

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 600/Jodh/2025  
(Assessment Year – 2017-18)**

<b>Lakhpatt Trading and Industries Pvt. Ltd. G-72/73 79/80, 1<sup>st</sup> Phase, Boranada, Jodhpur - 342001 PAN No. AACCL 5668 C</b>		<b>ACIT, Circle-3 Jodhpur</b>
<b>Assessee by</b>	<b>Shri Rajendra Jain, Advocate and Smt. Raksha Birla, CA (Physical)</b>	
<b>Revenue by</b>	<b>Smt. Runi Pal, CIT-DR (Virtual)</b>	
<b>Date of Hearing</b>	<b>29.01.2026.</b>	
<b>Date of Pronouncement</b>	<b>26.02.2026.</b>	

**ORDER**

**DR. MITHA LAL MEENA, A.M.:**

This appeal is filed by assessee against the order of National Faceless Appeal Centre, Delhi [hereinafter referred to as NFAC/ CIT(A)] dated 26.06.2025 with respect to Assessment Year 2017-18 challenging therein the rejection of its books of accounts u/s 145(3), estimation of income and reducing genuine sales.

2. Grounds of appeal are as under:

1. That on the facts and in the circumstances of the case, the order passed by the Id. AO is bad in law and bad in facts.

2. That on the facts and in the circumstances of the case, the Id AO grossly erred in making various observation in the assessment order is apparently arbitrarily and also contrary to the material available on record.
3. That on the facts and in the circumstances of the case, the Id AO grossly erred in not following the principle of natural justice and rejected the explanation furnished by assessee in arbitrarily manner.
4. That on the facts and in the circumstances of the case, the Id AO grossly erred in rejecting the audited books of accounts maintained in regular course of business in arbitrary manner and invoking provision of section 145(3) without any valid reasons assigned in the assessment order.
5. That on the facts and in the circumstances of the case, the Id AO grossly erred in making arbitrary trading addition of Rs. 1,19,26,410/- by applying gross profit rate of 3 percent on declared turnover.
6. That on the facts and in the circumstances of the case, the Id AO ought to have accepted the declared trading result looking to nature of business and also the net profit rate declared by the assessee is better than accepted in the past.
7. That on the facts and in the circumstances of the case, the Id AO grossly erred in making separate addition of Rs. 1,11,60,612/- by treating sale made to M/s Milap Enterprises as bogus after rejection of books of accounts and estimated profit by applying gross profit rate on declared turnover which includes the sales made to alleged party.
8. That on the facts and in the circumstances of the case, the Id AO grossly erred in treating sales made to M/s Milap Enterprises as bogus by relying on the third party information, which was not subjected to any further scrutiny and also not provided the copy of such

information and also denying opportunity of cross examination to the appellant.

9. That on the facts and in the circumstances of the case, the Id AO grossly erred in making addition of Rs. 1,11,60,612/- by treating the sale transactions with M/s Milap Enterprises are not genuine.
10. That on the facts and in the circumstances of the case, the Id AO grossly erred in invoking the provisions of section 68 by holding the sales transactions made by assessee to M/s Milap Enterprises as unexplained.
11. That on the facts and in the circumstances of the case, the Id AO grossly erred in holding the sales made by the assessee to M/s Milap Enterprises as bogus without considering the legal and credible documentary evidences furnished by the assessee during the assessment proceedings.
12. That on the facts and in the circumstances of the case, the Id AO grossly erred in making separate addition by treating sale made to M/s Milap Enterprises as bogus particularly when once books of accounts have been rejected and G.P rate has been estimated by the AO, thereafter he cannot be any further addition on account of unaccounted sales as has been done by him.
13. That on the facts and in the circumstances of the case, the Id AO grossly erred in making attempt to normal transaction in respect of business transaction as something unusual and out of the ordinary only as un-discerningly which is against the principle of natural justice.
14. That on the facts and in the circumstances of the case, the Id AO grossly erred in not following the law laid down by the Hon'ble Supreme Court, Hon'ble High Courts and Hon'ble ITAT, Jodhpur Bench.

15. That on the facts and in the circumstances of the case, the Id AO grossly erred in invoking the provisions of section 68 of the Act and also charging higher rate of tax under section 115BBE of the Act.
16. That on the facts and in the circumstances of the case, the Id AO grossly erred in making addition of Rs 334818 in respect of commission paid on alleged bogus sale under section 69C of the Act
17. That on the facts and in the circumstances of the case, the Id AO grossly erred in holding the assessee had paid commission in respect of commission paid on alleged bogus sale made by him without any credible evidence or only on the basis of assumption and presumption.
18. That on the facts and in the circumstances of the case, the Id AO made addition in the returned income on arbitrarily manner without having any credible evidence or only on the basis of assumption and presumption.
19. That on the facts and in the circumstances of the case the Ld AO grossly erred in charging interest u/s 234B and 234C of the Act.
20. That petitioner may kindly be permitted to raise any addition or alternative ground at or before the time of hearing.
21. The petitioner prays for justice and relief.

3. In Ground No. 1 to 6, the assessee has challenged the rejection of books of accounts and applications of provisions of Section 145(3) of the Act in applying profit rate of 3% in making addition on estimated basis without appreciating the fact, nature of business and past history in the right prospective.

4. Briefly the facts are that the assessee is a Private limited Company engaged in the business of manufacturing, processing and trading of groundnut, soyabean and other oilseeds. The Ld. AR for the appellant assessee has contended that the assessee has furnished before the AO, all the details regarding transactions with respect to sales, purchase and manufacturing which are duly recorded in the books of account and supported with the bills and vouchers and that the assessee company had maintained a day to day stock register in terms of quantity with respect to purchase, consumption in manufacturing process, sales and closing stock are duly verifiable from the bills during the course of assessment proceedings. The AR further submitted that the method of valuation of stock as adopted by the assessee company was as per Accounting Standard and same was being followed year to year. The books of accounts maintained by the assessee are subject to audit u/s 44AB and as per the companies Act. The purchases of the assessee company were made through high sea and import which are subject to excise/ import duty and sales made by assessee subject to VAT. The AR contended that assessee had complied to the notices issued by the AO u/s 143(2) and 142(1) by filing the details required by the AO. However, the AO being not satisfied with the reply of the assessee ignored the documentary evidences furnished and invoked Section 145(3) and estimated G.P. rate at 3% with the trading addition of Rs.

1,19,26,410/- and addition u/s 68 of Rs. 1,11,60,612/- and further addition u/s 69C of Rs. 3,34,818/- to the return of income of the assessee.

5. The assessee being aggrieved with the assessment order preferred an appeal before the Ld CIT(A) who has confirmed the finding of the AO by observing as under:

*“From the contents of the assessment order, the submissions made during the appellate proceedings, Remand report received from the AO and the comments of the appellant on the Remand report, it is concluded that the AO was justified in rejecting the books of accounts and invoking the provisions of section 145(3) of the Act. Further, the estimation of gross profit made by the AO is justified and reasonable. The AO has estimated gross profits at 3% of the gross turnover, i.e, Rs. 185,35,46,666/-, which comes to Rs.5,56,06,219/-. After considering the already declared gross profit of Rs.4,36,79,809/-, the differential amount of Rs. 1,19,26,410/- is added by the AO to the total income of the assessee.*

*It is seen that the total turnover of Rs. 185,35,46,666/- comprises an amount of Rs. 1,11,60,612/- which is on account of sales to M/s. Milap Enterprises on account of which the AO has made separate addition as this entity is non-existing and bogus (this matter will be discussed further in the next ground). Thus, it is held that this amount should not have been considered for calculation of gross profit at the rate of 3% as this would amount to total taxation. Accordingly, the gross profit at the rate of works out to Rs.5,52,71,401/- and the net amount after considering the only declared 3% is*

calculated at Rs.185.23.80.054/- (Rs.185.35.40.666/- 1.11.60.612/-) which gross profit of Rs.4,36,79,809/- comes to Rs. 1,15,91,592/-. Thus, the addition on this account is restricted to Rs.1,15,91,592/- and the appellant gets a relief of Rs.3,34,818/-. This ground is therefore partly allowed.

Grounds no.7-15 deal with the addition of Rs.1,11,60,612/- on account of sales made to M/s. Milap Enterprises. In the assessment order, the AO has observed that M/s. Milap Enterprises is a fictitious entity as there is no office existing at the given address. The AO has in respect of this party, observed as under.

a) The claim of sales made by the appellant to M/s. Milap Enterprises through broker Bharat Jain is not verifiable as the appellant has not provided the current address of the broker. The appellant states that the sales have made exit-factory and the purchasers are responsible for arranging the pickup of goods from factory premises.

b) No details of transporters are available by the appellant.

c) It is seen that there is a deposit of cash in bank account of Shri Rahul Kumar, proprietor of M/s. Milap Enterprises and subsequently this amount is invariably transferred to the appellant. As stated earlier M/s. Milap Enterprises was found to be bogus and no such concern was found to be existing at the given address.

d) The alleged sales to M/s. Milap Enterprises are made only in this year and there are no transactions in the preceding and succeeding year.

e) From the stock details so furnished by the appellant, it is not clear that how much yield has been received for the same.

*f) No gate passes for exit of sales to outside party are maintained and submitted.*

*g) On the examination of entries recorded in the bank account of Shri Rahul Kumar (proprietor M/s. Milap Enterprises), it was found that the cash was regularly deposited in the account and the same was transferred out to certain other bank accounts belonging to M/s. Lakhpat Trading and Industry Pvt. Ltd.*

*The submissions made are duly considered and the same were sent to the AO calling for Remand Report. The AO submitted the Remand Report vide letter dated 28.02.2024. The copy of Remand Report was forwarded to the appellant for its comments and the comments of the appellant are received vide letter dated 06.03.2025.*

*The AO, in the Remand Report, has discussed in detail the basis of additions made under this head in para 7 on page 5 of the Remand Report and has finally come to a conclusion that the AO has made just the reasonable additions. The appellant in its comments to Remand Report has placed reliance judgment of ITAT. Jodhpur in the case of M/s. G.R.G Oil Mills in ITA no.192/Jodh./2019 dated 28.11.2019. The appellant has reproduced the operative para of the said letter. On going through the operative para reproduced by the appellant, it is seen that the facts of this case are materially different from the case cited by the appellant. As in the case cited by the appellant, almost all the details were available with and submitted by the assessee. In the present case, however, the AO has proved beyond doubt that M/s. Milap Enterprises was only a fictitious entity giving bogus bills and no real transactions were undertaken.*

*Considering all the above facts including the submissions made by the appellant, the Remand Report and the comments of the appellant, Remand report, I am of the opinion that the appellant has not proved its case and therefore the AO was justified in making the addition. The addition made is therefore confirmed and the appeal is decided against the appellant*

*Grounds no.16-18 deal with an addition of Rs.3,34,818/- on account of commission paid on alleged bogus sales u/s 69C of the Act. As stated in the above paras, the sales made by the appellant to M/s. Milap Enterprises are merely an entry as M/s. Milap Enterprises is only an entry provider. Such entries are obtained in the market for a commission at varying rates. The AO has estimated the commission at the rate of 3% of Rs. 1,11,60,612/-. I do not find any infirmity in such estimation and therefore the amount of addition is confirmed and the appeal is dismissed.”*

6. The Ld. AR for the assessee submitted that the Assessing Officer (In short “the AO”) has made observations in the assessment order which are arbitrarily and contrary to the material available on record while rejecting the audited books of accounts maintained in regular course of business and invoked provisions of section 145(3) without any valid reasons assigned in the assessment order and so the addition of Rs. 1,19,26,410/- made by the AO by applying gross profit rate of 3 percent on declared turnover is in arbitrary manner. The Ld. AR argued that the Id AO ought to have accepted the declared trading result looking in light of the past history, nature of business and the net

profit rate declared by the assessee being better than what has been accepted by the department in the past. In support of contentions, the Ld. AR filed a synopsis which reads as under:

*1] That the assessee is a private limited company and is engaged in the business of manufacturing, processing and trading of Groundnut & soybean oil and other oil seeds etc. It is relevant to mention here that the item in which the assessee company is dealing is an essential commodities.*

*2] That the assessee company had maintained day to day books of accounts consisting cash book, purchase book, manufacturing books, sales books. Entire transactions in respect of sale, purchase and manufacturing are duly recorded and supported from the bills and vouchers. The assessee company had also maintained day to day stock register in terms of quantity wise in which complete details in respect of purchase, consumption in manufacturing process, sales and closing stock are duly recorded and verifiable from bills. The method of valuation of stock as adopted by Assessee Company as per accounting standard and same was followed year to year. The books of accounts so maintained by the assessee are subject to audit u/s 44AB and as per Company Act.*

*Further the assessee is dealing in essential commodities and accordingly he should have maintained the books of accounts as per law.*

*3] That the purchases made by assessee company through high sea and import which are subject to excise/ import duty and sales made by assessee subject to VAT. The sales & purchases made by the assessee company are duly recorded and verifiable from the bills & vouchers. The entire transactions in respect of sale & purchase are mostly through banking channel and duly reflected in the bank statement as well as books of accounts*

