

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH AT KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 2077/KOL/2025
Assessment Year(s) 2018-19**

Hira Lal Gupta (Appellant)	Vs.	I.T.O., Ward-52(1), Kolkata (Respondent)
PAN: AKGPG1861K		

Appearances:

Assessee represented by : S.K. Thakur, AR.

Department represented by : Pampa Ray, Sr. DR.

Date of concluding the hearing : 02-April-2026

Date of pronouncing the order : 17-April-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2018-19 dated 14.07.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. That on the facts and circumstances of the case the Ld. Assessing Officer has erred in disallowing a portion of Purchase of Rs.31,38,175/- on account of bogus purchases without proper verification.

2. That the Ld. Assessing Officer has failed to consider the fact that by disallowing the purchases, the gross profit rate has been increased which cannot be there in the appellant's business.

3. That the appellant craves leave to add/alter any of the grounds of appeal on or before the date of hearing."

3. Brief facts of the case are that the assessee had filed the return of income for AY 2018-19 showing total income of ₹5,30,670/-. As per the



information available with the Assessing Officer (hereinafter referred to as Ld. 'AO') the concerns named M/s. Hanuman Trading Company, Dev Traders and Palvisco Metal & Machinery were involved in the business of issuing bogus sale invoices and had not filed the return of income for AY 2018-19 which showed that they were not involved in any business activity. Thus, the purchase and sale shown for GST were nothing but accommodation entries in the view of the Ld. AO, which were provided to different entities and the assessee is one of the beneficiaries of the above said concerns. Accordingly, the assessment was reopened vide notice issued u/s 148 of the Act but the assessee did not file any response nor any response was filed to the subsequent notices issued u/s 142(1) of the Act but he finally responded by stating that the return filed u/s 139(1) of the Act may be accepted as filed in response to the notice issued u/s 148 of the Act. The assessee is engaged in the business of trading of ferrous and non-ferrous material including the scrap in the name of M/s. HP Enterprises. The purchase details for GST and VAT purchase were submitted before the Ld. AO and the copy of GST returns, audit report, financials, bank statement etc. were also provided. The assessee was found to have made purchases from M/s. Hanuman Trading Company, Dev Traders and Palvisco Metal & Machinery etc. The investigation report showed that all the purchases made from these entities were fake and the GST had *suo moto* cancelled the registration on the same day or within the year or so. Thus, these entities were treated as paper entities. The Ld. AO also accessed the GST portal and noted that the nature of business activities of Dev Traders was retail and wholesale business of leather articles which was shown in the assessment order. Hence, it was concluded that the purchases were bogus. The assessee was not able to furnish the details of transport vehicles, the transportation bills, the



delivery challans etc. to establish the genuineness of the purchases. Since the assessee was found to have made purchases of ₹3,73,930/- from M/s. Hanuman Trading Company and ₹88,13,399/- from M/s. Palvisco Metal & Machinery and the proprietor of M/s. Palvisco Metal and Machinery and M/s. Dev Traders was Sh. Bittu Mondal and purchases made from Sh. Bittu Mondal were for ₹72,99,685/- only, the total bogus purchases were worked out at ₹1,25,52,701/-. The assessee had requested in response to the show cause notice citing various High Courts' decisions to limit the addition to a certain percentage instead of making addition of entire bogus purchases, which was considered by the Ld. AO and 25% of the purchases were disallowed on the basis of the theory evolved in various decisions (though not mentioned in the assessment order) that disallowance may be restricted to the extent of profit embedded in such purchases which were treated at 25% of the bogus purchase and a sum of ₹31,38,175/- was added to the income as per the return of income filed at ₹5,30,680/- and the total income was assessed at ₹36,68,845/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who vide order dated 14.07.2025 dismissed the appeal of the assessee by giving his findings as under:

“4. Appellate Observations, Findings and Decision:

(i). During the course of appellate proceedings, three separate notices were issued to the Appellant in last one and half years to afford an opportunity for hearing and submission of written arguments in support of the grounds of appeal. However, the Appellant failed to respond to the said notices, except the last notice and filed written submission on 27.06.2025 defending the case with the help of various judgements but nothing significant was stated on the merits of the case, the findings of the AO with respect to the genuineness of the purchases.

(ii). The Appellant has relied upon a plethora of judicial pronouncements in support of his contentions challenging the addition. While the decisions cited have been duly perused, it is noted that these judicial precedents though show

some thematic similarity, cannot be applied in abstract and must be evaluated in the context of their own facts and circumstances. In the present case, the Appellant has failed to furnish acceptable supporting documents to establish the genuineness of the purchases-requirements which form the cornerstone of the taxation jurisprudence. The factual matrix involving another and independent department i.e. GST department suo moto cancelling the registration, the declared businesses being different than the one involved. Accordingly, owing to these factual and circumstantial constraints, the case laws cited by the Appellant do not come to his aid, and no reliance can be placed upon them in the current context.

(iii). In view of the submissions and based on the material available on record, it is observed that the suppliers in question-M/s Hanuman Trading Company, M/s Deo Traders, and M/s Palvisco Metal and Machinery-have been identified in departmental investigations as entities engaged in issuing bogus sale invoices without actual delivery of goods. The GST registration of these entities was found to have been suo motu cancelled by the GST authorities, either on the date of registration or shortly thereafter. Moreover, the nature of business activities reflected on the GST portal, are wholly inconsistent with the business of ferrous and non-ferrous scrap materials claimed by the Appellant.

(iv). The findings during the investigation relied upon by the assessing officer are based on due diligence conducted by the AO and raises serious doubts about the genuineness of the purchases. In the absence of any rebuttal or contrary evidence furnished by the Appellant, and considering the overall facts and circumstances of the case, I am of the considered opinion that the liberal disallowance of 25% of the alleged purchases, amounting to Rs. 31,38,175/-, is reasonable and justified.

Accordingly, the addition made by the assessing officer is upheld. In result, the Appeal is dismissed herewith.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. At the outset, the Ld. AR of the assessee mentioned that the books were audited and the disallowance has been excessively made and requested that 10% of the purchases may be disallowed which is the likely profit embedded in such purchases. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.



6. We have considered the facts of the case, the submissions made and the documents filed. Neither the Ld. AO nor the Ld. CIT(A) has cited any comparable case to arrive at the additional profit of 25%, which is found to be excessive. Even before us, no such instance of 25% of extra profit could be cited by the Ld. DR. The assessee has also included the profit on the alleged bogus purchases in the return filed earlier. On a query from the Bench, the Ld. AR stated that the total turnover of the assessee was more than ₹6 crore out of which the purchases of about ₹1.25 crore have been treated as bogus. It was stated the books of accounts audited and the GST had cancelled the registration retrospectively. The Ld. AR was fair enough to concede that he had no objection if 10% of the alleged bogus purchases are added as extra profit since the assessee is a trader in that is the margin of profit embedded in such bogus purchases on account of extra profit. Considering the submissions made, 10% of ₹1,25,52,701/- which works out to ₹12,55,270/-, is treated as the extra profit arising on such bogus transactions over and above the profit shown in the regular books of account, which is sustained and the rest of the addition is hereby directed to be deleted.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 17th April, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 17.04.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Hira Lal Gupta, 13, Barick Lane, Kolkata, West Bengal, 700006.**
2. **I.T.O., Ward-52(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata