

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: 717/RPR/2025
(निर्धारण वर्ष Assessment Year: 2015-16)

Income Tax Officer, Aayakar Bhawan, Shankargadah Road, Haraftarai, Dhamtari, Chhattisgarh.	Vs	Nishant Agrawal, Baniyapara, Dhamtari, Chhattisgarh.
PAN: AGJPA7658M		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri G. S. Agrawal, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	02/04/2026
घोषणा की तारीख / Date of Pronouncement	:	09/04/2026

प्रत्याक्षेप सं. /CO No: 2/RPR/2026
(Arising out of ITA No.717/RPR/2025)
(निर्धारण वर्ष Assessment Year: 2015-16)

Nishant Agrawal, Baniyapara, Dhamtari	Vs	Income Tax Officer, Aayakar Bhawan, Shankargadah Road, Haraftarai, Dhamtari, Chhattisgarh.
PAN: AGJPA7658M		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri G. S. Agrawal, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	02/04/2026
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आदेश / O R D E R

Per Bench:

This appeal (ITA No.717/RPR/2025) for Assessment Year ('AY') 2015-16 filed by the Revenue is directed against the order dated 19.09.2025 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'). The assessee has also filed a Cross Objection ('CO') arising out of ITA No.717/RPR/2025.

2. Since the facts and issues involved in these cases are similar and identical, therefore, we have heard both appeal and CO together and are being decided vide this common order.

3. The ground of appeal raised by the Revenue is as under:

"1. Whether on the facts and in the circumstances of the case Id. CIT(A) was justified in deleting the addition of Rs.1,92,55,750/- made by the Assessing Officer in the case of the assessee on account of bogus purchases made by the assessee relying upon the submission of the assessee, without going into the merits of the case and ignoring the facts brought on record by the AO.

2. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) was justified in ignoring the findings of the racket of tax evasion through bogus purchases, which falls under the exception provide in para 3.1(h) of CBDT Circular No.05/2024 dated 15.03.2024, thereby making this case fit for appeal notwithstanding the monetary limited prescribed in Circular No.09/2024 dated 17.09.2024.

3. The order of the CIT(A) is erroneous both in law and on facts.

4. *Any other ground which may be adducted at the time of hearing.”*

3.1 The ground of CO raised by the assessee is as under:

“1. That under the facts and law, the Ld. CIT(A) rightly deleted the addition of Rs.1,92,55,750/- on account of bogus purchases.

Prayed that the appellant made no purchases as also observed by the Ld. AO.”

4. The relevant facts giving rise to the appeal of Revenue and CO of assessee are that the assessee filed his original Income Tax Return ('ITR') of the relevant year on 14.09.2015 declaring income of Rs.5,11,880/-. Later on, the case was reopened under section 148 of the Act on the reasoning that the assessee, proprietor of M/s Ganpati Dal Mill with effect from 01.04.2015 had taken accommodation entries in the garb of bogus purchases of Rs.1,92,55,750/-. The Ld. Assessing Officer ('AO') had categorically mentioned in the reason recorded under section 147 of the Act that M/s Ganpati Dal Mill was a partnership firm during the FY 2014-15 relevant for AY 2015-16; therefore, the case of the assessee was re-opened on protective basis. Consequentially, the assessment was also completed by taxing the bogus purchases of Rs.1,92,55,750/- on protective basis only.

5. At the outset, Shri G.S. Agrawal, CA, Ld. Authorized Representative of the assessee submitted that the reasons recorded for reopening of the case clearly mentioned that the assessee was one of the partners in the partnership firm, namely, M/s Ganpati Dal Mill in the relevant year. After the dissolution of the partnership firm, namely, M/s Ganpati Dal Mill, the assessee became proprietor M/s Ganpati Dal Mill

with effect from 01.04.2015. He contended that even if it was accepted for the sake of discussion that in the partnership firm, namely, M/s Ganpati Dal Mill had taken accommodation entries of Rs.1,92,55,750/- during the relevant year. Then the same should have been taxed in the hands of the partnership firm, namely, M/s Ganpati Dal Mill. Further, he categorically submitted that the addition of Rs.1,92,55,750/- had not been done in the hands of the partnership firm, namely, M/s Ganpati Dal Mill on substantive basis and therefore, the question of making protective addition in the hands of the assessee did not rise at all. He specifically mentioned that the Ld. AO had already given a finding that the bogus purchases of Rs.1,92,55,750/- had to be assessed on substantive basis in the hands of the partnership firm, namely, M/s Ganpati Dal Mill. Thus, he submitted that the Ld. CIT(A) had allowed appeal as under:

“6.2 The appellant was partner in firm M/s Bhikhamchand Ganeshprasad Dhamtari & M/s Ganpati Dall Mill Raipur during the year under consideration. The appellant did not carry on any business of his own in proprietorship in the year under consideration so there is no question of any sale or purchase of goods. Total income has been returned at Rs.511880/- which consists of income from above two firms which were shown and duly accepted u/s 143(1). The total income of the appellant consists of share income, interest and salary from above two partnership firm and bank interest on saving accounts only.

6.3 During the course of appellate proceedings the appellant filed written submission along with a copy of bank statements and computation of income. The Assessing Officer had not disputed the assessee's sales. There was no discrepancy between the purchases shown by the assessee and the sale declared. That being the position, the purchases cannot be rejected without disturbing the sales in case of a trade. The appellant was one of the partner in

M/s Ganpati Dall Mill. Considering the submissions made and the jurisdictional ITAT judgements quoted by the appellant the addition of alleged bogus purchases of Rs.1,95,55,750/- which relates to M/s Ganpati Dall Mill, in the case of the appellant on a protective basis without substantial evidences or findings by the Assessing Officer is directed to be deleted.”

6. On the other hand, Dr. Priyanka Patel, Ld. Sr. DR requested for further time to verify whether substantive addition had been done in the hands of the partnership firm, namely, M/s Ganpati Dal Mill or not.

7. We have heard both parties and have noticed that the Ld. AO has taxed the bogus purchases of Rs.1,92,55,750/- in the hands of only one partner; i.e. the assessee on protective basis. However, we are unable to understand the reason for selecting the assessee only and no other partners for taxing the bogus purchases of Rs.1,92,55,750/-. The assessee was one of the partners in the relevant year in the partnership firm, namely, M/s Ganpati Dal Mill. The assessee became proprietor of M/s Ganpati Dal Mill in the subsequent year after the dissolution of the partnership firm, namely, M/s Ganpati Dal Mill on 31.03.2015. We do not find any justification for taxing the said bogus purchases of Rs.1,92,55,750/ in the hands of the assessee on protective basis when the assessee was not directly linked with the said transactions as evident from the reasons recorded by the Ld. AO while reopening the case of assessee and the facts mentioned in assessment order. Whether or not the addition has been made on the substantive basis is not going to determine the fate of this appeal. We do not find any infirmity in the order of the Ld. CIT(A) while deleting the said protective addition and therefore, decline to interfere with the finding of the Ld.

CIT(A). The appeal of the Revenue, therefore, stands dismissed accordingly. Consequentially, the CO becomes infructuous. Hence, the same also stands dismissed.

8. In the result, this appeal of the Revenue and CO of the assessee are **dismissed as above.**

Order pronounced in the open court on 09/04/2026.

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

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

रायपुर / Raipur; दिनांक Dated 09/04/2026
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.

//True copy//

आदेशानुसार/ BY ORDER,

(Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur