

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &  
SHRI AVDHESH KUMAR MISHRA, AM

**आयकर अपील सं. / ITA No: 455/RPR/2025**  
(निर्धारण वर्ष Assessment Year: 2022-23)

Deputy Commissioner of Income Tax, Circle-1(1), Aaykar Bhawan, Civil Lines, Raipur, C. G., 492001.	Vs	Rajesh Kumar Singh, New Purena, Ravigram, Ravigram S O, Raipur, Chhattisgarh, 492001
<b>PAN: AJNPS2776H</b>		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Suraj Gupta, Advocate (Virtually)
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	03/02/2026
घोषणा की तारीख / Date of Pronouncement	:	19/02/2026

**आदेश / ORDER**

**Per Avdhesh Kumar Mishra, AM:**

This appeal for Assessment Year ('AY') 2022-23 filed by the Revenue is directed against the order dated 13.05.2025 of the Commissioner of Income Tax (Appeals), ['CIT(A)'], National Faceless Appeal Centre ('NFAC'), Delhi passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The grounds of appeal taken by the revenue are under:

*"1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition made by the AO to the tune*

*of Rs.2,42,54,206/- on account of unexplained expenditure u/s 69C of the Act, relying upon the submission of the assessee, without going into the merits of the case and ignoring the facts brought on record by the AO.*

- 2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred while deciding the appeal in favour of the appellant, failed to allude to relevant facts on record, misread the evidence and its probative value thereby giving rise to perversity in the order of Ld. CIT(A), which itself gives rise to Question of Law as held in several case laws including in the case of Sudarshan Silk and Sarees 300 ITR 205 (SC)?*
- 3. Any other ground which may be adducted at the time of hearing.”*

**3.** The relevant facts giving rise to this appeal are that the assessee, engaged in the construction business, filed his Income Tax Return ('ITR') on 10.10.2022 declaring income of Rs.2,70,39,440/-. The case was picked up for scrutiny and the consequential assessment was completed at income of Rs.5,12,93,646/-. The Ld. Assessing Officer ('AO'), during the course of assessment proceedings, conducted inquiries by issuing notices under section 133(6) of the Act to various parties from whom purchases made including the parties detailed at page 4 and 5 of the assessment order had been done. However, there was non-compliance in the cases of parties detailed at page 4 and 5 of the assessment order. Therefore, the Ld. AO referred the matter to the Verification Unit, under the Faceless Scheme, for physical verification. The outcome of enquiries conducted by Verification Unit was that the parties from whom purchases of Rs.2,42,54,206/- claimed to have been done by the assessee were not traceable at the given address and thus, those purchases could not be verified. Based on the report of the Verification Unit, the

Ld. AO treated purchases of Rs.2,42,54,206/- as non-genuine/bogus and taxed the same. The relevant part of the assessment order reads as under:

*“4. With regard to purchases amounting to Rs.37,03,17,023/-, the assessee was requested to furnish complete details of the purchases made during the year in the following format: -*

.....

.....

*Ledger extract of the parties from whom purchases were made along with copy of relevant page of bank statement highlighting the entries and supporting documentary evidence in the form of confirmation and invoice/voucher were also requisitioned.*

*In response to SCN dt. 19.02.2024, the assessee submitted details of creditors including top 10 sundry creditors.*

*However, as per available information, the assessee has also made purchases from the following parties as detailed below during the year under consideration. But no details in respect of transactions made with these parties have been submitted by him in the submission/details filed. Notice(s) under 133(6) of the Act were also issued to the following parties to verify the veracity and genuineness of the transactions but the notice(s) remained non-compliant in these cases.*

.....

.....

.....

*Thereafter, reference was made to VU for providing details by physical verification to prove the veracity and genuineness of the above mentioned transactions. VU report in the following parties has been received which is mentioned below: -*

*i) **Result of verification made in respect of Anil Kumar Aggarwal-** For the transactions made with Shri Anil Kumar Aggarwal, the assessee has furnished the proof of invoices only amounting to Rs. 17,89,910/- which pertain to the year under consideration i.e. F.Y. 2021-22. But as per physical verification report the said party Shri Anil Kumar Aggarwal has expired, but not furnished copy of death certificate. As per VU's report the party is identified but the genuineness of transaction could not be ascertained, since, the party did not furnish any details and documents with regards to transaction made with Rajesh Kumar Singh*

*Thus, it is concluded that the taxpayer is identified but the genuineness of transactions amounting to Rs.33.97.960/- could not be ascertained and the same is treated as bogus.*

*ii) **Result of verification made in respect of Eastbay Enterprises-** In response to notice u/s 133(6) no reply was received from Eastbay Enterprises and thereafter reference was made to VU for verified the transaction with Rajesh Kumar Singh. As per the physical verification report "the IIT visited in the address located at EASTBAY ENTERPRISES (PAN-AAFFE7342C), N-6/431, IRC VILLAGE, NAYAPALLY, IRC VILLAGE, BHUBANESWAR and gathered that in this address 4 shops are noticed. There was no hoarding of the above party-assessee. Then the IIT met the owner, Shri Chakradhar Ray who was residing in backside of the shop. The owner informed the ITI that the above party-assessee never stayed there and also does not know about it." Hence, the notice returned unserved.*

*Thus, the transaction of Rs.53,57,142/- remains to be suspicious and non-genuine and is treated as bogus.*

iii) Result of verification made in respect of Harish Shukla - In response to notice u/s 133(6), reply was not received from Harish Shukla and thereafter reference was made to VU for verified the transaction with Rajesh Kumar Singh. In response to this the said party Harish Shukla submitted his reply on 06.03.2023. On perusal of reply, it is found that the transactions of Rs.75,66,540/-made during the year with Rajesh Kumar Singh is genuine.

iv) Result of verification made in respect of Narayan Sahoo-In response to notice u/s 133(6), reply was not received from Narayan Sahoo and thereafter reference was made to VU to verify the transaction with Rajesh Kumar Singh. In response to this the said party Narayan Sahoo submitted his reply. On perusal of reply, it is found that the purchase transactions of Rs.6,10,200/-made with Rajesh Kumar Singh during the year is genuine.

v) Result of verification made in respect of Naturock Stonex Pvt Ltd.- In response to notice u/s 133(6) no reply was received from Naturock Stonex Pvt Ltd. and thereafter reference was made to VU for verifying the transaction made with Rajesh Kumar Singh. As per the physical verification report The ITI has visited in the address located at FLAT NO 24, RATNA PLAZA, 2ND FLOOR, LEWIS ROAD, BHUBANESWAR-751002 and gathered from the this Ratna Plaza the owner of NATUROCK STONEX PVT LTD has gone to Anugul for some urgent work and cannot be said the moment when the owner will return. Hence, the notice returned unserved. Thus, the transaction of Rs.11,99,054/- remains to be suspicious and non-genuine and is treated as bogus.

vi) Result of verification made in respect of Pradush Engineering Pvt. Ltd. In response to notice u/s 133(6) no reply was received from Pradush Engineering Pvt Ltd. and thereafter reference was made to VU to verify the transaction with Rajesh Kumar Singh. As per the physical verification report

*The ITI has visited in the address located at FLAT NO.5/B-6-04, 5TH HI, TECH PLAZA, MADHI, BHUBANESWAR-751002 and gathered from the security personnel present in Hitech Plaza that Pradyush Engineering Pvt Ltd has left this address since last two years. Since the security personnel did not allow the ITI to physically access to the above flat, physically above party- assessee could not be located in this Ratna Plaza." Hence, the notice returned unserved. Thus, the transaction of Rs.30,08,449/- remains to be suspicious and non-genuine and is treated as bogus.*

*vii) Result of verification made in respect of Trishakti Construction – In response to notice u/s 133(6), no reply was received from Trishakti Construction and thereafter reference was made to VU for verifying the transaction with Rajesh Kumar Singh, in response, the said party Trishakti Construction submitted its reply. On perusal of reply, it is found that the purchases of Rs.65,81,385/- made during the year with Rajesh Kumar Singh is genuine.*

*viii) M/s Rudra Construction (MANAHAR KUMAR CHAUDHARI) For the transactions made with Shri Manahar Kumar Chaudhari, the assessee have furnished the proof of payment and invoices amounting to Rs. 1,29,33,673/- which pertain to the year under consideration je F.Y. 2021-22. On perusal of reply, it is found that the purchases of Rs.1,29,33,673/-made during the year with Rajesh Kumar Singh is genuine.*

*ix) M/s Singh Construction: - For the transactions made with M/s Singh Construction, the assessee have furnished the proof of payment and invoices only amounting to Rs. 36,50,000/- which pertain to the year under consideration le FY 2021-22. Thus, it is concluded that the transaction amounting to Rs. 77,00,000/- (Rs.1,13,50,000/- () Rs 36,50,000/-) could not be ascertained and the same is treated as bogus.*

*As it is clear from the details given in the above para that except five parties, namely, Harish Shukla - Rs.75,66,540/-, Narayan Sahoo - Rs.6,10,200/- and Trishakti Constructions Rs.65,81,385/-, Manahar Kumar Chaudhari - Rs. 1,29,33,673 and M/s Singh Construction- Rs. 36,50,000/- all the parties were not traceable and, hence, transactions made with them couldn't be verified physically by the Verification Unit and remain suspicious. Hence, it is concluded that genuineness of the purchase transactions amounting to Rs.3,13,41,798 / only have been proved and purchases to the tune of Rs.2,42,54,206/- remained unverified and hence treated as non-genuine/bogus.*

***5. Since no confirmations/details/documents have been provided by the assessee regarding transactions made with the above mentioned parties to prove the genuineness thereof, the purchases from these parties remains unverified and an addition of Rs.2,42,54,206/- (Rs. 5,55,96,004-3,13,41,798/-) is being made on account of bogus purchases u/s 69C r.w.s. 115BBE of the Act and added to assessee's total income and taxed accordingly."***

[Emphasis supplied]

**3.1** Aggrieved with the assessment order, the assessee filed appeal before the Ld. CIT(A), who allowed the appeal as under:

***“5.4 During the appellate proceedings, the assessee submitted that the AO did not doubt the sales at any stage of the assessment proceedings. The assessee further submitted that without doubting the sales, the additions on alleged bogus purchases cannot be made. After perusal of the written submissions of the Assessee, it is clear that the AO never doubted the sales made by the assessee for purchases and accepted the entire sales disclosed in the return of income filed for the year under consideration.***

***Without there being any purchase there could not be any sales. It was also not proved by the AO that the amounts paid by the assessee to the suppliers were returned back to the assessee and the purchase bills issued were bogus. If the AO doubted the genuineness of the said purchases, it was incumbent upon him to cause further enquiries in the matter in order to ascertain the genuineness or fictitiousness of the purchases. In this case, the AO made addition merely relying on the information received from Verification Unit without making any further enquiries.***

***5.5 The AO made addition on the basis of failure of suppliers in making compliance to notice issued by the AO u/s 133(6) of the Act. The assessee claimed that it cannot be held accountable or responsible for failure of suppliers in making compliance. The assessee claimed that it had provided the address of the suppliers which was provided by the supplier at the time of GST registration. It was further submitted that the assessee made all the payments for purchases to the suppliers through banking channel and the purchases were duly recorded in the purchase register & books of accounts. These books of account were duly audited and were neither doubted nor rejected by the AO. The assessee also furnished the statement of bank accounts highlighting the transactions of purchases. It is noted that the AO did not find any deficiency in the bank account statement, purchase register, audited books of accounts etc. and made addition of bogus purchases only on the basis of information received from the Verification Unit & non-compliance of suppliers to notices issued u/s 133(6) of the Act. It is not in dispute that the assessee made payment of purchases to the suppliers through banking channels. However, there was not any proof in regard to the assessee receiving any amount from the suppliers in cash.***

**5.7. To prove the genuineness of the transactions, the assessee provided all the supporting evidences like purchase register, ledger account of suppliers, audited books of accounts and bank account statement highlighting the transactions, etc. However, the AO made addition by ignoring all the facts and evidences and without providing any proof of purchases being bogus in nature.”**

[Emphasis supplied]

4. Dr. Priyanka Patel, Ld. Sr. DR contended that some of the parties from whom purchases claimed having done were not found at the given addresses by the Verification Unit who was verifying their physical presence on reference of the Ld. AO. The physical verification, under the faceless scheme of the assessment, had to be carried out by the Verification Unit and not by the Ld. AO. Therefore, the Ld. AO got the physical verification done through the Verification Unit. The Ld. AO, based on the outcome of enquires conducted by the Verification Unit, held purchases of Rs.2,70,39,440/- as non-genuine/bogus as the assessee had failed to file confirmations and other documents from these parties to contradict the report of Verification Unit. She contended that the Ld. AO had followed proper procedure of investigation/enquiry/verification under Faceless Assessment Scheme. The Ld. Sr. DR drew our attention to the Standard Operating Procedure (SOP) for Assessment Unit (AU), Verification Unit (VU), Technical Unit (TU) and Review Unit (RU) under the Faceless Assessment provisions of section 144B of the Act issued by the National Faceless Assessment Centre ('NaFAC') vide its letter F. No. Pr.CCIT/ NaFAC/Delhi/CIT-1/2022-23/112/92 dated 03.08.2022 to submit that this SOP for Verification Unit (VU) under the Faceless Assessment

provisions of section 144B of the Act was issued under section 144B(6)(xi) of the Act.

5. The Ld. Sr. DR, emphasizing para 5.7 of the impugned order, submitted that the Ld. CIT(A) had erred to hold that the disputed purchases of Rs.2,70,39,440/- were genuine by placing emphasis on the self-serving document of the assessee such as (i) Assessee's purchase register, (ii) Ledger account of suppliers in Assessee's books of account, (iii) Audited books of accounts of the Assessee and (iv) Assessee's bank account statement highlighting the transactions. She drew our attention to the fact that the assessee had not brought any third party evidence/document including the confirmation of suppliers, etc. which might establish the genuineness of disputed purchases of Rs.2,70,39,440/-. She forcefully argued that the assessee had not brought any material on the record of the Ld. CIT(A) to contradict the finding of the Ld. AO; therefore, the impugned order was not valid in the eyes of law.

6. The Ld. Sr. DR submitted that the Ld. Ld. AO's action by making addition under section 69C of the Act without disturbing sales were justified, which was not properly appreciated by the Ld. CIT(A). She further submitted that the payments for disputed purchases of Rs.2,70,39,440/- made through banking channels would get dully disclosed in the books of account and bank account of the assessee' but such payments made to the parties/suppliers recorded in regular books of account did not establish the actual receipts of goods of Rs.2,70,39,440/- from these parties/suppliers as neither these parties/suppliers were found in existence at the

given addresses nor the assessee established the receipts of goods against the said purchases of Rs.2,70,39,440/- by filing any third party evidence/document including the confirmation of suppliers, etc. either before the Ld. AO or before the Ld. CIT(A). Therefore, the Ld. AO inferred that the assessee had actually purchased and received goods from persons other than those mentioned in regular books of account after making payments from the unexplained sources which were not recorded in regular books of account and that was why he made addition under section 69C of the Act without disturbing sales. Thus, she argued vehemently that the Ld. CIT(A)'s finding was not justified.

7. On the other hand, the Ld. Counsel, reiterating the finding of the Ld. CIT(A), defended the impugned order. He prayed for dismissal of the appeal of Revenue.

8. We have heard both parties and have perused the material available on the record. We have taken note of the above highlighted portion of impugned order of the Ld. CIT(A). In the Faceless Assessment Scheme, the AO is not empowered to carry out physical verification as per the SOP under the Faceless Assessment provisions of section 144B of the Act issued by the National Faceless Assessment Centre ('NaFAC') vide letter F. No. Pr.CCIT/ NaFAC/Delhi/CIT-1/2022-23/112/92 dated 03.08.2022. The relevant part of the SOP provides/reads as under:

***“J. Reference to Verification Unit (VU)***

*J.1 AU may, if required, make reference to VU in following instances:*

*J.1.1 Non availability of digital footprint of 'any other person';*

*J.1.2 Electronic/ online verification is not possible on account of no response by 'any other person' to notice issued by AU;*

*J.1.3 Physical verification is required, regardless of the presence of digital footprint.*

*J.2 Prior to making reference, reasons must be recorded in writing in case history noting on ITBA.*

*J.3 Approval of PCIT of the AU must be obtained in references falling under Para 1.1.2 and Para J.1.3.*

*J.4 Reference is to be made to VU through Insight, in prescribed format (Annexure AU-2), ensuring that reference for each PIN code involved is made separately.*

*J.5 AU may request VU for verification which may include:*

*J.5.1 Enquiry;*

*J.5.2 Cross-verification;*

*J.5.3 Examination of books of accounts;*

*J.5.4 Examination of Witnesses;*

*J.5.5 Recording of Statements.*

*J.6 Prior to making the reference, AU must analyse all the material available on record that includes replies, any other material available on Insight or in public domain such as MCA, SEBI, Court Orders, research entities etc.*

*J.7 The proposed matter for verification to be done by VU must be specific.*

*J.8 Care may be taken to avoid multiple references in the same case, unless new points for verification emerge later.*

*J.9 Where report is received from a VU, stating that the subject of verification is not in its physical proximity, AU may refer to the proximate VU for physical verification. (Refer SOP for VU)*

*J.10 Where VU reports non-compliance of notice u/s 133(6)/ 131 and refers for initiation of penalty, AU shall initiate penalty proceedings.*

***K. Reference to VU where assessee seeks Cross examination of Witness not having digital footprint***

*K.1 The AU shall schedule a VC for the assessee using 131(1)(b) tab, through ITBA, containing date, time and link of the VC;*

*K.2 VC should generally be scheduled giving at least 15 days to facilitate service of summons to the witness by VU;*

*K.3 Reference shall be made to VU having physical proximity to the Witness, along with details mentioned in Para K.1;*

*K.4 The Cross Examination of the Witness by assessee on the scheduled date and time shall be conducted in the presence of the VU and the AU through VC;*

*K.5 AU/VU may re-examine the Witness after conclusion of cross-examination;*

*K.6 Where VU reports that reasonable adjournment is sought by the Witness for an alternative date and time, AU may reschedule VC and make a fresh reference to VU, following the procedure as per this Para;*

*K.7 Where VU reports that the Witness is available at some other address not in physical proximity to that VU, AU may reschedule VC and make a fresh*

*reference to the VU based on new address Pin code, following the procedure as per this Para.”*

**9.** In view of the above SOP, it is evident that the AO cannot carry out verification in non-faceless manner on his own. Further, we also take note of the fact that the Ld. AO has carried out investigations/verifications/enquiries of purchases of Rs.2,70,39,440/- in faceless manner and thereafter, based on the outcome of his investigations/verifications/enquiries, he made reference to the Verification Unit for verifying the genuineness of the said purchases in non-faceless manner. The verification Unit did not find the existence of those parties/suppliers from whom purchases of Rs.2,70,39,440/- claimed having done. Therefore, the Verification Unit sent their report to the Ld. AO. Thereafter, the onus to establish genuineness of purchases of Rs.2,70,39,440/- shifted on the assessee, which he failed to discharge; therefore, the Ld. AO taxed the purchases of Rs.2,70,39,440/- under section 69C of the Act. We find force in the submissions/arguments/contentions of the Ld. Sr. DR that in such facts and circumstances, the Ld. AO has no option except to rely on the report of Verification Unit. Thus, we are of the considered view that the Ld. CIT(A)'s finding that the Ld. AO did not find any deficiency in the bank account statement, purchase register, audited books of accounts etc. and made addition of bogus purchases only on the basis of information received from the Verification Unit & non-compliance of suppliers to notices issued u/s 133(6) of the Act.

10. The business income is computed in accordance with the provisions of section 28 to 44DB of the Act as these are enabling provisions to allow certain type of allowances/claims/expenditures etc. In section 145(1) of the Act, while making it mandatory to compute the income under head 'business & profession' or 'Income from other sources' based on cash or mercantile system of accounting being regularly followed by the assessee, the word 'shall' have been specifically used to make it mandatory leaving no discretion to use any another method of accounting which is not being regularly followed. Whereas in section 145(3) of the Act, the word 'may' have been deliberately used in a discretionary/directory context because the word '*may*' as used in 145(3) of the Act is intricately linked to the AOs satisfaction also about the correctness of accounts in the very same section. A critical examination of language of this section along with principles of harmonious construction would make it clear that powers of the AO to invoke 145(3) of the Act is merely declaratory/discretionary and not mandatory, where the legislature had no intention to prescribe the mandatory rejection of books of accounts in each & every case where some specific entry in accounts have been found to be bogus/inflated or unverifiable but largely the accounts maintained as per mandate of section 145(1) r/w 145(2) of the Act. That is why the word '*may*' have been used at one place and '*shall*' at another place in the same section of the Act. Thus, it is obvious that the word; '*shall*' and '*may*' have been chosen in the Act distinctively with their natural meaning. The provision using the word '*shall*' would be mandatory whereas the one using the word '*may*' would only be directory/discretionary. If it were not to be read so, it may lead to other

consequences. Thus, the observation of the Ld. CIT(A) on non-rejection of books of account under section 145(3) of the Act, according to us, has nothing to do with the applicability of the section 69C of the Act as this section falls under the head 'other sources' and not under the head 'business income' computed in accordance with the provisions of section 28 to 44DB of the Act. Accordingly, we are of the considered view that the rejection of books of account under section 145(3) of the Act is not a mandatory condition for invoking section 69C of the Act.

**11.** We find force in the submissions/arguments/contentions of the Ld. Sr. DR that the assessee has not brought any brought any third party evidence/document including the confirmation of suppliers, etc. before the Ld. CIT(A) to establish the genuineness of purchases of Rs.2,70,39,440/-. Self-serving material, such as (i) Assessee's purchase register, (ii) Ledger account of suppliers in Assessee's books of account, (iii) Audited books of accounts of the Assessee and (iv) Assessee's bank account cannot conclusively prove the genuineness of purchases of Rs.2,70,39,440/-. Further, we are also convinced with the arguments of the Ld. Sr. DR that the addition under section 69C of the Act without disturbing sales, in view of her arguments/contentions mentioned above in para 6, is justified. However, considering the facts of the case in entirety and in the interest of justice, we deem it fit to set aside the impugned order and remand the matter back to the file of the Ld. CIT(A) for deciding the case afresh/denovo, in accordance with the law and above observations, after providing adequate opportunity of being heard to the

assessee. We order accordingly. The assessee, no doubt, shall cooperate in remitted appellate proceedings.

12. In the result, this appeal of Revenue is **allowed for statistical purposes**.

Order pronounced in the open court on 19/02/2026.

Sd/- (PARTHA SARATHI CHAUDHURY) Sd/- (AVDHESH KUMAR MISHRA)  
न्यायिक सदस्य / JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 19/02/2026  
HKS, PS

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,  
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

(Private Secretary)  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur