

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 4907/Del/2025
(Assessment Year: 2022-23)

Akash Somany, Khol Road, Kund, Rewari, Haryana	Vs.	ITO, Rewari
(Appellant)		(Respondent)
PAN: AKNPS7897J		

Assessee by :	Shri Raghav Sharma, CA Shri Dhananjay Bhardwaj, Adv
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	13/01/2026
Date of pronouncement	11/03/2026

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.4907/Del/2025 for AY 2022-23, arises out of the order of the Id National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 09.07.2025 against the order of assessment passed u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 12.03.2024 by the Assessing Officer, ITO, Rewari (hereinafter referred to as 'Id. AO').
2. The Ground Nos. 2 & 3 raised by the Assessee were stated to be not pressed by the Learned AR at the time of hearing. The same is reckoned as a statement made from the Bar and accordingly dismissed as not pressed.
3. The Ground Nos.1 & 7 raised by the Assessee are general in nature and does not require any specific adjudication.

4. The Ground Nos. 4 to 6 raised by the Assessee are in respect of common issue of disallowance of purchases made from three parties in the total sum of Rs 1,20,65,111.

5. We have heard the rival submissions and perused the materials available on record. The Assessee is in the business of purchase, manufacturing and sale of all kinds of natural stones. The return of income for the assessment year 2022-23 was filed by the Assessee on 29-10-2022 declaring total income of Rs 3,07,58,400. The case of the Assessee was selected for scrutiny vide issuance of notice under section 143(2) of the Act on 2-6-2023. Thereafter, notice under section 142(1) of the Act dated 13-7-23 and 11-1-24 were issued requesting the Assessee to provide computation of income, Form 26AS, profit and loss account, balance sheet, bank statements with explanation for all major credits/ deposits, GST returns along with reconciliation of receipts/ income reported therein with the ITR. The Assessee was also directed to give party wise breakup of tax deducted at source by him on all expenses debited to profit and loss account and proof of payment of all the expenses, mode of payment, copy of sale deed and purchase deed, calculation of capital gains on sale of property and E-Way bills with details of goods transported, toll receipts containing the details from the place of origin to the place of destination, lorry number and any other mode of transportation details, stock register and ledger of concerned party in his books. Effectively the complete details of purchases made by the Assessee were sought to be examined as that was the main reason for the selection of case of the Assessee for scrutiny under CASS. During the course of assessment proceedings, all the collaborative documents which were required by the Learned AO were submitted vide online submissions dated 28-7-23, 11-8-23, 24-8-23 and 17-1-24. The Learned AR submitted that Assessee had furnished all the relevant documents

in support of the purchases made by him. The e-Way bills containing the details of goods transported, toll receipts, details from the place of origin to place of destination, lorry number, mode of transportation, stock register and ledger account of all the suppliers in the books of the Assessee were duly furnished before the Learned AO. The Learned AO resorted to make some online inquiries from GST and similar portals and some third-party postal verification and the materials thus gathered were found not reconciling with the evidence / clarifications supplied by the Assessee. Accordingly, the Learned AO proceeded to issue showcause notice to the Assessee as to why adverse inferences may not be drawn on the Assessee in respect of purchases made from three suppliers as under:-

a) Babu Singh	- Rs 1,92,000
b) Sunil Kumar	- Rs 11,03,361
c) Lalitha Devi	- Rs 1,07,69,850
TOTAL	Rs 1,20,65,111

6. In response to the show-cause notice issued by the Learned AO, the Assessee furnished the copy of purchase bills, copy of bank statements evidencing the payments made to the aforesaid three suppliers through regular banking channels, together with confirmation of ledger account from the party confirming the value of purchases made by the Assessee from the aforesaid suppliers. The fact of Assessee submitting these documents are recorded by the Learned AO himself in pages 58 and 59 of his assessment order. The Learned AO thereafter in Para 3.3.2 page 59 of his order had stated that the Assessee has not submitted e-Way bills, Dharam Kaanta, ledger confirmation etc. of the aforesaid three suppliers and stated that there was no confirmation about the actual movement of goods established by the Assessee. The Learned AO also noted that from the physical verification report, these three suppliers could not be traced. With

these observations, the Learned AO proceeded to disallow the entire purchases made from these three parties totaling to Rs 1,20,65,111 under section 37 of the Act. This action of the Learned AO was upheld by the Learned CITA.

7. The Learned AR submitted that e-Way bills were not required to be submitted because the distance between the Assessee premises and the supplier's premises was less than 50 kilometres and in that scenario, there was no requirement of issuing e-Way bills under the GST laws. He also submitted that this argument was taken by the Assessee before the Learned CITA also, which is also mentioned in page 82 of his order. However, the Learned CITA had rejected this plea of the Assessee in the absence of documentary proof establishing the exact location and distance between the supplier and the place of delivery. Further, the Learned CITA had noted that the exemption provided under GST laws cannot override the evidentiary requirements under the Income Tax Act. The Assessee has submitted before the Learned CITA that Dharam Kaanta slips are not required due to tile count. But this was rejected by the Learned CITA by stating that the Assessee had not provided any contemporaneous stock movement or delivery records. The Learned CITA further noted that the book entries, compliance to GST laws and tax payments alone are not conclusive evidence of actual transactions, especially where the suppliers are found to be non-existent or untraceable.

8. The Learned AR submitted that all the documents as required by the Learned AO including the stock register, purchase register were duly filed by the Assessee. He submitted that the books of accounts and the book results of the Assessee were duly audited and the same were not rejected by the Learned AO under section 145(3) of the Act by pointing out certain defects thereon. With regard to purchases made by the Assessee from Lalitha Devi,

an affidavit along with the ITR of the said supplier was also filed by the Assessee. It was submitted that Ms. Lalitha Devi has been a substantial supplier to the Assessee since April 2018, while the other two suppliers have been supplying local stone pieces to the Assessee for many years in the past.

9. With regard to enquiries made by the Learned AO on the aforesaid three suppliers, the Learned AR submitted that with regard to Babu Singh, the said party had duly furnished the reply before the Learned AO directly confirming the transactions with the Assessee. While this is so, how the Learned AO could say that the party is not traceable? With regard to Sunil Kumar, the said party had duly confirmed to the Assessee that no notice has been received ever by him from the income tax department making enquiries qua the Assessee herein. With regard to Lalitha Devi, she had also said that no notice has ever been received. However, a confirming affidavit was collected from the party by the Assessee and filed before the Learned AO.

10. With regard to non-submission of e-Way bills and Dharamkatha receipts, the Learned AR submitted that the raw material purchased are either countable or not countable. There are small supplies which are countable pieces particularly on local tractors from nearby places while there are supplies which are voluminous stone blocks of varying volumes from distant places of origin which have to be weighed before taking delivery and where weighment slips are necessary along with the bill / invoice for accounting and payment. The Assessee had furnished the copies of weighment slips in respect of all consignments where billing was in accordance with the weight of material received and the Dharamkatha weighment slips is maintained where one chooses to get that done in business exigency when the goods in transit cannot be counted and there is any scope or concern of pilferage. In respect of all local purchases of stone sheets, which are countable, each invoice or bill clearly contains the details of

the material being supplied, number of sheets, rate per sheet and the GST raised and paid there on. It was submitted by the Learned AR that e-Way bills are required to be carried by the transporter only where the distance between the origin and destination is 50 Kms or more or where the invoice value is more than Rs 50,000 for each trip. In the case of the Assessee, the distance involved is 5 to 10 Kms only moved in through tractors owned by the Assessee himself. Moreover, in respect of e-Way bills, if at all required, it is to be prepared and maintained by the supplier and not the recipient and hence its non-availability in the hands of the Assessee cannot be a reason to make the disallowance in the case of the Assessee. It was also submitted that no adverse inference has had been drawn by the GST authorities on the documentation maintained by the Assessee for movement of goods.

11. The Learned DR reiterated the observations made by the lower authorities and made specific reliance on page 79 of the order of the Learned CITA.

12. We find that the Learned AR was able to meet each and every allegation leveled by the lower authorities in the instant case, which have been already elaborated hereinabove. Hence, we are thoroughly convinced that Assessee had duly discharged its primary onus by furnishing the relevant documents before the lower authorities. There is absolutely no evidence brought on record by the revenue to prove that the suppliers are not traceable. In fact, no evidence has been brought on record to prove even the service of notice under section 133(6) of the Act on Sunil Kumar and Lalitha Devi. With regard to Babu Singh, the notice under section 133(6) of the Act has been duly responded by the party directly before the Learned AO. Hence the contention of the revenue that the party is not traceable has been proved to be factually incorrect. Despite the non-receipt of any notice by Ms. Lalitha Devi, the Assessee had duly furnished a confirming affidavit received

from Lalitha Devi and furnished before the Learned AO during the course of assessment proceedings. In any event, merely because the suppliers had not responded to the notice issued under section 133(6) of the Act (which is not the case in the case of the Assessee herein before us), still the purchases made by the Assessee cannot be doubted when all the relevant preliminary documents thereon had been duly furnished before the Learned AO. We hold we find that Assessee had given proper explanation with regard to non-submission of e-Way bills and Dharamkatha receipts which have been elaborated hereinabove. The Assessee had given explanation that the suppliers are situated less than 50 kilometers from the premises of the Assessee hence there is no requirement of e-Way bills as per the GST laws. This has to be rebutted by the revenue by bringing in contrary evidences on record that the supplier was situated beyond 50 kilometers from the premises of the Assessee, which was admittedly not done by the revenue in the instant case. Further the Assessee had duly placed on record the entire GST returns and had provided evidences that no adverse inferences had been drawn by the GST authorities with regard to purchases and sales transactions carried out by the Assessee during the year under consideration and more particularly from the aforesaid three suppliers. We find that on one hand, the Learned CIT(A) makes the observation that compliance to GST laws would not override the evidentiary requirements of Income Tax Act, but on the other hand places reliance on the requirement provided under the GST laws with regard to e-Way bills for drawing an adverse inference on the Assessee. This contradictory stand taken by the revenue itself goes against the revenue and advances the case of the Assessee herein. We find that the Assessee had duly furnished the complete stock register along with the copy of purchase invoices, purchase register, bank statements evidencing the payments made to the aforesaid three suppliers through regular banking channels and the confirmation from the aforesaid three suppliers confirming

the transactions with the Assessee. It is not even the case of the revenue that the suppliers after having received the payments from the Assessee through regular banking channels had paid cash back to the Assessee for furnishing bogus bills. Hence the onus casted on the Assessee stands duly discharged. We find that the Learned AR rightly placed reliance on the decision of Hon'ble Supreme Court in the case of CIT vs Odeon Builders Private Limited reported in 418 ITR 315 (SC) in support of his contentions wherein it was held that when all the relevant documents supporting the purchases were furnished by an Assessee, the entire value of purchases could not be disallowed by the revenue.

13. In view of the above observations and all the documentary evidences furnished by the Assessee, we have no hesitation to delete the entire disallowance of purchases in the sum of Rs. 1,20,65,111/- from the aforesaid three suppliers under section 37 of the Act. Accordingly, the Grounds 4 to 6 raised by the Assessee are allowed.

14. In the result, the appeal of the Assessee is partly allowed.

Order pronounced in the open court on 11/03/2026.

-Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

-Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 11/03/2026
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT