

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No.1062/Ahd/2025
(Assessment Year: 2018-19)

Parth Buildcon, Gam Zundal, Nr. Swaminarayan Mandir, Gandhinagar-382421. [PAN :AASFP4442 P]	Vs.	The NFAC, Delhi, Jurisdictional Assessing Officer, The ACIT, Circle- Gandhinagar, Gandhinagar.
(Appellant)	..	(Respondent)

Appellant by :	Shri Karan Shah, AR
Respondent by:	Shri Rignesh Das, CIT. DR
Date of Hearing	10.03.2026
Date of Pronouncement	17.03.2026

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

The captioned appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi, vide order dated 24.03.2025 relevant to the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal:

The Ld.CIT(A) has grossly erred in law and on facts in dismissing the appeal. He ought to have allowed the appeal fully in accordance with the grounds of appeal raised by the appellant before hi.

1. Disallowances of purchases / expenses Rs. 3,62,67,546/-

1. The Ld. CIT(A) has erred in upholding the disallowance of Rs. 3,62,67,546/- (further enhanced by Rs 50,41,851/- as made by the AO towards purchases of construction materials made by the appellant from the following three parties: (i) Dev Enterprise, (ii) Kyara Brothers, and (iii) M/s Maahi Traders, solely based on assumptions, surmises, and conjectures, without appreciating the substantive evidence placed on record in the written submission dated 24.12.2024.

2. The Ld. CIT(A) erred in not taking into consideration the additional evidence in the form of Bank statements of these purchase parties submitted by the appellant vide submission dated 23.12.2024 in support of the purchases made from three parties namely (i) Dev Enterprise, (ii) Kyara Brothers and (iii) Maahi Traders from whom appellant has made the purchases of building material to establish that all the transactions were carried out through proper banking channel leaving no scope for suspicion regarding their authenticity.

3. The Ld. CIT(A) as well as the Ld.AO failed to consider that merely because the notice u/s. 133(6) could not be served cannot be a ground to treat the transactions entered by the appellant as non-genuine without bringing any cogent material evidence in support of allegations made in view of decision of the Hon'ble Supreme Court in the case of Orissa Corporation (1986) 159 ITR 78.

4. The Ld. CIT(A) has grossly erred in not considering that the appellant firm is engaged in developing and construction of housing and commercial projects known as "Parmeshwar 8", "Tulip Parmeshwar" and "Mepal Parmeshwar". The material supplied by the aforesaid parties are utilized in the residential housing and commercial scheme built and developed by the appellant firm in the name and style "Parmeshwar 8", "Tulip Parmeshwar" and "Mepal Parmeshwar". That without the usage of the materials supplied by various parties including the aforesaid parties, the development and execution of the scheme is not possible at all. This contention is also supported by the judicial pronouncement in the case of Victor Electrodes Ltd. V CIT (2012) 20 taxmann.com 680 (Delhi).

5 The Ld. CIT(A) has erred in not considering the alternate plea of the appellant, without prejudice to the primary submissions that even if the purchases of construction materials are presumed to be non-genuine or inflated, the only disallowance that can reasonably be made is with respect to the embedded profit element, if any, in such transactions. The Hon'ble jurisdictional High Court and various other Courts have consistently held that in cases involving alleged bogus purchases, the entire purchase amount cannot be disallowed. Instead, only the profit element embedded in the alleged inflated purchases is to be brought to tax. Therefore, any

disallowance beyond the G.P. margin is unjustified and contrary to settled legal principles.

6. *The Appellant most respectfully submits that the Ld. AO failed to provide a reasonable and fair opportunity of being heard during the assessment proceedings as the assessment proceedings were conducted during the peak of the COVID-19 pandemic, a time when the city of Ahmedabad-like the rest of the country was severely impacted. During this period, the partners and employees of the Appellant were either in isolation or unable to attend office due to prevailing health and safety concerns. In view of these unprecedented and genuine hardships, the Appellant had requested a modest extension of 15 days to enable proper compliance with the notice issued. However, despite the bona fide nature of the request, the Ld. AO proceeded to finalize the assessment order dated 30.04.2021 without granting the requested extension and as a result, arbitration additions have been made in the case of appellant.*

II DISALLOWANCE OF EXPENSES RS. 49,30,713/-

1. *The Ld. CIT(A) has erred in confirming the disallowance Labour Charges paid to (i) Dinesh D. Sondarval, (ii) Rajendra Manilal Patel and (iii) Suresh P. Gediya without cross confirmation of Rs. 49,30,713/- merely on surmises and conjectures.*

2. *The Ld. CIT(A) has erred in not considering the additional evidence submitted by the appellant vide submission dated 23.12.2024 and synopsis of arguments dated 24.12.2024 submitted during the course of appellate proceedings. The appellant has already submitted before the Ld.AO the documentary evidences to prove the genuineness of the labour charges paid to the aforesaid three parties that all the transactions were carried out through proper banking channel leaving no scope for suspicion regarding their authenticity.*

3. *The Ld. CIT(A) has erred in not granting the opportunity of hearing through Video Conferencing even though repeated requests have been made by the appellant.*

The appellant firm reserves its right to add, amend, alter or modify any of the grounds stated hereinabove either before or at the time of hearing.

3. The assessee firm filed its return of income for A.Y. 2018-19 on 08.10.2018, declaring a total income of Rs. 34,35,030/-. The return was processed u/s 143(1) on 29.06.2019 at the returned income.

Subsequently, notices u/s 143(2) and 142(1) were issued calling for certain details in support of the return of income. In response, the appellant furnished replies from time to time on the ITBA Portal of the National e-Assessment Centre, Delhi. However, the Assessing Officer while passing the order u/s 143(3) r.w.s. 144B of the Act dated 30.04.2021 determined the total income of the appellant at Rs. 3,95,91,440/- after making the disallowance of purchases/expenses – Rs. 3,12,25,695/- and disallowance of expenses without cross confirmation – Rs. 49,30,713/-

4. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A), based on the material available on record, dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer has not properly examined the various details and explanations furnished by the assessee during the course of the assessment proceedings, along with the supporting evidences filed in response to the notices issued. **The Ld. AR further requested for admission of additional evidence and prayed for an opportunity to substantiate the claims before the Revenue Authorities.** The Ld. AR also relied upon the following judicial precedents:

1. Decision of the Hon'ble Supreme Court in the case of Orissa Corporation (1986) 159 ITR 78.
2. In the case of Victor Electrodes Ltd. V CIT (2012) 20 taxmann.com 680 (Delhi).

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6. Heard the arguments of both the parties and perused the material available on record.

7. The assessee has filed additional evidences which are admitted and taken on record. Since the Revenue hitherto never had the opportunity of examining the additional evidences filed now, we are of the view that the matter requires verification. Accordingly, the issue is remanded to the file of the **Assessing Officer** to examine the additional evidence and pass an order in accordance with the provisions of the Act.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Sd/-
(TR SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated (True Copy) 17.03.2026
MV

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad