

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : F : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No. & Assessment Year	Appellants	Respondents
7773/Del/2019 2014-15	Rama Hygienic Products Pvt. Ltd., C/o RRA TAXINDIA, D-28, South Extn. Part-I, New Delhi - 49. PAN: AAACR4597A	ACIT, Central Circle-14, New Delhi
8555/Del/2019 2014-15	ACIT, Central Circle-14, New Delhi	Rama Hygienic Products Pvt. Ltd., PAN: AAACR4597A

Assessee by : Dr. Rakesh Gupta, Advocate;
Shri Somil Agarwal, Advocate;
Shri Saksham Agarwal, CA; &
Shri Deepesh Garg, Advocate
Revenue by : Shri Javed Akhtar, CIT-DR

Date of Hearing : 20.12.2024
Date of Pronouncement : 28.02.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Assessee as well as Revenue against the orders of the Ld. First Appellate Authority in appeals filed before him against the orders of the ld. Assessing Officer (hereinafter referred to as the Ld. AO, for short). Further details of the orders of the lower authorities are as under:-

ITA No. & Assessment Year	CIT(A) who passed the order	Appeal No. & Date of order of the CIT(A)	AO who passed the assessment order & Date of order	Section of the IT Act under which the AO passed the order
7773/Del/2019 2014-15	CIT(A)-XXVI, New Delhi	10598/16-17, Dated 08.08.2019	ACIT, Central Circle-14, New Delhi, date: 31.12..2016	143(3)
8555/Del/2019 2014-15	- Do	- Do-	- Do -	- Do -

2. Heard and perused the record. The relevant facts of the case are as that a search and seizure operation was carried out on the Rama Group of Companies on February 28, 2014. The case of assessee was also part of these search assessments. Some additions made by the ld. AO stand deleted by ld.CIT(A) and some confirmed for which assessee and revenue both are in appeal raising following grounds:-

2.1 The grounds raised by the Revenue in ITA No. 8555/Del/2019:-

“1. That the Ld. CIT(A) has erred in facts and in law in only confirming 10% of the total additions made by the AO on account of bogus purchases without any basis and deleting 90% of the additions made on account of total bogus purchases of Rs. 36,55,931/-.

2. That the Ld. CIT(A) has erred in facts and in law in confirming only 10% of the total additions made on account of bogus purchases and completely ignoring the fact that proprietor of M/s. Raghuveer Singh Devendra Kumar has confirmed in his statement on oath that he was providing only bogus bills to the assessee company and not doing any actual sale / purchase activities.

3. *That the Ld. CIT(A) has erred in facts and in law in confirming only 10% of the bogus purchases by arbitrarily and without any reasons arriving at the figure of 10% for computing bogus purchases.*

4. *That the Ld. CIT(A) has erred in facts and in law in deleting 90% of the additions made on account of bogus purchases by ignoring the statements of the persons who have supplied bogus bills and also corroborative evidences like mentioning of non-existent vehicle numbers in the bogus bills.*

5. *That the Ld. CIT(A) has erred in facts and in law in making contradictory statements in the appeal order i.e., on one hand stating that from the statements of the persons it is not clear whether they supplied the goods and also stating that the assessee indeed undertake some manipulation in purchases but at the same time deleting 90% of the additions made on account of purchases.*

6. *That the Ld. CIT(A) has erred in facts and in law in only allowing enhanced GP on the purchases booked through the entry operators/ bogus bills providers but in reality these suppliers were bogus and also doubtful, (as he himself has mentioned in the appeal order) and accordingly the entire addition on account of bogus purchases should have been confirmed and not only the GP addition.*

7. *That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.8,92,482/- made by the AO on account of un-reconciled turnover based on the data seized during the search and seizure operation.*

8. *That the Ld. CIT(A) has erred in facts and in law in only allowing enhanced GP on the un-reconciled turnover without appreciating the fact that the details of un-reconciled turnover was based on the data seized from the assessee and accordingly, the entire addition on account of un-reconciled turnover should have been confirmed and not only the GP addition.*

9. *That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.7,14,123/- made by the AO on account of un-reconciled turnover based on the data seized during the search and seizure operation.*

10. *That the Ld. CIT(A) has erred in facts and in law in only allowing enhanced GP on the un-reconciled turnover without appreciating the fact that the details of un-reconciled turnover was based on the data seized from the assessee and accordingly, the entire addition on account of un-reconciled turnover should have been confirmed and not only the GP addition.*

11. *That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.19,83,94,520/- made by the AO on account of un-reconciled turnover based on the data seized during the search and seizure operation.*

12. a. *The order of the CIT (Appeals) is erroneous and not tenable in law and on facts.*

b. *The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of hearing of the appeal.”*

2.2 The grounds taken by the assessee in ITA No.7773/Del/2019:-

“1. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in sustaining the addition of Rs.3,65,593/- (i.e. 10% of Rs.36,55,931/-) made by Ld. AO on account of alleged bogus purchases made from M/s Raghuvveer Singh Devender Kumar, more so when no incriminating material has been found as a result of search and impugned addition has been made by recording incorrect facts and findings and without granting opportunity of cross examination of the entire adverse material and deponents used against the assessee and without observing the principles of natural justice.*

2. *That in any case and in any view of the matter, action of Ld. CIT(A) in sustaining the addition of Rs.3,65,593/- made by Ld. AO on account of alleged bogus purchases made from M/s Raghuvveer Singh Devender Kumar, is bad in law and against the facts and circumstances of the case.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in enhancing the income of assessee by Rs. 1,30,517/- (i.e. Rs.36,55,931/- * 0.0357) on the alleged ground that assessee has suppressed the profit embedded in purchases and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

4. *That in any case and in any view of the matter, action of Ld. CIT(A) in enhancing the income of assessee by Rs.1,30,517/- (i.e. Rs.36,55,931/- * 0.0357), is bad in law and against the facts and circumstances of the case.*

5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting fully the addition of Rs. 16,06,605/- made by Ld. AO on account of seized digital data and erred in sustaining the same to the extent of Rs.57,356/- (i.e. Rs. 16,06,605/- * 0.0357) and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

6. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 12,09,026/- on account of estimated profit on the ground of alleged difference in stock found during the course of search and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

7. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order passed by Ld. AO and in not deleting the various additions/disallowances made therein and that too without providing the opportunity of being heard.*

8. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A & 234B of Income Tax Act, 1961.*

9. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

3. On hearing, we find that Ld. DR has relied the order of ld. AO while ld. AR has relied the order of ld. CIT(A). Thus based on their rival stands we proceed to decide the grounds as follows.

4. **Ground No. 1 -5 of Departmental Appeal and Ground No. 1-2 of assessee's appeal:** These grounds relate to the addition of Rs. 36,55,931/- made by Ld. AO on account of alleged bogus purchase of Maida and Choker (wheat bran) from the concern of Sh. Devinder Kumar, namely, M/s Raghuvveer Singh Devinder Kumar but restricted by Ld. CIT(A) to 10% i.e., Rs. 3,65,593/-. The relevant background and claim of assessee is that the assessee is in the business of manufacturing flour and rice in which maida and Choker (wheat bran) being a necessary ingredients were purchased by the assessee from vendors including

one, M/s Raghuveer Singh Devinder Kumar proprietorship concerns of Sh. Devinder Kumar. Ld. AR has relied the PB page 5, which is the tax audit report which mentions the nature of business as manufacturing of flour and rice. Then at PB page 330-331 is the details of four parties from whom *maida* (refined flour) and *Choker* (wheat bran) was purchased by assessee. Admittedly assessee purchased a total of 400Qtl of maida (50Kg Pur.) of Rs. 6,54,200/-, 8,034Qtl of Choker of Rs. 89,63,649/- and 774Qtl of Maida (90 Kg Pur.) of Rs. 12,72,800/- out of which 220Qtl of maida (50Kg Pur.) of Rs. 3,60,800/-, 2,365.5Qtl of Choker of Rs. 26,51,331/- and 391.5Qtl of Maida (90 Kg. Pur) of Rs. 6,43,800 was purchased from M/s Raghuveer Singh Devinder Kumar which was disallowed by Ld. AO.

5. Now what we find, as a matter of fact, is that the purchases made by the assessee have been sought to be proved by the various, as relied before ld. Tax authorities and also referred by ld. AR during the hearing. In this event we find that at PB page 35 is the copy of schedule of details of cost of manufacturing and material which is part of books of accounts showing that assessee-company has made total purchase of Rs, 23,42,55,055/- which includes the above mentioned purchase disallowed by Ld. AO. Then at PB page 52-53 is the copy of details of purchases of wheat made by assessee during the year showing the name of party from whom purchase has been made, address of the party, item purchased, quantity purchase and total amount. As with regard to the purchases made from M/s Raghuveer Sing Devinder Kumar to tune of Rs. 36,55,931/-, ld. AR has

