

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “B” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.353/Del/2025

[Assessment Year : 2014-15]

Omnitel Technologies Pvt.Ltd., B-220, Florence Marvel, Sushant Lok-III, Chakkarpur B.O., Sikanderpur Ghost (68), Gurgaon, Haryana-122002 PAN-AAFCA2421B	vs	ITO Ward-3(1) Gurgaon
APPELLANT		RESPONDENT

ITA No.73/Del/2025

[Assessment Year : 2016-17]

Omnitel Technologies Pvt. Ltd., B-220, Florence Marvel, Sushant Lok-III, Sector-57, Gurgaon, Haryana-122002 PAN-AAFCA2421B	vs	Additional/Joint/ Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi
APPELLANT		RESPONDENT
Appellant by	Shri Sanjay Kumar, Adv.	
Respondent by	Ms. Indu Bala Saini, Sr. DR	
Date of Hearing	21.01.2026	
Date of Pronouncement	10.04.2026	

ORDER

PER MANISH AGARWAL, AM :

The captioned appeals are filed by assessee against the separate orders dated 10.12.2024 and 06.11.2024 of Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.

CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of different assessment orders, both dated 31.03.2022 passed u/s 147 r.w.s. 144B of the Act pertaining to Assessment Year 2014-15 & 2016-17 respectively.

2. Both the captioned appeals filed by the assessee have common and identical issues therefore, both the appeals are adjudicated by a common order for the sake of convenience.

3. First we take up appeal of the assessee in ITA No.353/Del/2025 [Assessment Year 2014-15].

ITA No.353/Del/2025 [Assessment Year 2014-15]

4. Brief facts of the case are that assessee is a Private Limited company, engaged in the business of providing telecom services to Government of India for various projects. The return of income for the year under appeal was e-filed on 30.09.2014, declaring total income of INR 94,24,183/-. The case of the assessee was re-opened u/s 147 of the Act for the reason that assessee has made purchase of INR 1,43,22,000/- from M/s R D Technologies which as per the Revenue, is providing accommodation entries of bogus bills by charging commission @ 1.5% of the amount. This allegation was based on the search and seizure action carried out in the case of Shri Joginder Pal Gupta of DAG Group on 23.12.2019. Before the AO, claim of the assessee was that it had made purchases of fixed assets which were used for providing services and charged depreciation on the same, therefore, allegation of the Revenue is that purchases were made to reduce the profits was incorrect. However, the AO had not

accepted the contention of the assessee and made the addition of INR 1,43,20,000/- towards bogus purchases and invoked provision of section 115BBE of the Act.

5. Against such order, assessee preferred an appeal before Ld. CIT(A) who vide impugned order dated 10.12.2024, partly allowed the appeal of the assessee wherein addition on account of commission paid @ 1.5% u/s 69C r.w.s. 115BBE of the Act, was deleted however, the addition on account of purchases treated as bogus stood uphold.

6. Aggrieved by the said order, assessee is in appeal before the Tribunal by taking various Grounds of appeal mentioned in the appeal memo.

7. **Grounds of appeal Nos. 1 to 4** raised by the assessee are with respect to confirmation of addition made on account of bogus purchases therefore, they have been taken together for consideration.

8. Heard the contentions of both the parties at length and perused the material available on record. It was the claim of assessee that it had purchased fixed assets after obtaining loan from the financial institutions and all the relevant details regarding purchases were placed on record which includes invoices, transportation advise, loan agreement, bank statement, insurance policy etc. Had there been no purchases, bank had not financed assets. Moreover, insurance company has given insurance policy only after physical inspection of the assets. All these facts established that assessee had made

purchases of machineries however, the AO without brought any material on record solely based on so-called information received from the Investigation Wing that M/s. R D Technologies, from whom the assessee had made the purchases, related to one Shri Joginder Pal Gupta engaged in the business of providing accommodation entries, had made the additions. Once the assessee has been able to establish that goods have been purchased with every plausible evidences and had not claimed said purchases as expenditure in Profit & Loss Account and treated the same as capital assets> it is also a matter of fact that assessee has claimed depreciation which stood allowed and gross amount of purchases was disallowed by ignoring the fact that such purchases was never claimed as expenditure. Further, the copy of the bank loan agreement placed at pages 15-34 of PB, clearly shows that the bank has financed the assets which were insured by United India Insurance Company Ltd. in terms of policy Burglary B.P. policy dated 16.01.2014 placed at pages 36 to 40 of PB. This further established the fact that assets under dispute was in existence where after examination insurance policy was issued by the company. All these facts lead to belief that allegation of the Revenue of accommodation entries, is not correct. In view of this discussion and facts of the case, we are of the considered opinion that AO has made an error of fact of treating the purchases of capital assets as bogus purchases of goods and made the addition thereon. Accordingly, we delete the additions so made and allowed Grounds of appeal Nos. 1 to 4 raised by the assessee.

9. In the result, appeal of the assessee is allowed.

10. Now we take up appeal of the assessee in ITA No.73/Del/2025 [Assessment Year 2016-17].

ITA No.73/Del/2025 [Assessment Year 2016-17]

11. Brief facts of the case are that the assessee has e-filed return of income on 13.10.2016, declaring loss of INR 1,41,24,341/- which was revised at same loss. The AO based on the information that assessee has purchased goods from three parties which was not genuine, had re-opened the case of the assessee by issue of notice u/s 148 of the Act on 31.03.2021. In response to the same, return of income was filed on 30.04.2021, declaring the same loss as was declared in the return filed u/s 139(1) of the Act. Thereafter, AO completed the re-assessment proceedings wherein addition of INR 45,06,444/- was made on account of purchases made from two parties held as bogus.

12. Against the said order, assessee filed an appeal before Ld. CIT(A) who confirmed the order of AO and dismissed the appeal of the assessee.

13. Aggrieved by the said order, the assessee is in appeal before the Tribunal by taking various Grounds of appeal.

14. **Grounds of appeal Nos. 1 to 5** taken by the assessee are with respect to the additions made on account of purchases alleged as bogus of INR 45,06,444/- and further invoking the provision of section 115BBE of the Act therefore, they are taken together for consideration.

15. Ld.AR for the assessee argued that assessee has made purchases and goods received were supplied to M.P. Police Housing Organization and Ministry of Shipping, Delhi. The assessee also filed the respective correspondence with the buyers where they have admitted the receipt of goods supplied by the assessee which was purchased from the parties alleged as non-existent/bogus. Ld. AR submits that both the parties namely M/s Durga Trading Company and M/s Eagle Traders are the approved suppliers and assessee has filed complete details of purchase made from these parties which includes copies of invoices raised for supply and installation, courier certificates, completion certificates, bank statements in support of the payments made and other details. Besides this, Ld.AR placed reliance on various judgments which are as under:-

- (i) *Hon'ble Bombay High Court in the case of Pr. CIT Vs. Nitin Ramdeoji Lohia 2022 taxmann 546.*
- (ii) *Hon'ble Bombay High Court in the case of Pr. CIT Vs. Jagdish Thakkar 2022 taxmann 414.*
- (iii) *Hon'ble ITAT Amritsar in the case of M/s Gujranwala Jewellers (Bholu Sshah Group).*
- (iv) *Hon'ble ITAT Mumbai in the case of ITO Vs. Growel Energy Co. Ltd.*

15.1. Ld. AR thus submits that the assessee has discharged the burden of proving the purchases as genuine and further requested that additions made be deleted.

16. On the other hand, Ld. Sr. DR for the Revenue supported the orders of lower authorities and submits that parties were found engaged in the business of providing accommodation entries to the

beneficiaries after charging commission, during the course of search conducted in Shri Joginder Pal Gupta on the DAG group. Ld. Sr. DR further submits that assessee has failed to substantiate the genuineness of the transactions of purchases made from these parties and therefore, AO has rightly treated the purchases made from them as sham transactions which orders deserves to be uphold. He prayed accordingly.

17. Heard the contentions of both the parties at length and perused the material available on record. The AO has alleged the purchases of INR 14,32,927/- made from M/s Durga Trading Company and of INR 30,73,517/- from M/s Eagle Traders are non-genuine. The assessee claimed that it had purchased various items which were used in installation of the projects awarded to it by M.P. Police Housing Corporation and by Ministry of Shipping, New Delhi. The assessee also filed the copies of work orders, installation details and completion certification issued by respective parties wherein the items supplied by these parties were utilized in the execution of project work. The necessary details so filed by the assessee before the AO are placed at pages 21 to 85 of Paper Book. Before us, Revenue has failed to controvert these facts. It is further observed that all these facts were stated before the AO however, except alleging the purchases as bogus, AO has not made inquiry whatsoever from the suppliers or from the parties to whom assessee claimed to have supplied those goods as execution in the work contracts. The AO as well as Ld. CIT(A) has simply relied upon the conclusion drawn by the Investigation Wing in the case of Shri Joginder Pal Gupta and

further observed that the assessee has failed to furnish the vital documents like copies of agreement, nature of work carried out, man power deployed etc. with respect to the work executed by the assessee for various Government Departments where it was claimed that the goods purchased from these two parties, were consumed. It is further observed that these observations of the lower authorities were contrary to the information submitted by assessee such as copy of invoice raised for supply and installation and copy of completion certification issued by respective authorities. The lower authorities have not pointed out any defects in the same and moreover, the sales made have not been doubted. Therefore, without conducting any independent inquiry whatsoever, the purchases cannot be held as unverifiable when the same was consumed in the execution of works contracts awarded by the Govt. agencies. The Hon'ble Bombay High Court in the case of PCIT vs Nitin Ramdeoiji Lohia (supra) under identical circumstances, has observed as under:-

7. *“From the above facts it is thus clear that the CIT (Appeals) partially allowed the appeal of the assessee on the ground that the A.O. had not disputed the sales and, therefore, this was not a case of bogus purchases, inasmuch as if the purchase was bogus, it would not be possible for assessee to complete the transaction by way of sale, unless it could be shown from the record that the corresponding sale was also a sham transaction.*

We are in agreement with the view expressed by the CIT (Appeals) that, if the purchases are bogus, it would be impossible for the assessee to complete the business transaction and that if the Purti Parab 4/4 15-ITXA-685-2018.doc purchase is bogus, the corresponding sale also must be bogus or else the transaction would be impossible to complete and as a necessary corollary, unless the corresponding sale is held to be bogus, the purchase also cannot be held to be bogus, rather it would be a case of purchase from bogus entities/parties. That view has been

upheld by the Tribunal in principal while dismissing the appeal of the Revenue. In view of the above, we are of the opinion that the questions of law proposed as (a), (b), and (c) in the appeal cannot be said to be substantial questions of law.

Insofar as the question of law framed as (d) is concerned, we find that the Tribunal has not addressed the issue of adopting the gross profit rate of 5% on the alleged Hawala purchase of Rs.2.45 crores as against the rate of 0.69% declared by the assessee, despite the fact that the CIT (Appeals) had specifically gone into that question in its order dated 18th August, 2015 and had directed the A.O. to make 5% addition in the gross profit ratio, while deleting the balance addition. We, therefore, deem it appropriate to remand the matter back to the Tribunal only to the limited extent of going into that issue. Parties to appear before the Tribunal on 05th December, 2022 and orders to be passed thereupon, preferably within a period of three months thereafter. The decision taken above in ITA No. 673 of 2018 shall apply mutatis and mutandis to ITA No. 750 of 2018. In the result, both the appeals are, accordingly, disposed of.”

18. Similarly, the Hon’ble Bombay High Court in the case of PCIT vs Jagdish Thakkar (supra) has held as under:-

26. *“There is no dispute that the subject purchases were infact made, that the Assessee has made payments by account payee cheques which have been cleared through the normal banking channels, the Assessee had furnished the bills, delivery challans relating to the said purchases, the transactions appear to have been duly accounted for in the books of Assessee. The CIT(A) has observed that all the purchases were reflected in Nikita Gadgil 17 of 20 ITXA 781-2018.odt the stock reconciliation furnished before him in respect of the subject purchases made by the Assessee. There is no evidence or material brought on record by the Assessing Officer that the purchases made were for cash or that the purchasers had returned the cash corresponding to the cheque payments received from the Assessee. The CIT(A) has recorded that there is no evidence of money flowing back to the Assessee and that the Assessing Officer had made the addition merely on the basis of presumption. The Assessing Officer had not made available copies of the documents relied upon by him for the purpose of making the addition. These are all findings of fact for which the Tribunal is the last fact finding authority.*

27. *The Assessee in our view has discharged his onus in respect of the subject purchases. The Assessing Officer has also not doubted the sales arising out of the said export activity and its GPR. This is not a case which falls within the ambit of [Section 69C](#) as held by the Assessing Officer.*
28. *In the case at hand, the Assessee statedly had made purchases from the three parties totalling to amount of Rs. 3,15,72,840/- in respect of which it has been found by both the CIT(A) as well as the Tribunal that the sales in question have not been doubted, that the payments have been Nikita Gadgil 18 of 20 ITXA 781-2018.odt made by the Assessee through banking channels and that the Assessing Officer has also accepted the book results shown by the Assessee. It is also finding of fact that the Assessee has produced before the Assessing Officer delivery challans, purchase bills as well as evidence of payments through banking channels. As such, the Assessee has discharged the initial burden or onus of providing the details of the parties; and it was incumbent on the Assessing Officer to rebut the evidence produced by the Assessee. We do not find anything on record controverting the findings of fact of the CIT(A) as well as the Tribunal. Despite uncontroverted findings of fact and keeping in mind that the Assessing Officer had issued 133(6) notices to the three suppliers of goods and the parties had not attended and even though the Assessing Officer did not take any further steps for investigation, in all fairness, the CIT(A) as well as the Tribunal had upheld the dis-allowance in respect of the purchases for the year under consideration to the extent of 10% of such purchases against which admittedly no appeal has been filed by the Assessee.*
29. *If the CIT(A) relying upon the various decisions including the decision in the case of CIT Vs. Bholenath Poly Fab (P) Ltd.(supra), has restricted the disallowance to 10% of the purchases, which decision has Nikita Gadgil 19 of 20 ITXA 781-2018.odt not been disturbed by the Tribunal, we find that the view taken by the Tribunal is a possible view and cannot be faulted with.*
30. *The decision of this Court (Per Dhiraj Singh Thakur, J) dated 18th July, 2022 in ITXA No. 398 of 2018, where similar issue came to be decided is useful. Paragraph 12 of the said decision is pertinent and is quoted as under:-*

"We are of the opinion that the view expressed by the Tribunal in upholding the order passed by the learned CIT(A), cannot be said to be in any manner perverse or legally untenable, inasmuch as, if the entire amount of

Rs. 4,74,54,793/- were to be held as non-genuine purchases, then it would not be possible to justify as to how the works allotted to the assessee for execution by the semi Government Agencies could be completed. Therefore, the argument that the entire amount of Rs. 4,74,54,793/- ought to have been added to the income of the assessee is untenable, especially when the learned CIT(A) in its order as upheld by the Tribunal in the order impugned held that the purchases per se were not in dispute but the parties from whom the purchases are shown to have been made are disputed."

31. *In view of the above discussion, we do not find any error or perversity in the order of the Tribunal. The Appeal, therefore, does not raise any substantial question of law and is dismissed. No costs."*

19. In view of the above facts and circumstances of the case and overall discussions made herein above and further placing reliance on the judgement of the Hon'ble Bombay High Court and decisions of the Co-ordinate Bench of the Tribunal as relied upon, we are of the considered view that once the assessee has discharged the burden casted upon it of proving the purchases as genuine and AO has filed to make any independent inquiry whatsoever to support the allegations made, no addition could be made towards the genuine purchases by holding the same as bogus. Under these circumstances, purchases cannot be held as bogus and accordingly, the addition made by AO is hereby, deleted. All the grounds of appeal of the assessee are thus allowed.

20. In the result, appeal of the assessee is allowed.

21. In the final result, both captioned appeals of the assessee in **ITA Nos. 353 & 73/Del/2025 [Assessment Years 2014-15 & 2016-17]** respectively, are allowed.

Order pronounced in the open Court on 10.04.2026.

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:-10.04.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

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