आयकर अपीलीय अधिकरण
कोलकाता 'ए' बेंच कोलकाता मे

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH AT KOLKATA

Before

SHRI YOGESH KUMAR US, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA No(s). 1358/KOL/2026
Assessment Year(s) 2018-19

DHMT Logistics 19, B.T. Road, Rathtolla, Kolkata, West Bengal, 700056	Vs.	**ITO, Ward-22(2), Kolkata** 169, A.J.C. Bose Road, Bamboovilla, Kolkata, West Bengal, 700014
(अपीलार्थी/Appellant)		***(प्रत्यर्थी/Respondent)***
***स्थायी खाता संख्या*/PAN: AAIFD7569H**		

उपस्थिति/Appearance:
अपीलार्थी के ओर से/
Assessee represented by (AR) **:** Ankit Jalan, Advocate.
प्रत्यर्थी के ओर से/
Department represented by (DR) **:** Kalyan Kumar Das, Sr. DR.

सुनवाई की तिथि/
Date of concluding the hearing : 06.10.2026
आदेश उद्घोषणा की तिथि/
Date of pronouncing the order : 16.10.2026

आदेश/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 [Ld. 'CIT(A)'] passed u/s 250 of the Act for AY 2018-19 dated 06.03.2026.

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

"1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) was vehemently wrong and unjustified in confirming the addition made by the Ld. A.O. even though the reassessment proceeding is illegal and not as per the provision of the Income Tax Act, 1961. The assessment order is void ab intio and the addition made therein amounting to Rs. 53,32,755/- deserves to be deleted. Relief Claimed: the reassessment order is illegal, void ab initio, should be quashed and the addition made therein should be deleted.

2. For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in adopting a mechanical and rigid approach, contrary to settled judicial principle that appellant should be provided with the information before reopening of assessment and the reply made against notice u/s. 148A(b) should be considered in order passed u/s. 148A(d). The notice issued u/s. 148A(b) and the order passed u/s 148A(d) is not as per the provisions of the Income Tax Act, 1961 and therefore are liable to be quashed. Subsequent reassessment order is illegal and should be quashed. Relief claimed: the notice u/s. 148A(b) and order u/s 148A(d) are illegal and not tenable in the eyes of law and deserves to be quashed. Reassessment order and addition amounting to Rs. 53,32,755/- made therein should be deleted.

3. Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. A.O. was wrong in issuing notice u/s. 143(2) on 26.01.2023 without complying to the CBDT Instruction f. No. 225/157/2017/ITA-II dated 23.06.2017 and so the notice issued u/s. 143(2) is not valid as per Provision of Act and is illegal. Relief claimed: the assessment order is void ab initio and is liable to be quashed.

4. Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was vehemently wrong and unjustified in confirming the addition made by the ld. A.O. amounting to Rs. 53,32,755/- invoking section 69C of the Income Tax Act, 1961 even though the same was not applicable in the present facts of the case. Relief Claimed: the addition of Rs. 53,32,755/- should be deleted.

5. Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was vehemently wrong and unjustified in confirming the disallowance of expenditure made by the ld. A.O. amounting to Rs. 53,32,755/- even though the appellant had explained the source and nature of such expenditure. Relief Claimed: the addition of Rs. 53,32,755/- should be deleted.

6. That the appellant craves leave to add, alter, modify, amend, delete and/or withdraw any or all of the grounds of appeal."

3. Brief facts of the case are that the assessee had filed the return of income for AY 2018-19 on 30.10.2018 declaring the total income at ₹1,66,497/-. Subsequently, based on information disseminated by Kolkata South CGST & CX department through the Insight Portal, it was found that the assessee had recorded purchases aggregating to ₹53,32,755/- from three entities, namely M/s Aerocom Trade Exim, M/s Adarsh Vanijya Udyog, and M/s Rajbhar Trade Commercial, which were identified as bogus entities engaged in generating fake GST invoices without the actual supply of goods. Accordingly, the Assessing Officer [Ld. 'AO'] initiated reassessment proceedings and issued notices u/s 148A(b) and 148 of the Act. During the assessment proceedings, the assessee failed to furnish independent confirmations from the suppliers or to file sufficient documentary evidence to establish the physical delivery and actual movement of goods. Consequently, the Ld. AO passed the assessment order u/s 147 r.w.s. 144B of the Act on 20.03.2023, treating the purchases of ₹53,32,755/- as unexplained expenditure u/s 69C of the Act, and assessed the total income at ₹54,99,255/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who observed that the assessee was unable to produce credible evidence such as supplier confirmations, delivery challans, or transportation details to prove the genuineness of the purchases. He observed that the entities were found to be non-existent at their declared places of business and were involved in providing accommodation entries, and held that the mere payment through banking channels did not discharge the burden of proof placed upon the assessee. Accordingly, the Ld. CIT(A) confirmed the action of the Ld. AO and dismissed the appeal of the assessee vide his findings as under:

"I have considered the assessment order, the grounds of appeal, the written submissions of the appellant and the material available on record. The first issue relates to the validity of reopening of assessment under section 147 of the Act. The records show that the reopening was based on specific information received from the GST authorities and the Investigation Wing indicating that the entities from whom the appellant claimed to have made purchases were involved in issuing fake invoices and were non-existent at their declared places of business. Such information constituted tangible material suggesting escapement of income within the meaning of section 147 of the Act. The Assessing Officer therefore had valid reasons to believe that income chargeable to tax had escaped assessment for the relevant assessment year.

The contention of the appellant that the annexure to the notice under section 148A(b) was not provided cannot invalidate the reassessment proceedings. The material forming the basis of reopening was clearly communicated in the order passed under section 148A(d) wherein the details of the entities and the amount of purchases aggregating to Rs.53,32,755/- were specifically mentioned. The appellant was therefore aware of the basis of the proceedings and had adequate opportunity during the reassessment proceedings to furnish explanation and supporting evidence. The appellant in fact participated in the reassessment proceedings and furnished certain details. Hence, the argument that the reassessment proceedings are void ab initio is not acceptable.

The next issue relates to the addition of Rs.53,32,755/- made under section 69C of the Act on account of alleged bogus purchases. The assessment order clearly records that the addition was made on the basis of specific information received from the Investigation Wing that the entities from whom the appellant claimed purchases were accommodation entry providers issuing fake invoices without actual supply of goods. The verification conducted by the Investigation Wing revealed that these entities were not found to be existing at their declared places of business. The appellant was therefore required to establish the genuineness of the purchases by producing credible evidence such as confirmation from suppliers, transportation details, delivery challans and other documentary evidence establishing actual receipt of goods.

However, the appellant failed to furnish any independent confirmation from the suppliers or any documentary evidence establishing the actual movement of goods. The documents produced by the appellant were limited to ledger accounts, purchase invoices and bank statements. These documents by themselves do not conclusively establish the genuineness of the purchases when the suppliers themselves have been found to be non-

existent and involved in providing accommodation entries. The mere fact that payments were made through banking channels does not by itself prove that genuine purchases were made.

The explanation offered by the appellant that the purchases were supported by GST returns and other accounting records does not satisfactorily discharge the burden placed upon the assessee under the provisions of the Income Tax Act. The appellant has failed to produce any evidence demonstrating the physical delivery of goods or establishing the identity and existence of the suppliers. In such circumstances the Assessing Officer was justified in drawing an adverse inference and treating the purchases as unexplained expenditure.

The provisions of section 69C provide that where an assessee incurs any expenditure and fails to offer a satisfactory explanation regarding the source or nature of such expenditure, the amount may be deemed to be the income of the assessee. In the present case, the purchases from the three entities aggregating to Rs.53,32,755/- were found to be unsupported by credible evidence and were linked with entities identified by the Investigation Wing as bogus entities issuing accommodation entries. Therefore, the addition made by the Assessing Officer under section 69C is based on material evidence and is in accordance with the provisions of the Act.

In view of the above facts and circumstances and considering the material available on record, the action of the Assessing Officer in treating the purchases amounting to Rs.53,32,755/- as unexplained expenditure is found to be justified. The appellant has not been able to produce sufficient evidence to rebut the findings recorded in the assessment order.

6. In the result, the appeal is dismissed."

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. The Ld. AR submitted that certain expenses claimed by the assessee were disallowed, however, the procedure prescribed for the reopening of the assessment was not followed as only 6 days' time was allowed to file the reply to the show cause notice issued under section 148A(b) of the Act, as against the time of not less than 7 days provided

under the statute, and he relied upon the decision in ITA No. 2651/Kol/2025 for the A.Y. 2019-20 order dated 05/03/2026 of the coordinate bench. Our attention was also drawn to the case of Panjos Builders Pvt. Ltd. referred to in the order of the Tribunal in support of the claim that not following the statutory provisions would render the proceeding illegal. The Ld. AR also relied upon the decision in the case of Shri Gaurav Agrawal v. ITO Ward 1(3), Siliguri in ITA No.1887/Kol/2025 A.Y. 2015-16 order dated 06/03/2026. When enquired as to whether this ground was days before the Ld. CIT(A), it was conveyed that the same was not raised before the 1st appellate authority. In respect of Ground No. 2, it was alleged that the assessee did not make any submission as no information was provided. The assessee objected, but the objection was not considered. It was submitted that the reasons were required to be supplied for the reopening and the assessee relied upon the decision in the case of Sri Gopal Sarda v ITO Ward-44(2), Kolkata in ITA No. 2778/Kol/2025 A.Y. 2018-19 order dated 16.06.2026.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The assessee had not raised the issue of minimum time of 7 days provided to respond to the notice u/s 148A(b) before the Ld. CIT(A). The notice u/s 148A(b) of the Act is issued in connection with the order u/s 148A(d) of the Act before reopening the assessment and the order is neither appealable before the Ld. CIT(A) nor before the Tribunal. Similar issue challenging the order u/s 148A of the Act also arose in the case of Esaar India Ltd. Vs. I.T.O., Ward-5(1), Kolkata in ITA No. 2990/KOL/2025 A.Y. 2014-15 order dated 05.08.2026 wherein the coordinate bench has held as under:

> *8. As regards the proceeding u/s 148A of the Act, in the case of **Rakesh Agarwal vs. CBDT** in **Writ Petition No. 16139 of 2024**, order dated 4th November 2024, the Hon'ble High Court of Madhya Pradesh at Indore has held in para 6 that Admittedly order passed u/s 148A(d) of the Income Tax Act is not an appealable order, therefore, except writ petition the petitioner has no other alternative efficacious remedy. Therefore, since only a writ petition lies against the order u/s 148A(d) of the Act, other legal issues relating to the order u/s 148A(d) of the Act are not being discussed.*

7. Hence, Ground Nos. 1 and 2 being general in nature or not being appealable before the Tribunal are not being adjudicated.

8. As regards Ground No. 3, this issue is no longer *res integra* and in view of the decision in the case of MD Sons v The Income Tax Officer, Circle-5(2)(1), Bengaluru and others in ITA No. 1413/BANG/2025 order dated 13.07.2026 this ground of appeal is rejected.

9. As regards Ground Nos. 4 and 5, the Ld. AR submitted that the assessee is not in the trading business and had earned rental income on account of hire charges by providing dozers on rent. Our attention was drawn to page 20 of the paper book in support of the claim that the machinery parts were purchased which were spare parts for the repair of the dozers and the same is extracted as under:

M/S. DHMT LOGISTICS
19, B.T. ROAD, RATHTOLLA, KOLKATA - 700056
TRADING, PROFIT & LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH,2018

PARTICULARS	AMOUNT(RS.)	PARTICULARS	AMOUNT(RS.)
To Bank Charges	817.91	By Hire Charges	106,39,711.99
" Salary & Bonus	14,20,500.00		
" Depreciation	14,06,126.00		
" Rent	72,000.00		
" Carriage Inward	48,000.00		
" Crain Service Charges	42,000.00		
" Audit Fees	10,000.00		
" General Expenses	52,094.74		
" Telephone Charges	15,984.00		
" Transportation Charges	1,42,800.00		
" Repair & Maintenance	59,05,545.25		
" Mobile, Engine Oil & Diesel	2,44,134.40		
" Insurance Of Dozer	16,299.00		
" Interest on Service Tax	5,966.75		
" Profession Tax	1,200.00		
" Professional Fees	21,144.00		
" Travelling & Conveyance	1,91,800.00		
" Accomodation Charges	44,000.00		
" Consultancy Fees	25,000.00		
" Commission	3,36,800.00		
" Site Expenses	51,003.00		
" Net Profit transferred to P/L Appropriation a/c.	5,86,496.94		
	106,39,711.99		106,39,711.99

PROFIT & LOSS APPROPRIATION A/C FOR THE YEAR ENDED 31ST MARCH,2018

PARTICULARS	AMOUNT(RS.)	PARTICULARS	AMOUNT(RS.)
To Remuneration Paid		By Net Profit B/d	5,86,496.94
Kailash Chand Gupta	2,10,000.00		
Sweta Gupta	2,10,000.00		
" Income Tax W/off	17,222.00		
" Allocation of Profit			
Kailash Chand Gupta (96%)	1,43,303.94		
Sweta Gupta (4%)	5,971.00		
	5,86,496.94		5,86,496.94

Signed in terms of our report of even date
CA Neti Agarwal
Chartered Accountants

Dated : 24.09.2018
Place : Kolkata

(Neti Agarwal)
Proprietress
Mem. No. 300683

NETI AGARWAL KOLKATA CHARTERED ACCOUNTANTS

K.C. Gupta

10. It was argued that there was no application of mind by the Ld. AO and a mechanical finding has been given on the basis of the information supplied. Our attention was drawn to the provisions of section 69C of the Act that the same is applicable where the assessee fails to explain the source of expenditure made. In the case of the assessee, the payments were made through banking channels, the accounts were duly audited and no adverse finding was made by the Ld. AO nor the

books of account were rejected. It was submitted that at the most the Ld. AO could have considered the disallowance u/s 37(1) of the Act as the expenses on account of purchases were relating to spare parts for repair and maintenance. Our attention was also drawn to the fact that during the year the net profit rate was much higher despite the higher turnover and the maintenance expenses are variable expenses which work out to around 50% of the total receipts. It was also submitted that the Ld. AO has noted in the assessment order that the parties had recorded the sales and therefore no disallowance was called for and our attention was drawn to page 28 of the paper book in support of the claim that the net profit rate was also higher, which is extracted as under:

DHMT Logistics
(GST No 19AAIFD7569H1ZW)
19 B T Road , Kolkata-700056

Adarsh Vanijya Udyog
(GST No 19APNPN7703B1ZT)
115 Bamacharan Roy Road , Block C13 , Joyshree Park ,Kolkata-700034

Ledger Account
1-Apr-2017 to 31-Mar-2019

Date	Particulars	Amount	Invoice No/ Cheque No	Vch Type	Amount Debit	Amount Credit
01-11-2017	(as per details)		AVU/17-18/071	Journal		5,42,800
	Dozer	4,60,000				
	CGST	41,400				
	SGST	41,400				
03-03-2018	(as per details)		AVU/17-18/1239	Journal		3,07,650
	Repair & Maintainance	2,60,720				
	CGST	23,465				
	SGST	23,465				
03-03-2018	(as per details)		AVU/17-18/1240	Journal		3,54,690
	Repair & Maintainance	3,00,585				
	CGST	27,053				
	SGST	27,053				
05-03-2018	(as per details)		AVU/17-18/1272	Journal		4,87,045
	Repair & Maintainance	4,12,750				
	CGST	37,148				
	SGST	37,148				
05-03-2018	(as per details)		AVU/17-18/1462	Journal		4,01,200
	Repair & Maintainance	3,28,000				
	CGST	30,600				
	SGST	30,600				
	Delivery Charges	12,000				
10-09-2018	Union Bank of India		02003882	Payment	4,00,000	
01-10-2018	Union Bank of India		02003889	Payment	11,00,000	
05-10-2018	Union Bank of India		02003891	Payment	5,93,385	
Total					**20,93,385**	**20,93,385**

11. The Ld. AR summarized his arguments by stating that there were 3 legal issues (i) that 6 days were provided to respond to the notice u/s 148A(b) of the Act as against mandatory period of 7 days, (ii) The information was not provided to the assessee and (iii) the assessee's objection was not considered. It was submitted that in view of the decision of **Ashish Agarwal** and **Rajeev Bansal**, the reasons have to be supplied before reopening. Our attention was also drawn with the case law compilation notably the decision in the case of **Sri Gopal Sarda vs. ITO; ITA No. 2778/KOL/2025; AY 2018-19** order dated 16.06.2026 page 2 para 5 and **Bhavasagar Vyapar Pvt. Ltd. vs. ITO; ITA No. 181/KOL/2026; AY 2014-15** order dated 22.04.2026.

12. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be confirmed.

13. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The case was reopened in view of the information received from CGST that the suppliers of the assessee were issuing fake invoices. It was enquired from the Ld. AR as to what was the final outcome in relation to the enquiry by the CGST Department for the three suppliers; however, the Ld. AR could not give any satisfactory answer. It was also noted that the amounts in relation to the three suppliers were outstanding in the balance sheet of the assessee and the maintenance expenses were claimed at ₹54,99,255/- while the WDV of the machinery as per the balance sheet was ₹40,29,618/- including fresh addition of ₹54,27,400/- during the year. The Ld. AR submitted that although the amounts were outstanding in the case of M/s. Adarsh Vanijya Udyog, M/s. Aerocom Trade Exim and M/s. Rajbhar Trade Commercial but the

same were paid by cheques in the subsequent year and the statement of account was also filed before us.

14. We have considered the submissions made. The case was reopened on account of information from CGST. However, the fact remains that the dozer being the machinery given on hire for which hire charges were received are required the maintenance. However, as against the hire charges of ₹1,06,39,711.99 the assessee has spent repair and maintenance expenses of ₹59,05,545.25 and under the provisions of the Act, only current repairs are allowable but the nature of expenses do not appear to have been examined. The assessee claims that the same related to purchase of spare parts for repairs. There is merit in the argument of the Ld. AR that at the most the disallowance could have been considered u/s 37(1) of the Act as expenses related to repair and maintenance of the dozers, which is normally observed on account of use of machinery. We, therefore, set aside both the orders of the Ld. AO as well as the Ld. CIT(A) and remand the issue before the Ld. AO to examine the nature of claim made, the final finding of the CGST Department on the allegation that the suppliers were issuing bogus bills, examine the nature of expenditure i.e. whether revenue or capital in nature and allow the claim u/s 37(1) r.w.s. 31 of the Act as per law as the assessee claims that the purchases related to spare parts for repair and maintenance of dozers and assessee had not made any sales out of the purchases. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments. Accordingly, Ground Nos. 4 and 5 are partly allowed for statistical purposes while Ground No. 6 is general in nature and does not require any separate adjudication.

15. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 16th October, 2026.

Sd/-	*Sd/-*
[**Yogesh Kumar US**]	[**Rakesh Mishra**]
Judicial Member	Accountant Member

Dated: 16.10.2026

Bidhan (Sr. P.S.)

Copy of the order forwarded to:

1. ***DHMT Logistics.***
2. ***ITO, Ward-22(2), Kolkata.***
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.