relied PB page 55 is the ledger account of M/s Raghuvir Singh Devinder Kumar in the books of assessee for the impugned year showing the complete address of M/s Raghuvir Singh Devinder Kumar and further showing that assessee has purchased above mentioned goods from M/s Raghuvir Singh Devinder Kumar for Rs. 5,05,26,292/- for which **payment has been made through proper banking channel**. Further at PB page 59-60 is the copy of bill wise detail of purchase of above mentioned goods made from M/s Raghuvir Singh Devinder Kumar by assessee-company during the impugned year showing the bill wise date of purchase, quantity purchase, vehicle no. in which the goods were transported, qty. purchased, total amount of purchase bill wise which aggregates. It further shows that the assessee purchased total 4,88,58.5 Qtl of goods having value of Rs. 36,55,931/-. PB 61-70 is the copy of invoices issued by M/s Raghuvir Singh Devindra Kumar to assessee along with the corresponding transport receipt issued by the transporter for transport of such good. These invoice shows the quantity of goods purchased, nature and particulars of good purchased, its weight, rate per unit, total amount. It further shows the truck/wagon no. in which such good is transported to the assessee. It further shows the complete detail of M/s Raghuvir Singh Devindra Kumar such as contact no., complete address. Its corresponding transport receipt shows the name of consignor i.e., M/s Raghuvir Singh Devindra Kumar, name of consignee i.e., assessee company, further details such as goods are transported from Delhi to Bulandshahr, vehicle no. in which goods are being transported, quantity of

consignment, its content, weight, freight charged etc. It also shows the contact no. and complete address of the transporter. Ld. AR has referred to PB page 56-58 is the copy of bank statement of assessee-company showing that the entire payment has been made through proper banking channel on various dates to M/s Raghuvir Singh Devindra Kumar for the said purchases. PB 71-77 & PB 78-82 is the copy of sales tax assessment order and appeal order of the assessee-company for the impugned year where the concerned officers has duly acknowledges the purchases made by the assessee and the same has also been duly accepted. PB 83 is the copy of certificate issued by VAT department duly certifying that assessee made total purchase of Rs. 23,42,55,055/- (PB 83) during the impugned year which includes the purchases made from the above parties. PB 321-324 & PB 325-328 is the copy of statement of Sh. Bhupendra and Sh. Mohit Kumar, owners of the transporter companies, along with the Addhar card respectively recorded by Ld. AO during the remand proceedings. Perusal of these statements would show that they have duly acknowledged that they have transported goods to assessee-company on the instructions of Sh. Mohan Lai Gupta. It was further submitted that goods were loaded by supplier in Delhi and were delivered to assessee-company at Syana Road, Bulandshahr. The payment for the said transportation was done by the suppliers and not by the assessee.

6. Now what we find is that on PB page 334 there is a reply dated 22.03.2019 filed by assessee before Ld. CIT(A) submitting that during the remand proceedings, Ld. AO recorded the statement of Sh. Mohan Lai, who has

accepted the supply of goods made to the appellant and even the statement of transporter was recorded and they also confirmed the transportation of goods to the appellant.

7. Then on going through the impugned orders we find that complete details of purchases, sales etc., both quantity wise and amount wise was furnished during assessment proceedings as well as at the appellate stage which has not been contradicted by the Ld. AO by any findings alleging that same suffer from any discrepancy so as to rely the oral statements alone for holding purchase to be bogus.

8. Now we find that ld. AO has primarily doubted the purchases only on basis of transportation of the goods being suspicious. However, the sales are not doubted and the ld. CIT(A) has mentioned in point vii and viii of pages 37-38 of impugned order that the addition of entire purchases would lead to absurd profits and thus, only profit element can be taxed. Ld. DR could not dispute the principle that the gross profit embedded in the bogus purchases can be added and not the entire purchases. Reliance for this can be placed on decision in CIT vs. Simit F. Sheth, (2013) 356 ITR 451, (Gujarat).

9. Now quite apparently the assessee has provided all the relevant and necessary evidences to the ld. AO to establish genuineness of the purchases. However, with out commenting anything on same and unable to point any deficiency in these documentary evidences the ld. AO has relied oral statements. Further these observation of Ld. AO are based upon the statements recorded by

Ld. AO behind the back of assessee and were not confronted to assessee during the course of assessment proceedings and thus, any observations based on such statements could have been relied upon.

10. Then Ld. CIT(A) has highlighted the observation of Ld. AO in his remand report that Sh. Mohan Lal Gupta in his statement has mentioned certain facts which are contradictory. Thus Ld. CIT(A) has casted a doubt over reliability and credibility of the statement of Sh. Mohan Lal Gupta and concluded that appellant has indeed undertaken some manipulation in terms of prices. However, this observation of Ld. CIT(A) is without establishing as to what was transaction under taken with Sh. Mohan Lal Gupta in the impugned year. We find that with very general observations the ld. Tax authorities have proceeded to doubt the purchases.

11. Next Ld. CIT(A) in point (ix) at page 66 of the appellate order has mentioned that the appellant could not establish the purchases in its entirety which can be seen from the issues of existence of supplier, capacity of supplier, transportation of the goods etc. Further, appellant has matched most of the transportation vehicle but could not match some of these. These observation of Ld. CIT(A) have no substance as the appellant has duly established the purchases through voluminous evidences discussed above.

12. Next Sh. Mohan Lai Gupta's statement shows he has submitted that he is an commission agent and the commission is paid to him by the suppliers. Thus he may be selling goods on his own account or arranging through some one else.

So that doesn't make the statement to be contradictory. As far as doubting the use of transport vehicle is concerned, it is not the case of Ld. AO that the assessee was making payments to the transporters. Then the owners of the transport agencies duly appeared before Ld. AO and their statement was recorded which are on record at PB pages 328-331 and PB pages 332-336 wherein they have confirmed the fact that goods were transported by them to the assessee company and the payments for the same were made by the suppliers. Thus for any discrepancy if any left in details of vehicles used cannot be a basis to doubt the wholesome evidences of bills etc filed by the assessee. Thus, in view of the above we are of the considered view that the addition made by Ld. AO and sustained by Ld. CIT(A) is without any basis, evidence or material and is merely based on surmises and conjectures and deserves to be deleted completely.

13. **Ground No. 6 of departmental appeal and 3-4 of assessee's appeal:**

These grounds relate to the enhancement made by Ld. CIT(A) amounting to Rs. 1,30,517/- (i.e., Rs. 36,55,931 /- x 0.0357) on account of alleged suppressed profit embedded in purchases from bogus entity. Now as a matter of fact, Ld. CIT(A) in the earlier part of his order has accepted the purchases of Rs. 31,90,338 (Rs. 36,55,338/- less Rs. 3,65,593/-) and therefore there is no question of any profit suppressed in these purchases accepted as genuine. Thus, no addition of Rs. 1,11,465/- (Rs. 31,90,338/- x 0.0357) on this account could be made. In respect of balance addition of Rs. 13,052/- (Rs. 1,30,517/- less Rs. 1,17,465/-)

when the genuineness of these purchases have also been accepted here above by us therefore addition of profit embedded in such purchases cannot be sustained.

14. **Ground No. 7-10 of departmental grounds and 5 of assessee's appeal:**

This ground relate to an addition of Rs. 8,92,482/- and Rs. 7,14,123/- made by Ld. AO on the basis of seized tally data seized by team RU 1 marked as annexure A-35 relating to M/s Hygienic Purchase A/c and M/s Rama Hygienic Store by alleging the same to be data of sale made by assessee outside the books. However, the same is restricted by Ld. CIT(A) to Rs. 57,356 [(Rs. 8,92,482/- + Rs. 7,14,123/-) x 0.357%]

15. At PB page 84-86 is the copy of the said document which shows that this document does not even bears the name of the appellant i.e., M/s Rama Hygienic Products Pvt. Ltd. Moreover, perusal of this document would show that the nomenclature of this documents is "Sales Register" whereas documents is named as "Hygienic Purchase A/c". This ambiguity establishes that this document neither pertains to assessee nor shows any out of book sales of assessee. Furthermore, PB page 247, 254 is the copy of Panchanama which would show that team RU-1 seized Annexure A-39 from the address "Syana Road Bulandshahar (UP), (adjacent to Mohan Milk Pvt. Ltd.)" which is the not the address of assessee as confirmed by the Sh. Sanjeev Kumar reproduced at page 37 of the appellate order. Thus, in view of the above it can be concluded that no

addition could have been made on the basis of document not found from control and possession of assessee.

16. In respect of addition of Rs.7,14,123/-, relying PB page 309-310 ld.AR has submitted that same are submissions before Ld. CIT(A) and PB 87 is the copy of the said document which shows that this documents pertains to “M/s Rama Hygienic Store” and not the assessee i.e., M/s Rama Hygienic Products Pvt. Ltd. Moreover, perusal of this document shows that the entries mentioned are in the nature of “Plant-Maint/misc. ” whereas assessee is engaged in the business of ‘Manufacturing & Trading ofAtta, Maida, Suji & Choker’. This ambiguity establishes that this documents neither pertains to assessee nor shows any out of book sales of assessee. Then at PB 247, 254 is the copy of Panchanama which would show that team RU-1 seized Annexure A-35 from the address “Syana Road Bulandshahar (UP), (adjacent toMohan Milk Pvt. Ltd.) ” which is the not the address of assessee as confirmed by the Sh. Sanjeev Kumar in his statement reproduced at page 37 of the appellate order. Thus, in view of the above we are of the view that no addition could be made on the basis of document not found from control and possession of assessee. However, Ld. CIT(A) erroneously relied upon his finding in the case of M/s Rama Allied Products Marketing Pvt. Ltd. (Appeal no. 10626/16-17) that this document pertains to assessee and on the basis of the same has confirmed the profit element in the alleged out of book sales.

17. **Ground No. 6 of assessee's appeal:** This ground relates to an addition of Rs. 12,09,026/- made by Ld. AO on the ground that stock found during the survey on 28.02.2014 was Rs. 1,36,57,684/- however, as per books account the stock was shown at Rs. 4,15,79,778/-. Therefore, it was alleged that the difference of Rs. 2,79,22,094/- is the sales made outside the books of account and thus, Ld. AO made addition on account of gross profit at the rate of 4.33% on such alleged sales.

18. Now before us on the basis of PB page 310, which is the copy of written submissions filed before Ld. AO, the ld. AR has submitted that survey had taken place on 28.02.2014, however, the comparison was drawn with the closing stock as per books as on 31.01.2014 and therefore, such comparison would not give accurate result and cannot be relied upon in any manner. Moreover, no basis of the valuation or the estimates taken to value the stock has been provided to the assessee.

19. In this context we find that at PB page 88-89 is the copy of profit and loss a/c of assessee for the period 01.04.2013 to 31.01.2014 which shows that assessee has shown closing stock in the books as on 31.01.2014 at Rs. 4,15,79,778/- and thus the comparison drawn by Ld. AO on 28.02.2014 could not be taken into consideration. Even otherwise without any basis, evidence or material the valuation was arrived and same deserves to be deleted.

20. **Ground 11 of departmental appeal:** This ground relates to an addition of Rs.19,83,94,250/- made by Ld. AO allegedly on the ground that a documents

found and seized by search party RU-1 and marked as annexure A-39 shows the sales made by assessee of Rs. 24,26,94,374/- however, assessee failed to reconcile the same to the tune of Rs. 19,83,94,520/-. Now as a matter of fact the entire addition has been deleted by Ld. CIT(A) on the ground that Mr. Sanjeev Kumar, owner of Rama Group, has surrendered this un-reconciled turnover in his personal capacity and therefore, making addition on the basis of same documents in the hands of the assessee company would lead to double taxation. We observe that PB page 90 is the document found and seized by search party RU-1 and marked as annexure A-35 showing sales of Rs. 24,26,94,374/- and PB page 247, 254 is the copy of Panchanama which would show that team RU-1 seized Annexure A-35 from the address “Syana Road Bulandshahar (UP), (adjacent to Mohan Milk Pvt. Ltd.) ” which is the not the address of assessee as confirmed by the Sh. Sanjeev Kumar in his statement reproduced at page 37 of the appellate order. Further, PB page 91-246 is the copy of working given by Sh. Sanjeev Kumar showing reconciliation of sales mentioned in the said document of Rs. 24,26,94,374/- with the accounted sales and declaring excess sales of Rs. 10,28,69,230/- (PB 246) which has been surrendered in his personal capacity. PB 291 is the copy of letter filed by Mr. Sanjeev Kumar before Ld. ADIT(inv.) making surrender in his hand and further submitting the working which is enclosed at PB 292-295 and same shows that assessee has surrendered 3% profit i.e., Rs. 78,99,000/- on total un-reconciled turnover of Rs. 26,33,00,000/- (PB 295) which includes un-reconciled turnover of Rs. 10,28,69,230 in the case of

assessee in AY 2014-15 based on the said seized document in his personal capacity. PB 288A-290 is the copy of ITR and computation of Mr. Sanjeev Kumar for AY 2014-15 perusal of which would show that he has surrendered total income of Rs. 3,61,00,000/- which includes above mentioned surrender of Rs. 78,99,000/-. Thus no addition could have been made in the hands of assessee on the basis of the said seized documents and same has rightly been deleted by Ld. CIT(A).

21. Thus we hold that grounds raised by Revenue have no substance while grounds raised by assessee deserve to be sustained. Consequently the appeal of assessee is allowed and of revenue is dismissed.

Order pronounced in the open court on 28.02.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated:28th February, 2025.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi