

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.1082/Ind/2025
(AY: 2019-20)

Sangita Lalwani, Gali No.03, Sindhi Colony, Itarsi (PAN:ACIPL0742Q)	<u>बनाम/</u> Vs.	ITO 1, Itarsi
(Appellant)		(Respondent)
Assessee by	Sh. Ashish Goyal, Adv. & Sh. N.D. Patwa, Adv.	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	06.04.2026	
Date of Pronouncement	10.04.2026	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an Appeal filed by the Assessee Under Section 253 of the Income Tax Act 1961 (herein after referred to as the Act for the sake of Brevity) before this tribunal as and by way of a second Appeal. The Assessee is aggrieved by the order bearing Number:-ITBA/NFAC/5/250/2025-26/1081526355(1) dated 07-10-2025 passed by the Ld CIT(A) U/S 250 of the Act, which is herein after referred to as the "**Impugned Order**". The Relevant Assessment year is 2019-2020 and the corresponding Previous year Period is from 01-04-2018 to 31-03-2019.

2.

Factual Matrix

(2.1) That as & by way of an Assessment Order made u/s 147 rws 144B of the Act, the total Income of the Assessee was Computed and Assessed at Rs 1,63,56,284/-. No return of Income was filed u/s 139(1) of the Act. The total Income as per the return of Income in response to the Notice u/s 148 of the Act was at Rs 7,31,150/-. The Addition on account of Unexplained expenditure u/s 69C of the Act was at Rs 48,21,840/- for bogus purchases. Another Addition was towards sundry creditors amounting to Rs 98,03,294/- was treated as Fictitious liability. Yet Another Addition of Rs 10,00,000/- [Ten lakhs] was made on account of Unexplained Cash credit u/s 68 of the Act. That the aforesaid order bears number :- ITBA/AST/S/147/2023-24/1061633166(1) that the same is dated 28-02-2024 which is herein after referred to as the **"Impugned Assessment Order"**.

(2.2) That the Assessee being aggrieved by the aforesaid **"Impugned Assessment Order"** prefers the first appeal u/s 246A of the Act before the Ld CIT(A) who by the **"Impugned Order"** has dismissed the first Appeal of the Assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the first Appeal was as under:-

"In the light of the above facts of case and on perusal of appellant GOA, it is noticeable that the appellant is contending the order of AO as bad in law as it involves erroneous assessment by the AO without appreciating appellant claims and thereby contended the order of AO as bad in law as it involves erroneous initiation of re assessment proceedings without making any further verification on the Investigation report and thereby claimed such assessment

proceedings as not maintainable. Further in these GOA, appellant contended that AO erred in making an addition of Rs. 48.21 lakhs as attributable to unexplained purchases u/s. 69C of I.T.Act without appreciating appellant facts of case on these purchases and thereby contended the addition as not maintainable. Further on the same analogy, appellant is contending that the additions as made by AO as attributable to sundry creditors and unsecured loans are explainable and thereby such findings of AO to hold the same as unexplained as reasoned in the assessment order is contended as not maintainable and requested to delete the same,

