

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH
PHYSICAL HEARING

BEFORE HON’BLE SHRI LALIET KUMAR, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

1. आयकर अपील सं. / ITA No.961/Chandi/2025
(निर्धारण वर्ष / Assessment Year: 2022-23)

DCIT (Central Cricle -1) SCO 1-6, 2 nd Floor, Kitchlu Nagar, Ludhiana	बनाम/ Vs.	M/s Fortune Metals Ltd. Opp. Circuit House, Ferozpur Road, Ludhiana (Punjab) - 141001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAACF-8508-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

2. CO. No.36/Chandi/2025
[In ITA No.961/Chandi/2025]
(निर्धारण वर्ष / Assessment Year: 2022-23)

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(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Sudhir Sehgal (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Vivek Vardhan (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	11-03-2026
घोषणाकीतारीख / Date of Pronouncement	:	19-03-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 The revenue is in further appeal before us for Assessment Year (AY) 2022-23 against an order passed by Ld. Commissioner of Income Tax (Appeals)-5, Ludhiana [CIT(A)] in the matter of an assessment as framed by Ld. AO u/s 143(3) of the Act on 31-03-2024. The grounds of appeal read as under:-

1. *Whether upon the facts and circumstances of the case, the Ld. CIT(A) was justified to restrict the addition of Rs. 2,22,12,400/- u/s 69C of the Act to only 6% gross profit of bogus purchases by ignoring the facts of the case and findings arising from search u/s 132 of the Act undertaken in the case of Deepak Sharma?*
2. *Whether upon facts and circumstances of the case, the Ld. CIT(A) was justified to delete the addition of Rs.12,60,000/- made by the A.O. on account of unexplained cash expenditure by ignoring the facts of the case and incriminating evidence found from whatsapp chat in the case of search of u/s 132 in the case of Sunil Modi?*
3. *Whether upon the facts and circumstances of the case, the Ld. CIT(A) was justified to delete the addition of Rs. 12,60,000/- made by the AO on account of unexplained cash expenditure by ignoring the facts of the case and incriminating evidence found from whatsapp chat in the case of search u/s 132 in the case of Sunil Modi?*

1.2 The Assessee has filed the cross-objection on following grounds of appeal: -

- 1.a) *That the Ld. CIT(A)-5, Ludhiana has erred in restricting the addition to gross profit element amounting Rs.13,32,744/- on account of alleged bogus purchases ignoring the fact that the purchases were backed by proper documentation which were filed before the Ld. AO during the course of assessment proceedings.*
- b) *That the Ld. CIT(A)-5, Ludhiana has failed to appreciate the fact that the scrap purchased from the alleged doubtful party is almost at the same rate as purchased from the other parties and thus the addition on account of gross profit on the alleged doubtful purchase is not in order.*
- c) *That the finding of CIT(A)-5 Ludhiana that the purchases from Varinda Group is bogus is against the facts and circumstances of the case particularly when documentary evidence furnished have not been doubted.*
2. *That the assessment in the case of the assessee has been finalized by considering third party statements without affording any opportunity to the assessee to cross examine the said statements is not valid as per the binding judgment of Jurisdictional High Court in the case of M/S DSG Papers Pvt. Ltd. reported in ITA NO. 768/Chd/2023 & the Hon'ble Apex Court in the case Andaman Timber Industries v. Commissioner of Central Excise, Kolkata (2015) in Civil Appeal No.4228 of 2006.*
- 3.a) *That the Ld. CIT(A)-5, Ludhiana has erred in rejecting books of accounts u/s 145(3) without pin pointing any defects in the audited books of accounts.*
- b) *That the Ld. CIT(A), Ludhiana has erred in rejecting books of accounts u/s 145(3) himself, without giving a notice of enhancement as stipulated in section 251(2) of the Act and thus, the finding of CIT(A) of rejection of books of accounts is not proper.*

The Ld. Sr. DR advanced arguments in support of assessment order. The Ld. AR also advanced arguments and referred to the findings of Ld. CIT(A)

in the impugned order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Assessment Proceedings

2.1 The assessee being resident corporate assessee is stated to be engaged in manufacturing and trading of TMT bars / MS Pipes. Pursuant to search action u/s 132 by the department in the case of Deepak Sharma Group of *Mandi Gobindgarh*, Ld. AO made allegation of accommodation entries against the assessee. It was alleged that the searched group provided the accommodation entries through two entities viz. *M/s Mahinder Pal & Sons* (prop. Shri Gurdeep Singh) and *M/s Jai Bhole Enterprises* (prop. Shri Parminder Singh) without carrying out any actual business activity. These two concerns made bogus sales / purchases to other entities, one of which was identified as *Varinda* Group of Industries. The proprietor of these two entities expressed no knowledge about the business activities of respective concerns. It was thus concluded by Ld. AO that Shri Deepak Sharma was providing accommodation entries only. Therefore, all the purchase made by him was to be treated as bogus sales of parties from whom such purchases have been made. Similarly, all the sales as made by him are to be treated as bogus purchase of parties to whom such sales have been made.

2.2 The Ld. AO further examined GST trail of *M/s Mahinder Pal & Sons* which revealed that this entity made sales to Shri Jitan Kumar of *Varinda group of industries* who reported huge sales and purchases but did not file any tax audit report and Income tax return. Therefore, Shri Jitan Kumar was

nothing more than an entry provider in the entire chain without carrying out any economic activity. Notice issued u/s 133(6) to Shri Jitan Kumar remained un-responded.

2.3 The assessee is stated to have made purchases of Rs.222.12 Lacs from Shri Jitan Kumar and accordingly, it was required to file the relevant purchase documents viz. purchase invoices, e-way bills, transportation bills along with details of vehicles. The assessee, in its reply dated 27-02-2024, supplied the required documents and opposed the allegation of Ld. AO. In another reply dated 22-03-2024, the assessee stated that it furnished all the supporting documents and therefore, the purchases could not be treated as bogus purchases. The same stood rejected by Ld. AO in the light of statement of Shri Gurdeep Singh (prop. *M/s Mahinder Pal Singh & Sons*). It was observed that *M/s Mahinder Pal & Son* was being run only in the name of Shri Gurdeep Singh whereas entire affairs were being managed by Shri Deepak Sharma. Shri Gurdeep Singh was mere name-lender. Similar findings emerged for *M/s Jai Bhole Traders*.

2.4 It was finally concluded by Ld. AO that Shri Jitan Kumar made fraudulent purchases and therefore, the sales made by it would also be bogus. The assessee made purchases from Shri Jitan Kumar and therefore, the purchases of the assessee was also to be treated as bogus. Accordingly, the amount of Rs.222.12 Lacs was treated as bogus purchases and added to assessee's income u/s 69C of the Act.

2.5 Another addition as made by Ld. AO was on the basis of search proceedings in the case of Shri Sunil Modi wherein a *whatsapp chat*

between Sunil Modi and Sham Sunder A. Nagar was found. In the said chat, Sham Sunder A. Nagar was talking about cash back of interest amounting to Rs.12.60 Lacs on account of loan received by Shri Sunil Modi from the assessee and another concern by the name Fortune Metalicks Ltd. During the year, the assessee received interest income of Rs.7,82,600/- on loan advanced to Shri Sunil Modi in earlier years which was still outstanding. The Ld. AO alleged that the assessee has not provided any source of interest paid back in cash for Rs.12.60 Lacs to Shri Sunil Modi. The assessee refuted the allegation of Ld. AO on the ground that the chat was between two independent persons and it does not pertain to the assessee. However, after rejecting assessee's contentions, the amount of Rs.12.60 Lacs was added to the income of the assessee u/s 69C.

Appellate Proceedings

3.1 The assessee vehemently assailed the impugned additions by way of elaborate written submissions which has already been extracted in the impugned order. The substantive findings of Ld. CIT(A) on the issue of bogus purchases is contained in para 5.1.3 of the impugned order. The assessee's stand was that it had filed all the necessary supporting documents whereas the stand of Ld. AO was that the supplier of the assessee made bogus purchases. It was observed by Ld. CIT(A) that it was true that the alleged sellers did not file GST returns and in their respective statements, they have accepted giving accommodation entries. However, the payment for the purchases was through banking channels and the assessee furnished all the supporting documents to establish the

genuineness of the purchases. On these facts, the purchases were rightly treated as bogus purchases. The assessee declared GP rate of 5.76% on sales. As the stated transaction was non-genuine, the profit element was to be estimated on these purchases. The same was estimated @6% on alleged bogus purchases of Rs.222.12 Lacs. The addition thus sustained by Ld. CIT(A) amounted to Rs.13,32,744/- as business Income. Aggrieved, the revenue is in further appeal before us whereas the assessee has assailed this addition in its cross-objection.

3.2 On the issue of addition of Rs.12.60 Lacs, it was held by Ld. CIT(A) that whatsapp chat was between two independent persons. The chat should be confirmed by the person who was under the possession of device from which this chat had been recovered. There was no dispute on the fact that it was recovered from a third person i.e., Shri Sunil Modi. It was not known as to whether he had admitted this chat or not. It was also not clear whether he had admitted that this transaction pertained to the assessee. Therefore, even the basic condition of acceptability of this chat as evidence was missing. There was no corroborative evidence on record to substantiate this *Whatsapp chat*. Therefore, the impugned addition was deleted against which the revenue is in further appeal before us.

Our findings and Adjudication

3. From the facts, it emerges that the assessee is engaged in manufacturing and trading of TMT bars / MS Pipes. To undertake this activity, the assessee is required to purchase raw material. The assessee has made purchases of Rs.222.12 Lacs from Shri Jitan Kumar of *Varinda*

group of industries. It could be seen that the assessee has furnished ample documents which include purchase invoices, e-way bills, transportation details etc. as required by Ld. AO to establish the genuineness of the impugned purchases. None of this document is found to be non-genuine. The payment to the supplier has been made through banking channels only which is evident from bank statements and ledger extract of the supplier. The assessee has maintained stock details which have also been reported by Tax Auditor. At the same time, Ld. AO has examined GST trail and found that Shri Jitan Kumar had made purchases from the tainted parties which belong to Shri Deepak Sharma Group of cases. The notices issued u/s 133(6) to Shri Jitan Kumar did not yield any positive response. The supplier could not be produced before Ld. AO to confirm these transactions. On these facts, it could very well be said that the complete onus was not discharged by the assessee and there remain doubt on the genuineness of the purchases so made. Under these circumstances, procurement of material from the open market by the assessee could not, altogether, be ruled out. Therefore, to plug possible leakage of revenue, the correct approach would be to estimate GP Rate on the tainted purchases. The estimation of 6% by Ld. CIT(A), in our considered opinion, is in line with the regular GP rate as reflected by the assessee. Therefore, we endorse the adjudication of Ld. CIT(A), in this regard. The corresponding grounds as raised by the revenue as well as the assessee stand dismissed.

4. The second issue that fall for our consideration is addition of alleged cash back of interest of Rs.12.60 Lacs. It could clearly be seen that this

addition has been made on the basis of *whatsapp chat* between two independent parties. There is no corroboration or admission of these *chats*. There is no evidence that the assessee has paid back the impugned interest. Even the basic condition of acceptability of this chat as evidence was missing. Therefore, the findings of Ld. CIT(A) do not require any interference on our part. We order so. The revenue's appeal stand dismissed. No other ground has been urged in assessee's cross-objection and accordingly, the same also stand dismissed.

5. The revenue's appeal as well as assessee's cross-objection stand dismissed.

Order pronounced on 19th March, 2026.

-Sd-
(LALIET KUMAR)
JUDICIAL MEMBER

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

AS

Dated: 19-03-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH

1.	Draft dictated	11-03-2026	Sr.PS
2.	Draft first placed before author	11-03-2026	
3.	Approved draft comes to Sr.PS/PS		
4	Final draft placed before author		
5.	Order signed and pronounced on	19-03-2026	
6	File sent to the Bench Clerk	19-03-2026	Sr.PS
7.	Date on which file goes to the AR		
8.	Date on which file goes to the Head Clerk.		
9.	Date of dispatch of Order		