*4] That on 31/10/2017 the assessee company filed the return of income declaring total income of Rs. 1,17,85,710/- in respect of above business activities. The complete details of business as required in the return of income were uploaded alongwith the return of income.*

*5] That the case of assessee was selected for scrutiny issued notice u/s 143(2) and subsequently various query letters along with notice u/s 142(1) to the assessee company.*

*6] That during the assessment proceedings the assessee company had furnished complete reply along with documentary evidences, books of accounts, stock register, sales & purchase bills, detail of expenditures etc*

*furnished before the Id AO. The assessee company further submitted month wise, date wise stock position, consumption of manufacturing process, sales register and purchase register with complete bills. The assessee company had further furnished the details of month wise sales, purchase, consumption of manufacturing and expenditure incurred before the Id AO as required by him.*

*7] It is further submitted that during the assessment proceedings the assessee has also submitted that quantity wise details in respect of goods purchased, use for consumption for manufacturing, sales and shortage was available in the 3CD form of audit report. Further also complete details in each item had been certified and reported in the audit report by the Chartered Accountant. Further the supporting evidences and information as required by the Id AO duly submitted during the assessment proceedings.*

*8] That during the assessment proceedings the Id AO had required the complete details in respect of sales made by the assessee company and accordingly the assessee company had furnished the sales register along with complete sale bills and supporting documentary evidences before the Id AO. Further the assessee company had also tallied the sales made*

*by him with reference to VAT return and similarly purchases are subject to custom duty.*

*9] The Id AO had required the information in respect of M/s Milap Enterprises who have purchased the goods from the assessee company by letter dated 25/11/2019. The assessee company had furnished complete details along with supporting evidences as required by the Id AO and also explained through letter dated 02/12/2019 that after receipt of advance payment through banking channel and complete details of such party the assessee had made sale to such party.*

*10] Further on 16/12/2019 the assessee company had furnished detailed reply along with documentary evidences in respect of stock register, details of sale, valuation of stock etc as required by the Id AO in response to notice u/s 142(1) along with query letter dated 14/12/2016. The volume of documents had been submitted and also produced before the Id AO during the assessment proceedings which are on record.*

7. The Ld. DR supported the order of CIT (A) but he failed to rebut the contention raised by the Ld. AR and disprove the claim of the assessee.

8. Having heard both the sides and perusal of record, we find that during the assessment proceedings the assessee company had furnished requisite

details along with documentary evidences, such as books of accounts, stock register, sales & purchase bills, detail of expenditures etc before the AO(APB, Pgs. 5-6). The assessee company had also submitted month wise, date wise stock position details, consumption of manufacturing and expenditure, sales register and purchase register with bills. It is noted that the assessee has furnished quantity wise details in respect of goods purchased, used for consumption/manufacturing, sales and shortage which was available in the form 3CD of audit report duly certified by the Chartered Accountant. It is seen that the sales made by appellant were tallied with reference to VAT return and that purchases were subject to custom duty.

9. The comparative pattern of trading history is as under: -

<b>F.Y.</b>	<b>Turnover</b>	<b>G.P.</b>	<b>G.P. Rate (%)</b>	<b>N.P.</b>	<b>N.P. Rate (%)</b>
2013-14	145691731.00	6947272.00	4.77	-2087004.00	-1.43
2014-15	432166331.85	36109574.76	8.36	1676247.72	0.39
2015-16	1046959136.02	42813001.26	4.09	115886.56	0.01
2016-17	1853540666.00	43679809.41	2.36	6434228.00	0.35

10. It is relevant to mention here that there was slight fall in G.P. rate which was explained by the assessee as depended on multiple factors. It is noted that even in the assessment year 2016-07 the G.P. rate was reduced to 4.09% as

against the gross profit rate of 8.36% declared in the assessment year 2015-16. Thus, there was a steep fall in G.P. rate but the trading account was not disturbed by the AO while passing the assessment order u/s 143(3) and the AO did not invoke provisions of section 145(3) in the case of the assessee for that year as the assessee maintains day to day stock register, purchase and sales were fully vouched and the shortage was normal as comparable with the preceding years. Thus when the trading account was not disturbed on steep fall in G.P. in the immediate preceding year then there was no justification on the part of the AO to invoke the provisions of section 145(3) and apply a estimated gross profit rate in the year under consideration particularly when the assessee maintains day to day stock register, sale and purchase register and bills/vouchers which was furnished at the time of assessment proceeding. It is noted that the entire purchases and sales are fully and properly vouched. The shortage claimed is normal and as such the action of the AO in rejecting the books of accounts is totally unjustified and requires to be reversed particularly when the AO had not pointed out any discrepancy or mistake in the books of accounts or stock register or in respect of purchase or sales bills. Further also the law is settled that Id AO should have followed the principle of rule of consistency as held by Hon'ble Rajasthan High Court in the case of CIT v/s Malborough Polychem P. Ltd. reported in 309 ITR Page 43 (Raj) as under: -

"The Tribunal held that such deduction was never denied to the assessee in the earlier assessment years despite the fact that the assessment was made under section 143(3). The principle of consistency required that the view taken by the Department in the preceding years should not be disturbed, unless there was a change in the factual and legal position."

11. There was no finding of the AO in the assessment order on discrepancy or adverse remark in maintenance of books of account and that the AO had arbitrarily invoked the provision of section 145 of the Act to reject the books of account to estimate trading result which is contrary to settled principles of law. The Hon'ble Rajasthan High Court in the case of CIT v/s Gotan Lime Khanij Udyog reported in 256 ITR Page 243 held as under: -

"That even if technically it is held that provisions of S. 145(3) are applicable still the arbitrary addition cannot be made"

12. It is pertinent to mention here that to produce Refined Soybean Edible Oil, the appellant assessee has to import crude soybean oil from international markets. This crude soybean oil contains many undesirable impurities including gums etc. and the same is not edible in nature. Further the crude soybean oil goes through a stiff process for conversion into refined soybean edible oil which leads to higher cost of production. It is contended that in this line of business it

cannot be assumed to have uniformity in profit as the item in which the assessee deal with is not only essential commodity but also the prices are highly fluctuated looking to the international market as well as domestic competition. Further also in the year under consideration, the government has changed the policies to access the Indian market for oil seed and other allied product for manufacturing of edible oil etc due to such the assessee had carried out his business in tuff competition.

13. On similar facts, the Coordinate Jodhpur Bench in the case of ITO v/s Subhash Synthetics reported in 259 ITR 78(AT) held as under: -

"Income-Addition-Low net profit rate-AO applied net profit rate of 2.67 per cent on the basis of information collected from Central excise department as against 0.74 per cent declared by assessee-manufacturer- Not justified- CIT(A) found that in most of the cases the actual sale price was less than that estimated at the time of filing the declaration before the excisedepartment-Income cannot be estimated simply on the basis of the sale price given in the excise declaration statement and the net profit rate of 2.67 per cent arrived at by the AO was not correct-Further, AO has not pointed out any serious defect in the assessee's books of account for invoking the provisions of s. 145-Also, net profit rate

declared during the relevant year is better than the net profit rate declared during the preceding two years- CIT(A) rightly deleted the addition."

14. On similar facts, an issue of G.P. addition has been adjudicated by the ITAT, Jodhpur Bench in the case of M/s G.R.G. Oil Mill in ITA No. 192/JODH/2019 dated 28/11/2019 in which the Tribunal held as under: -

"11.1 In the present case also the Assessing Officer had not provided the opportunity asked by the assessee to cross examination Shri Trilok Goel on the basis of which the impugned sales was treated as bogus and even the assessee furnished all the documents relating to purchase/ sales, transportation etc, various copies of accounts, VAT returns, copy of C Form obtained from M/s Kalka Udyog. Therefore the Assessing Officer arbitrarily added the entire sales in the hands of the assessee and the Ld. CIT (A) although considered the sales declared by the assessee as genuine but wrongly made the addition by applying the GP rate of 8.8% declared by the assessee on the same sales which was also part of the turnover of the assessee on which the profit was also already declared. We therefore are of the confirmed view that the addition sustained by the Ld. CIT (A) was not justified. Accordingly, the same is deleted."

15. In our view, the gross profit as declared by assessee in given set of facts i.e. Govt. Policies and increased business turn over by more than 75%, is not only found to be reasonable but also true & fair. Further considering the vital facts that in the line of Soya oil manufacturing business, the G. P. rate cannot remain uniform as there are cycles of ups and downs in various sectors of economy which do affects the oil manufacturing business of assessee.

16. In the backdrop of the aforesaid discussion, we accept the grievance of the assessee as genuine and hold that the impugned order passed by the Ld. CIT (A) in confirming the rejection of by invoking 145(3) and estimating GP is perverse to the facts or record. We, therefore, delete the addition of Rs. 1,19,26,410/-.

17. In ground No. 7 to 14, the appellant has challenged the confirmation of addition of Rs 1,11,60,612/-in respect of alleged bogus sales.

18. It has been discussed as above that the assessee company is engaged in the business of trading and manufacturing of edible oil etc. and that the assessee had furnished complete detailed information and evidences such as the sales, books, sale bill, purchase books, purchases bills, stock register, bank statement, etc. in compliance to various quarries raised by the AO. It is noted that the assessee had furnished the documentary evidences, explanation and

submission in support of genuineness of transaction made with M/s Milap Enterprises. The information, documentary evidences and explanation furnished by assessee reads as under: -

- i. The assessee had made sales of edible oil to M/s Milap Enterprises which are recorded in the audited books of account.
- ii. The sale is being made through brokers and rarely as direct sale made by assessee. The brokerage was paid to the brokers by Alc payee cheques after deduction of tax at source.
- iii. That payment had been obtained in advance through RTGS as per business policy from the buyer account whose name invoice to be made.
- iv. The buyer had provided F Form to the assessee which was obtained from Commercial Tax Department by the buyer for purchases of goods outside state.
- v. The sales made by assessee were subject to VAT and VAT Authority had also verified the Form No 49A provided by buyer and accordingly accepted the transaction as genuine.
- vi. The details of transportation of goods etc as provided by buyer

vii. That the purchase registers and stock register which are on record of Id AO in which complete details of goods are recorded. The purchases are made through import or high sea purchase and same was dully accepted as genuine after due verification. The Id AO had not recorded any adverse finding in this regards in the assessment order

viii. The income on sales made to M/s Milap Enterprise are recorded and offered for taxation sand same was dully accepted by Id AO. Thereafter had any power under the law can be treated the entire receipts as undisclosed.

ix. That the claim of assessee that entire sales made by him are recorded and sales consideration are obtained in advance through RTGS from the account of buyer whose name invoice was issued and such facts was dully verified and found true and correct and no adverse finding recorded in the order.

x. No evidence or material brought on record to justify the allegation made in the order. However the Id AO himself had found the sales transaction made with M/s Milap Enterprise are recorded and supported from documentary evidence then on what basis had treating such transaction as undisclosed transaction.

xi. That the Id AO ought to have made enquiry from respective AO or M/s Milap Enterprise or Commercial Tax Department who have issued Form No 49 to buyer for purchase of goods outside states. Without conduct these general enquiries and in absence of this has presumed that the sales are bogus which is not only against the provision of law but gross violation of principal of natural justice.

xii. There being no restriction under the law to sales of goods to new buyers. The buyer (Milap Enterprise) being a new party, introduced during the year by the broker, insistence for remitting money before dispatching of goods by the appellant cannot be adversely viewed.

xiii. There was no iota of evidence having any adverse remark on the purchase & stock shown by the assessee in the books of accounts. Once the purchases had been accepted, then the corresponding sales could not be disturbed without giving any conclusive evidence/finding.

19. The Ld. DR relied on the impugned order.

20. We find that the explanation and documentary evidences as furnished by assessee has not been contradicted by the department. It is seen that there was no adverse material brought on record by the AO/CIT (A) and that the AO had made arbitrarily observation in the assessment order based on assumption

and presumption by merely stating that the assessee has stated that the transactions have been made through broker Shri Bharat Jain but no present postal address of the said broker has been given in the reply. In fact, in reply to the specific query regarding the address on which the goods claimed to be sold, have been delivered to M/s Milap Enterprises, the assessee stated that goods were delivered by the assessee to the buyer as ex factory delivery. It was also explained that the buyer was responsible for arranging pick up of goods from factory premises and all transport cost, insurance etc were borne by the buyer. In support of the contention, the assessee filed copy of sale bill, ledger, transportation receipts, VAT 49A, weighing receipts and copy of bank statement.

21. We find that the observation of the AO are factually wrong as the Delhi based party, M/s. Milap Enterprises was not known to the assessee; that the assessee has carried out transactions with the said party for the first time and that the assessee had arranged transportation and insurance through a buyer by way of ex-factory delivery. It is evident from the record that vide submission dated 02.12.2019, the assessee has filed copy of transportation bills and insurance.

22. As regards to the AO observation and endorsement by the CIT (A) of the same, that cash in the bank account of Shri Rahul Kumar, Prop. M/s Milap Enterprises was deposited during the Financial Year 2016-17 and subsequently, transferred to other parties and that M/s Milap Enterprises was found to be bogus, is not substantiated by the revenue by taking rebuttal of the assessee. We find that the allegation made by the Id AO are contrary to the material on record as the assessee had furnished complete details in respect of purchase & sales and manufacturing activities during the assessment proceedings and also explained that out of stock of edible oil available, it had sold the goods to various other parties. The sales made through broker and complete details of broker are available with the Department. Further also the sales made to M/s Milap Enterprises are subject to VAT and the VAT authority after due consideration of the documents provided by third party ex-factory delivery had been accepted such sale as genuine. The Hon'ble Madres High Court in the case of CIT V/s Anandha Metal Corporation reported in 273 ITR 262 has observed on similar facts that no adverse view in this regard can be taken by the Id AO.

23. On perusal of case records, it is evident that voluminous details were submitted by the assessee as and when called for by the AO and the assessee had also produced the books of account and bills during the assessment

proceedings and same were uploaded. It is further submitted that allegation made in para 14 of assessment order is apparently incorrect, false and contrary to facts on record. The assessee had claimed by various letters that tankers were arranged by the buyers only and the company did not make any payment of freight to the transporters.

24. From the assessment order, it can be seen in Para-10 on Page 4 to 7 of the order, that the AO had reproduced one letter dated 31/10/2019 received from ITO ward 45(2), Delhi and on the basis of this letter, without being rebutted to the appellant assessee, he had made the allegation that the transaction of sale of edible oil to M/s Milap Enterprises is bogus and also hold that alleged sales made by assessee company are not genuine. In our view, the observation so made by Id AO was not only objectionable to the appellant but also against the principal of natural justice because as admittedly the third party information as provided by other officer had been blindly accepted as genuine by Id AO without any examination by way of carrying out any investigation and verifications of facts and rebuttal of the alleged information to the assessee and thus, the documentary evidences and explanation as provided by assessee in support of genuineness of sales transaction were ignored.

25. In our view, it is settled law that the alleged information obtained by department in back of assessee, should have been rebutted to assessee for his comments but in the present case of assessee the Id AO had not provided such information to the assessee and did not allow comments or cross verification of same during the assessment proceedings. Therefore, the alleged evidences as relied by Id. AO have no emendatory value for making addition in light of judicial decisions discussed in forgoing paras.

26. Similar view has been taken by the Hon'ble ITAT, Indore Bench in the case of DEWAS SOYA LTD, UJJAIN v/s Income Tax (Appeal No 336/Ind/2012

"In view of the above uncontroverted finding more specifically when the Assessing Officer has not doubted the genuineness of the purchases and when the stocks tally has been accepted by the Assessing Officer then there is no reason to doubt the sales. The broker from Gwalior who arranged the sales with the said party also confirmed in his statement recorded by the department confirming that he made the dealing with M/s A.K. Impex and consequently the assessee recorded the sales in its regular books of accounts. Even otherwise, the goods were supplied to the parties after receiving the advance payments which cheques/DDs/RTGs, etc. Therefore, we hold that the CIT(A) has credited

through rightly come to the conclusion that the addition made by the Assessing Officer u/s 68 of the Act by considering the sale proceeds as cash credits cannot be sustained. Likewise, the learned CIT(A) very elaborately dealt with the issue with regard to other parties like M/s Pravin Trading Co., M/s Mohan Traders and Maa Bhagwati Traders, etc. wherein the goods were delivered on the same day and sale invoices were issued quoting cross numbers evidencing that such receipts were sale proceeds credited to the profit and loss account of the assessee. The entries were made in the stock register regarding sales which were in the nature of counter sales to these parties and such counter sales were doubted by the Assessing Officer without bringing any evidence on record. Uncontrovertedly, the brokers to whom brokerage was paid after deduction of TDS have also confirmed sale effected to these parties while recording their statement before the department. There is a further finding in the impugned order that the assessee effected sales of oil in tankers 279 dealers showing turnover to the tune of Rs. 67.63 crores out of which 6 dealers were out of the State of Madhya Pradesh. The transaction of cash deposit was in the nature of counter sale and delivery was given on the same day whereas DD/RTGS were received in advance either directly or through brokers against supplies which were

effected within a week's time. Uncontrovertedly the assessee was maintaining sale/stock register on day to day basis containing details of whole year which were placed before the learned CIT(A). It has been specifically observed by the learned first appellate authority that the assessee was maintaining complete quantitative records relating to purchase, production and sale which were properly accounted for. So far as cancellation of TIN by the Commercial Tax Authority is concerned, it was neither informed by the authorities to the assessee nor by the purchaser himself, therefore, at the later stage, the assessee cannot be punished for the deeds of somebody. Likewise, C- forms were issued and given to the assessee. The sale of such magnitude is normally possible through brokers and even otherwise so far as doing the business is concerned, it is up to the assessee. It is pertinent to mention here that evidence is furnished during first appellate stage by the assessee was forwarded to the Assessing Officer along with the written submissions and the copies of the comments of the Assessing Officer were given to the assessee, therefore, it cannot be said that the Assessing Officer was not provided any opportunity. Only after calling remand report the CIT(A) has decided the issue on merits. Under these circumstances there is no merit in the ground taken by Revenue with regard to violation of

Rule 46A. If the purchasing dealers did not account for the transaction in their books, the assessee cannot be penalised. The learned CIT(A) has already dealt with the issue by following various pronouncements which are available at page 10 of the impugned order which has been reproduced above. The Hon'ble Apex Court in the case of Laxmichand Baijnath v. CIT; 35 ITR 416 held that amount credited in business books can normally be presumed as business receipts. The Hon'ble Patna High Court in Bahri Brothers (154 ITR 244) held that identity of creditors is not relevant for cheque transactions. In such a situation, if part payment through cheque/RTGS from the same party is accepted, how the cash sale which has been duly recorded can be doubted unless and until contrary material is brought on record. So far as the meaning of expression "books" with respect to section 68 is concerned, the Hon'ble Punjab & Haryana High Court in the case of Smt. Shantadevi; 171 ITR 532 held that such books denotes books of assessee himself and not of other assessee, therefore, the assessee is responsible for his books only and not of the books of other parties. Detailed findings recorded by CIT(A) is as per material on record, therefore, do not warrant any interference. In this view of the matter, we find no infirmity in the order of the learned CIT(A) and accordingly affirm the same.

In the result, the appeal of the Revenue stands dismissed."

27. The Hon'ble Apex Court in the case of CIT -7, New Delhi Vs. M/s Odeon Builders Pvt. Ltd. in Civil Appeal Nos. 9604-9605 of 2018 order dated 21/08/2019 held as under:

"who has prima facie discharged the initial burden of substantiating the purchases through various documentation including purchase bills, transportation bills, confirmed copy of accounts and the fact of payment through cheques, & VAT Registration of the sellers & their income tax return. In view of the above discussion in totality, the purchases made by the appellant from M/s Padmesh Realtors Pvt. Ltd. is found to be acceptable and the consequent disallowance resulting in addition to income made for Rs. 19,39,60,866/-, is directed to be deleted."

28. The Hon'ble Apex Court in the case of Andaman Timber Industries v. CCE (2015) 281 CTR 241 and Kishanchand Chellaram v. CTT (1980) 125 ITR 713 (SC) held that the department is bound to give the assessee an opportunity to controvert evidence and cross examine the evidence on which the department places its reliance. A failure in providing the same can result in the order being a nullity. The Bombay High Court in H.R. Mehta vs. ACIT (2016) 387 ITR 561 (Bom.) (HC) has held that while making addition under s. 68, the A.O. had

relied upon some evidence collected in that behalf including statement on oath said to have been made on behalf of persons whose identity was not disclosed. It was held that assessee was bound to be provided with the material used against him apart from being permitting him to cross-examine the deponents by the department. This not having been done, addition was not sustainable.

29. Considering the peculiar fact on the issue and judicial pronouncements, we hold that the department is bound to give the assessee an opportunity to controvert third party evidence for cross examination as it was the sole evidence on which the department places its reliance. In the present case, such a failure in providing opportunity of cross examination and rebuttal to the assessee had resulted in holding the assessment order illegal and void ab initio. Thus, the addition of Rs. 1,11,612/- is deleted.

30. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open court on 26/02/2026.**

**Sd/-**

**(SUDHIR PAREEK)  
JUDICIAL MEMBER**

**Sd/-**

**(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER**

**Dated : 26/02/2026.**

**Nimisha Sr. PS**

**True Copy**

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,