	(42748)
2.	Mohan Das PAN: AAPPD6529E	(221978)
3.	Krishan Singla PAN: AYNPK0622M	500000 (12333)
4.	Vinod Kumar HUF PAN: AAEHV8514Q	500000 (12333)
5.	Gian Chand Sanjay Kumar PAN: AFJPG7262C	180000
6.	Raj Kumar Parmod Kumar	1000000 (40000)

It is the contention of the appellant that these details were submitted before the AO and is already on record. On specific defect/observation pointed out by the AO in respect of unsecured loan taken during the year from Krishan Singla, appellant has submitted that Krishan Singla is son of one of the partner and Mr Krishan Singla had received the NEFT from Life insurance corporation of India which could not be artificially generated. His LIC got matured and received the funds and the name of the LIC is clearly mentioned in the bank statement this shows he received the fund from LIC and family of Krishan Singla is in need of funds so he transferred the fund to the assessee firm as an unsecured loan. LIC installment paid by him for the last ten year and received the maturity so we cannot link the amount of maturity with the current year income so we would like to submit that genuineness of the transaction and his capacity to extend loan is established. Appellant has also submitted that M/s Raj Kumar Parmod Kumar is Income tax assessee and filing its ITR regularly and Its PAN AAQPM3061R. Appellant firm had taken unsecured loan of Rs 10.00 lakh from the Raj Kumar Parmod Kumar. He is artiya and doing the business of commission agent in Taroari Grain market. He has given the unsecured loan from His firm Cash credit account. At the time of giving the loan his bank account balance was Rs. 1,41,467/- debit and after the payment

the amount in his bank account was Rs.8,58,512/- credit which shows that he had cash credit from bank and paid the amount from bank account. M/s Shiv Shankar Rive mills had paid the interest to Raj Kumar Parmod Kumar. Copy of the balance sheet along with ITR computation and bank statement has been uploaded by the appellant. Lastly, with respect to the Vinod Kumar HUF, who is regularly filling ITR with PAN AAEHV8514Q and given unsecured loan on interest amounting toRs 5.00 lakh on 17.01.2013. The copy of ITR computation and bank statement has been attached herewith which clearly shows the genuineness of the transaction. The appellant has submitted that he has saving in hands and had given amount to Sheela silk and after taking the amount from Sheela silk, the unsecured loan has been advanced to the appellant. Appellant has further submitted that during the course of assessment proceedings also assessee filed confirmed ledger accounts along with confirmation in which PAN details were also provided along with the addresses of the parties, Bank Statement confirming the corresponding entries in the bank account of the assessee and ITR filed by lenders.

5.19 As per the provision of Section 68 of the Act, the primary onus is cast upon the appellant to prove the genuineness, creditworthiness and identity of the lenders. From the perusal of the documents on record, it is apparent that appellant has discharged the primary onus and submitted all the required details in respect of the fresh loan taken during the year. AO has failed to verify the above documents on record and not cross verified the unsecured loan which were opening balance reflected in the audited balance sheet of the appellant and added that amount also. Once the primary onus has been discharged by the appellant, it is for the AO to point out the defects in the documents submitted before him or bring out some evidence that the documents submitted by the appellant is not reliable or factually incorrect. From perusal of the assessment order and documents available on record, I find that AO has not pointed out any specific defects in the documents submitted by the appellant in respect of the lenders such as Income Tax Return, PAN detail, copy of bank statement and other related documents. In respect of the credit worthiness of Krishan Singla, appellant has successfully demonstrated the source and creditworthiness of the lender as evidenced from the documents uploaded. Further, the wrong mention of PAN of M/s. Rajkumar Pramodkumar, the correct PAN is mentioned in the audited books of accounts of the appellant which was available before the AO along with ITR of the lender. But AO has not verified the details and the supporting evidences.

5.20 In view of the above facts, I find force in the contention of the appellant that necessary documents have been submitted to substantiate the loan taken during the year to establish the genuineness of the transactions, credit worthiness as well as identities of the lenders. Hence, appellant has successfully discharged the

primary onus cast upon it u/s 68 of the Act in respect of the unsecured loan. Therefore, I don't find any merit in the observation made by the AO in the assessment order and hence, addition of Rs. 39,70,657/- on account of unsecured loan made by the AO is hereby deleted. Thus, Ground no. 3 of the appeal raised on this issue is allowed.”

8. Grounds of appeal no.3 is against the deletion of Rs.55,90,520/- made on account of bogus creditors. On this issue, the Id. CIT(A) has given a detailed finding in the appellate order, which is reproduced as under:-

“5.14 It is the contention of the appellant that he has submitted all the details in respect of the questionnaire on dated 30.10.2021 and the same has also been submitted during the course of appellate proceedings. Further, appellant firm has submitted that the firm has purchased the material from sundry creditors and payment has been made through the account payee cheques in the next year. It has also been submitted that the assessment u/s 143(3) of the Act for the same year has been done by the AO and at that time also confirmation from sundry creditors were filed. Further, the confirmation from the creditor has been uploaded with the TIN no and PAN of all the parties is mentioned on their letterhead and on the bill. Hence, appellant has contended that merely because failure on the part of the parties for not submitting the response cannot be the reason for making addition under section 68 of the Act and the same view had been taken by Hon'ble ITAT which is binding on the AO in the case of M/s Kesha Appliances Pvt. Limited Vs. ITO (ITAT Delhi) in Appeal Number ITA No. 2715/ Del/2016. To justify the transactions, appellant has further uploaded the Bill and Bilty of M/s Vardhman rice and General Mills Jind and submitted that in State Tax Department, Haryana issued form ST-38 to selling firm and in revert the selling firm had submitted the details of ST-38 to department for verification to whom the form had been issued the same is also attached here with this clearly shows the genuineness of the Transaction.

5.15 In view of the above facts, I am not inclined to concur with the finding of the AO in respect of addition made of unverifiable sundry creditors. Appellant has submitted the required details which substantiates the claim of the appellant. Otherwise also as the sundry creditors related to the purchases and already the addition in respect of the whole impugned bogus purchase has been made by the AO in the assessment order, the separate

addition on account of sundry creditors will lead to the double addition. Therefore. both on facts and legal matrix this addition will not sustain and hereby, the addition of Rs. 55,90,520/- on account of bogus sundry creditors u/s 68 of the Act is deleted. Thus, Ground no. 4 of the appeal raised on the issue is allowed.”

9. We have considered the findings given by the Assessing Officer in the assessment order and the ld. CIT(A) in the appellate order. We find that the ld. CIT(A) has dealt with all the grounds of appeal raised by the Revenue in the appellate order in detail. The ld. CIT(A) has given his finding in his reasoned and detailed order which in our view needs no interference. Accordingly, the Revenue appeal on these three grounds are dismissed.

10. In the result, the appeal of the Revenue is dismissed.

11. Since, we have already dismissed the Revenue's appeal, consequently, the Cross Objection filed by the assessee become infructuous and hence dismissed.

12. Finally, the appeal of the Revenue as well as the Cross Objection of the assessee are dismissed.

Order pronounced in the open court on 06th February, 2026.

Sd/-
[MAHAVIR SINGH]
VICE PRESIDENT
Dated 06.02.2026

Shekhar

Sd/-
[KRINWANT SAHAYA]
ACCOUNTANT MEMBER

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,