

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: 42/RPR/2026
(निर्धारण वर्ष Assessment Year: 2021-22)

Umesh Kumar Pandey, LIG-244, Ward No. 14, Kumhari Durg, Chhattisgarh-492001	Vs	Income Tax Officer, Ward 2(1), Bhilai, 18/32 Bungalow, Sector 6, Bhilai, Durg, Chhattisgarh-490006
PAN: BFWPP0145M		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Darshana Bhaiya, Advocate, (Virtually)
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	25/03/2026
घोषणा की तारीख / Date of Pronouncement	:	02/04/2026

आदेश / ORDER

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2021-22 filed by the assessee is directed against order dated 09.01.2026 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)] passed under section 250 of the Income Tax Act, 1961 ('Act').

2. Vide eight grounds of appeal, the assessee has challenged not only the legality of the impugned order but also the additions on merit of the case. The main

grievance of the assessee is that the Ld. CIT(A) has not provided proper opportunity of being heard and has dismissed the appeal ex-parte without adjudicating each ground on merit. Further, the assessee is also agitated that how the accounted purchases can be treated as non-genuine without bringing any contrary evidence on the record. Further, the assessee has also challenged that the Ld. Assessing Officer ('AO') has not given any justification for computing income based on the income determined under section 143(1)(a) of the Act instead of income disclosed in the Income Tax Return (ITR).

3. The relevant facts giving rise to this appeal are that the assessee, proprietor of M/s Shree Triveni Engineering Works, is engaged in trading of iron & steel products. He filed his ITR of the relevant year on 29.03.2022 declaring income of Rs.5,21,430/-. The assessee's case was picked up for scrutiny. During the course of assessment proceedings, the Ld. AO noticed that some of the suppliers of the assessee were non-filer of their ITR or they had not disclosed any income from business in their ITR. Therefore, the AO doubted the purchases and initiated investigations by issuing notices under section 133(6) of the Act to various suppliers as detailed at page Nos. 6 and 7 of the assessment order. Thereafter, the Ld. AO segregated the purchases and tabulated the details of investigations on page No. 8 to 10 of the assessment order. Further, the Ld. AO, taking note of the outcome of investigations and the details available on the ITBA with respect to certain suppliers, drew inference that the assessee's unverifiable purchases @ 12.5% were non-genuine and taxed the same. The relevant finding of the Ld. AO is as under:

“3.6 Conclusion drawn

1. However, till date, the assessee did not furnish any submission/explanation for the notices issued except for the show cause notice dated 30.11.2022 where the assessee furnished the purchase and sales register, statement of computation of income, suppliers details, GSTR-1 and GSTR-3B. The particulars called for regarding tax invoices, e-way bills, ledgers and the bank statements has not been submitted. The assessee also did not avail opportunity of Video Conference given to him via show cause notice. It is, therefore, quite evident that the assessee has nothing to offer to substantiate that the purchases made by him are genuine. Thus, the purchases as identified as in Table D to the tune of Rs. 16,47,91,625/- are hereby being treated as non-genuine and bogus. However, if the purchases to the tune of Rs. 16,47,91,625/- were to be disallowed in entirety, then the question which would arise for consideration would be as to how the assessee achieved sales of Rs. 41,46,47,999/- when purchases of Rs. 16,47,91,625/- are non-genuine. Therefore, instead of treating entire purchases as bogus as stated in the show cause notice, profit @12.5% embedded in such bogus purchases are being considered for making an addition to the total income of the assessee. Therefore, 12.5% of total purchases as in Table D of Rs. 16,47,91,625 are being considered for making an addition to the total income of the assessee.

2. An attention is hereby invited to the following decisions with regard to addition of purchases 12.5% CIT. Bholanath Poly Fab (P.) Ltd. [2013] 355 ITR 290 (Guj). The view taken by the Tribunal in the case of Vijay Proteins Ltd, v. Asstt. CIT [1996] 58 ITD 428 (Ahd), The Hon'ble ITAT Mumbai vide its order dated 18.01.2017 in the case of Smt. Kiran Navin Doshi in ITA No. 2601/Mum/2016 Sanjay Oilcake Industries V. CIT (2009) 316 ITR 274 (Guj) Also, recently in the case Batliboi Environmental Engineering Ltd. which came up before the Hon'ble Bombay High Court, the Assessing Officer treated purchases made by assessee as bogus purchases and disallowed in totality. The CIT(Appeals) directed Assessing Officer to Page 8 of 10 EQAPK9543N-RAM KUMAR A.Y. 2021-22 ITBA/AST/F/209/2022-23/1048053431(1) disallow 12.50% of the amount of purchases to income of assessee. The Tribunal upheld the view of the Commissioner (Appeals). Revenue contended before the Hon'ble High Court that bogus purchases ought to have been disallowed in totality. The Hon'ble Bombay in Para 4 of its order dated 10.06.2022 in the case of Pr. CIT v. Batliboi Environmental Engineering Ltd. (2022) 141 taxmann.com 245 (Bombay) held as under :-

As regards first question, the Tribunal has upheld the finding and conclusion of the Commissioner of Income-tax (Appeals) whereby the Commissioner (Appeals) directed the Assessing Officer to disallow 12.5% bogus purchases and to add 12.5% of the amount of purchases as income of the Appellant. The argument advanced is that the bogus purchases ought to have been disallowed in totality. The learned counsel for the parties have placed before us the decisions of the Division Bench in the cases of Pr. CIT v. Mohommad Haji Adam & Co. [2019] 103 taxmann.com 459 (Bom.) and Pr. CIT v. Paramshakti Distributors (P.) Ltd. (IT Appeal No. 413 of 2017, dated 15-7-2010) wherein the Division Bench has observed that if the factum of sales has been accepted by the Department then even if it is established that there were bogus purchases, it is not necessary that entire amount should be added to the Income of the Assessee as there cannot be a sale without purchase. The facts of the present case are identical wherein the sales have been accepted. Therefore, in light of the aforesaid decisions first question of law does not survive for consideration."

3. In the light of the discussion in the preceding paragraph, 12.5% of the non-genuine purchases of Rs. 16,47,91,625/- which works out to Rs.2,05,98,953 /- is treated as profit embedded in the non-genuine purchases of Rs. 16,47,91,625/- and added to the Income computed u/s143(1)(a)."

4. Aggrieved with the assessment order, the assessee filed appeal before the Ld. CIT(A), who dismissed the appeal ex-parte as under:

"4. Proceedings: -

Notices u/s 250 of the Income-tax Act, 1901 were issued to the appellant on 27/08/2025, 04/11/2025 & 13/11/2025 to furnish the details by 02/09/2025, 11/11/2025 & 20/11/2025 respectively. But no submission/ reply has been received. Sufficient opportunities have been provided to the appellant.

5. Examination of the issue and decision:

Further appellant was provided final opportunity vide notice 13/11/2025 to substantiate the grounds of appeal raised. But no reply or details have been filed by the appellant till date.

Compliance history:

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5.1 *By its own act, the appellant has failed to remain vigilant and did not avail the opportunity to submit its point of view/contention, as it did not respond to various notices issued. The fact that the appellant did receive the order filed the present appeal, but chose not to respond to any of the notices issued by this office clearly establish total disregard to the due process of law. Therefore, the conclusion that the appellant could not controvert the finding given by the AO on merits of the issue is inescapable.*

5.2 *In view of the above, I am of the considered view that no interference is called for to the impugned order passed u/s 143(3) r.w.s. 1448 of the Act, and accordingly, the grounds of appeal of the appellant are "Dismissed".'*

5. Before us, Shri Darshana Bhaiya, Ld. Counsel for the assessee submitted that the Ld. CIT(A) had decided the appeal ex-parte due to non-prosecution and the Ld. CIT(A) had not decided the appeal on merit with detailed justification for agreeing with the Ld. AO's finding. Non-compliance on the part of the assessee was the sole reason for dismissal of the appeal, the Ld. Counsel submitted. He prayed for remanding the case back to the file of Ld. CIT(A) for fresh adjudication.

6. Dr. Priyanka Patel, Ld. Sr. DR, drawing our attention to various paras of the orders of Authorities below, submitted that the reasonable opportunities of being heard had been provided to the appellant assessee by the Authorities below. However, the appellant assessee did not ensure any compliance. Hence, she prayed for dismissal of the appeal. On our specific query, she admitted for remanding the case back to the file of the Ld. CIT(A) for adjudication on merit.

7. We have heard both parties and have perused the material available on the record. We have taken note of the fact that the Ld. CIT(A) has not decided the appeal after discussing the issues in detail and his reasons for agreeing with the assessment order though he/she, as per provisions of section 250(6) of the Act, is obliged to dispose of the appeal in writing with well-reasoned order on each point of determination arisen for his consideration. It is evident from the perusal of section 251(1)(a), 251(1)(b) and Explanation of section 251(2) of the Act that the CIT(A) is required to apply his/her mind to all the issues arisen from the assessment order, whether or not these issues have been raised by the assessee before him/her. On cumulative consideration of the provisions of section 250(6) of the Act read with sections 250(4), 250(5), 251(1)(a), 251(1)(b) of the Act and Explanation of section 251(2) of the Act, the CIT(A) is not empowered to dismiss the appeal for non-prosecution of appeal and is obliged to dispose of the appeal on merite. Reliance is placed on the decision of the Hon'ble Bombay High Court in case of Prem Kumar Arjun Das Luthra HUF, (2017) 291 CTR 614 (Bom.).

8. We have taken note of the fact that the assessee has made non-compliance consistently before the Authorities below. We find force in the submission of the Ld. Counsel that the non-compliance on the part of the assessee is the sole reason for dismissal of the appeal. We have taken note of the fact that the assessee has not made any compliance before the Ld. CIT(A). Even in such facts and circumstances, the Ld. CIT(A) cannot dispose the appeal ex-parte due to non-prosecution as he/she has no option except to decide the case on merit with detailed reasoning, which has

not been done in this case. Keeping in view the facts of the case, we, without offering any comment on merit of the case, find the impugned order deem fit to set aside and remand the matter back to the file of the Ld. CIT(A) for deciding the case afresh/denovo, in accordance with the law, after providing adequate opportunity of being heard to the assessee. We, therefore, order accordingly. Needless to say that the appellant assessee has to cooperate in remitted appellate proceedings.

9. In the result, this appeal of assessee is **allowed for statistical purposes**.

Order pronounced in the open court on 02/04/2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(AVDHESH KUMAR MISHRA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 02/04/2026

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