Further on the same analogy, appellant is contending that the additions made by AO are not to be considered for attraction of penalty proceedings and thereby contended such initiation of penalty proceedings as attributable to such additions as not maintainable. Precisely in all these GOA, appellant is contending that AO erred in making additions on account of explainable purchases as involving bogus purchases based on Investigation reports of Income tax department itself without making further enquiry by AO and thereby claims such re assessment proceedings as initiated to make such addition as not maintainable Further appellant contended sundry creditors and unsecured loans as reflected in books of accounts as explainable and accordingly pleaded to delete the additions as bad in law and as not attracted by such penalty proceedings initiations. However on perusal of facts on record as brought out by AO in the assessment order, it is clearly noticeable that. AO has sought for appellant complete substantiation with all such supporting proofs as attributable to appellant claim of purchases as made with the bogus party in the name of Gajendra Singh, Proprietor M/s National Metals with all its supporting proofs of goods transportation with delivery challans etc and in the absence of the same and as the same is not substantiated by Mr. gajendra Singh as involving genuine purchase of appellant contrary to the findings of search etc. AO treated the same as unexplained u/s. 69C of I.T.Act. Similarly with reference to sundry creditors and unsecured loans as well, appellant could not reconcile all supporting proofs as applicable to such unsecured loans and creditors to establish the genuineness and credit worthiness as applicable as per law. In the absence of the same, AO treated the sundry creditors as unexplained income of the appellant and unsecured loans as unexplained credit u/s. 68 of I.T.Act as analysed in the assessment order. In the light of these facts and on perusal of appellant various contentions/claims /GOA/submissions as advanced during the appeal proceedings, it is noticeable that the appellant is apparently contending the

purchases as made by appellant from Mr. Gajendra Singh, Proprietor M/s, national Metals as only involving genuine purchases contrary to the findings of search and reasoning adduced by AD holding the same as explainable and requested to consider the same. Further to substantiated the same, appellant is claiming relevant invoices and other details as depicted/incorporated on GST filings as involving sufficient substantiations to hold the movement /transportation of goods as took place for its consideration as applicable. However appellant did not adduce any such conclusive evidences involving physical movement of goods from the premises/ go down of M/s. National Metals as appearing in their stock register with relevant out gate pass as reconcilable with lorry transportation receipts/ e-way bills for its further reconciliation with delivery chailans and inward gate receipts as accounted in physical/digital form for its reconciliation with the depictions /reflections of such GST filings to establish search findings on these purchases as not maintainable as per the finer facts of case as per law. In the absence of the same, apparently, there exists no infirmity in the addition as made by AO as attributable to such purchases as per the search findings in the case of Bansal Group Bhopal involving entries made with M/s. National Metals establishing transactions with these parties as involving paper transactions. Further with reference to the issue of additions as attributable to sundry creditors as well, appellant is contending the same as explainable and accordingly claims one creditors Sardar Steel as only involved in sales with the appellant for an amount of Rs. 1.94 crores and having paid excess amount for Rs. 1.64 crores, the difference amount is treated as creditor as involving advance payment for future sales. Accordingly claims such discrepancies in sundry creditors as are owing to the difference in accounting treatment on this analogy and claims the same as explainable and requested to consider. However appellant claims as advanced on this analogy by simply altering the character /nature of transactions from debtor to creditor on account of excess payments/advance payments as attributable to credit payment reflections is apparently not reconcilable as the same is not prudent grouping of transactions involving creditor separately and of debtor separately and the same would have been properly corrected if it were true at least during the auditing for its correct accounting and reflections to arrive at credits and debits separately and thereby appellant mere claims as advanced on this analogy after conclusion of assessment proceedings is neither reasonable nor justifiable and accordingly the additions as made by AO is to be treated as justifiable as attributable to sundry creditors claim of appellant which stands unexplained before AO as per law.

Similarly with reference to unsecured loans disallowances also, appellant is contending the same as mistakenly reflected as availed from Mr. Dilip Gurnani as against of its availment from his wife Smt Varsha Dilip Gurnani and has further stated that their auditor also mistakenly accounted against wrong person in form 3CB and thereby contended the loan as explainable as attributable to Smt Varsha Dilip Gurnani and thereby requested to consider Appellant having maintained or at least having claimed such maintenance of books with regular audit by auditor it would be improper to hold such mistakes of unsecured loans availment against a different person as against of actual person loan creditor seems to be an after thought to link the unrelated ends/transactions to reconcile such non explainable unsecured loans and sundry creditors as involving explainable transactions in the guise of clerical mistakes/accounting mistakes as attributable to auditor and thereby such contentions are apparently unfair and not justifiable to forward after conclusion of assessment proceedings without bringing anything on record before AO on such omissions/defects, if any as applicable as per law as contended. In the light of these facts, appellant various contentions as advanced to hold the additions as made by AO as not maintainable is to be treated as far from truth and explainability with such finer facts as applicable to appellant as reconcilable with search findings in the case of Bansal Group vis-à-vis M/s National Metals and wrong claims in the appellant books of accounts that too audited etc as attributable to sundry creditors and unsecured loans as discussed supra. Further appellant has adduced various citations as attributable to appellant facts of case and on perusal of the same, the relevant facts of case and ratios of adjudication as attributable to these citations is not apparently comparable to appellant facts of case involving such search findings establishing appellant purchases as bogus with such party M/s. National Metals as reasoned by AO in the assessment order. Further appellant also could not bring out such comparable facts of case and ratios of adjudication as attributable to these citations as reconcilable to appellant facts of case and circumstances so as to claim its applicability as per law. In the absence of the same appellant various submissions as advanced as attributable to these citations is to be treated as not comparable and thereby same are treated as not acceptable. In view of the same, appellant all grounds of appeal as advanced are to be treated as not maintainable as there exists no infirmity in the order of AO as reasoned and discussed supra. Thereby, appellant appeal is dismissed as not maintainable as per facts available on record on merits and on consideration of appellant's claims/submissions as reasoned and explained above.

6. Accordingly, appellant appeal is dismissed as not maintainable as per facts available on record on merits as reasoned by AO as discussed supra.

7. In the result, this appeal of the appellant for A.Y. 2019-20 is dismissed."

2.3 The Assessee being Aggrieved by the "**Impugned Order**" has preferred the instant second appeal before this Tribunal and has raised the following grounds of appeal in the form No. 36 against the "**Impugned Order**" which are as under:-

"On the facts and circumstances of the case and applicable law, the CIT(A) has erred in confirming that LAO has not applied mind and initiated proceedings u/s 147 of the act. The notice u/s 148 is itself bad in law. The whole process of reopening i.e. reasons, approval and issuance of notice done was mechanical and not done with proper investigation and there was totally non application of mind making addition on wrong facts

2. CIT(A) has erred in confirming the addition made by LAO of Rs.48,21,840/- as bogus purchases which has been done from M/s National Metals however, related proofs were submitted at the time of Appeal proceedings which are not considered by Learned CIT(A).

2. CIT(A) has erred in confirming the addition made by LAO on account of fictitious liability of Rs.98,03,294/- considering that assessee does not furnish the proof of genuineness of creditors, however assessee has furnished all the required document to prove genuineness of creditors.

3. CIT(A) has erred in confirming the addition made by LAO on account of unexplained cash credit u/s 68 of the Act of Rs. 10,00,000/-which is unsecured loan taken from a party whose identity, genuineness and creditworthiness was well proved.

3.The Assessee craves to add/amend/alter/substitute to any grounds of appeal before OR at the time of hearing of the case."

3. Record of Hearing

(3.1) The hearing in the matter took place before this tribunal on 06-04-2026 when the Ld AR for on the behalf of the Assessee appeared before us

and Inter alia contended that the **"Impugned Order"** is bad in law, illegal and not proper. It therefore deserves to be set aside. It was next contended that in so far as the **"Impugned Assessment Order"** is concerned our attention was invited to the page 2, Para 2 which deals with the **"details of opportunities given"** were in it was stated that **only one reply was filed** response to the Notice u/s 142(1) dated 22-08-2023 on 01-09-2023 in so far as other opportunities are concerned it was stated that save except one reply (supra) no other replies were filed despite Numerous Notice(s).

(3.2) In so far as the **"Impugned Order"** passed in the first Appeal was concerned it was submitted that the additional evidence was filed. It was broadly urged that the issues in the Instant Appeal Pertains to Bogus Purchases, sundry creditors and the unsecured loans in respect of which additions were made by the **"Impugned Assessment Order"** that the same were sustained by the **"Impugned Order"**.

(3.3) In so far as issue of Notice u/s 148A(2) was concerned the Assessee did not file any reply there to.

(3.4) It was submitted that the Assessee is in the business of construction, scrap dealer etc. The Assessee's books of Accounts are Audited.

3.5 The Ld. AR for & on the behalf of the assessee has placed on the record of this Tribunal a brief synopsis of six pages & a paper book containing pages 1 to 20.

3.6 That the Id. AR then submitted that the assessee has placed on the record of this Tribunal an **application U/R 29 of the ITAT, Rules 1963** from pages 1 to 81.

3.7 The Ld AR submitted that before the Ld. AO these documented evidences were not there. The documents listed in the application U/R 29 (supra) were however filed (before the Ld CIT (A) and that the Ld CIT(A) did not call for any report from the Ld. AO. It was urged that the **“Impugned Order”** does not reflect at all on any of the additional evidences so filed hence the **“Impugned Order”** is bad in law & deserves to be set aside being in violation of the principles of natural justice. It was also urged that the Additional evidence so filed before this tribunal be admitted & in the **interest** of ends of justice **“Impugned Order”** be set aside and the matter be remanded **back** to the file of the Ld AO on denovo basis so that a fresh Adjudication & Adjudgement now can be made basis Merits & for which necessary documents, evidences, material are all ready now. The Ld DR for and on behalf of the Revenue contended that the Dept. Of Income Tax in this regard leaves the issue to the Wisdom of this Tribunal to take appropriate call in this regard including on the Cost to be imposed on the assessee as there was total Non-Compliance at the original stage of the Assessment despite several opportunities. Hearing was then concluded.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld AR & the Ld DR canvassed before us, are of the considered opinion that the **"Impugned Assessment Order"** is under section 144/144B of the Act and the matter has not been adjudicated and adjudged basis merits. Even the **"Impugned Order"** is not on merits in as much as Additional evidence placed before the Id. CIT(A) finds No mention in the **"Impugned Order"** & that no report was called for by the Ld CIT(A) in respect of the Additional evidence filed before him from the Ld AO. This tribunal desires that the total Income of the Assessee should be computed & Assessed on the real time basis exigible to tax in the accordance with the law by following the due process of law under the Act. This tribunal also expects the Assessee to be compliant & should cooperate with the Dept of Income Tax promptly as & when Notice(s) etc are issued by the Department and received by the Assessee. In brief this tribunal desires the meritorious disposal of both the **"Impugned Assessment order"** as well as the

“Impugned Order”. The Assessee cooperation in this regard assumes importance. The Assessee cannot go in the **slumber mode**. We observe that at the original stage of the Assessment before Ld AO the Assessee was non-compliant. We are therefore of the considered opinion that the **“Impugned Order”** should be set aside & that the matter should be remanded back to the file of the Ld AO for passing a fresh order on merits of the case. It is also the expectation of this tribunal that Assessee would now give full & complete details to all the notice(s) issued so far in the course of the original Assessment Proceedings as the assessee was admittedly Non-compliant at that stage. We quantify cost of Rs.5000/- to be paid by the assessee by a challan under category others & show necessary proof in this regard to the Ld. AO. The Assessee to attend hearings as & when fixed & to file reply & other details as sought by the Ld AO.

4.4 In view of the above, we set aside the **“Impugned Order”** & remand the case back to the file of the Ld AO on denovo basis who shall now pass a well reasoned order basis merits.

5

Order

5.1 In the result the **“Impugned order”** is set aside as and by way of remand back to the file of the Ld. AO on De novo basis.

5.2. The appeal of the assessee is allowed for statistical purpose.

Pronounced in open court on 10.04.2026.

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

Dated : 10/04/2026

Patel/Sr. PS

Copies to: (1) The appellant
 (2) The respondent
 (3) CIT
 (4) CIT(A)
 (5) Departmental Representative
 (6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore