

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.453/RPR/2025
CO No. 18/RPR/2025
निर्धारण वर्ष / Assessment Year : 2013-14

The Deputy Commissioner of Income Tax-1(1),
Raipur (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Goenka Rockwool India Private Limited
Ring Road No.2, Sondongari,
Raipur (C.G.)-493 221
PAN: AACCG4091L

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 17.11.2025

घोषणा की तारीख / Date of Pronouncement : 17.11.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

The captioned appeal preferred by the Revenue and corresponding cross-objection preferred by the assessee emanates from the common order of the Ld.CIT(Appeals)/NFAC, Delhi dated 29.05.2025 for the assessment year 2013-14 as per the grounds of appeal on record.

2. That coming to the merits of the Revenue's appeal, relevant facts are that the assessee had filed original return of income declaring total income at Rs.30,53,350/-. The case was assessed u/s. 143(3) of the Income Tax Act, 1961 (for short 'the Act') determining total income of the assessee at Rs.41,22,990/- vide order dated 14.03.2016. The case of the assessee was reopened u/s. 147 of the Act on the basis of information received from the Commercial Tax Department, Raipur that the assessee had made purchases from proprietorship concerns which do not carry out any business activities either by way of purchase or sale of goods and they are involved in bogus billing. Subsequently, the assessment order u/s. 147 r.w.s. 143(3) of the Act was passed and the income of the assessee was assessed at Rs.1,81,49,800/- by making an addition of Rs.1,77,93,600/- on account of unexplained purchases. This amount of addition of Rs.1,77,93,600/- on account of unexplained purchases was deleted by the

Ld. CIT(Appeals)/NFAC, against which, the Revenue is in appeal before the Tribunal.

3. It has been vehemently contended by the Ld. Sr. DR that while giving relief to the assessee, the Ld. CIT(Appeals)/NFAC had not complied with Rule 46A(3) of the ITAT Rules, 1962 while adjudicating on various evidence and till date, there is no remand report called for and the entire relief on the issue of unexplained purchases have been done without following the mandate of the Act. The Ld. Sr. DR submitted that the said fact is very much evident in the findings of the Ld. CIT(Appeals)/NFAC at Para 4.4 of its order which reads as follows:

“4.4 During the course of appeal proceedings, the appellant had submitted as request for admission of additional evidence u/r.46A. The appellant submitted a copy of letter no. 8968 dt: 03/11/17 issued by Commercial tax department to the appellant and ledger a/c copies of the parties along with few copies of bills and proof of payment. The appellant submitted that the same could not be submitted before the AO, due to lack of opportunity given to the appellant during the assessment proceedings. The appellant submitted that it was prevented by sufficient cause from producing the evidence before the AO in terms of Rule 46A(1)(c). Therefore, the same was forwarded to the AO for a remand report vide letter dated 13.06.2024. further reminders were sent to the AO on 04.07.2024, 26.08.2024 and 12.09.2024. The AO submitted a report on 07.10.2024 that as per record the appellate order u/s 250 of the Act has bene passed by the CIT on 29.03.2024 by holding that the original appeal filed by the appellant against the assessment order dated 14.03.2016 has already been adjudicated by the Ld.CIT(A) vide order 25.08.2017. The AO submitted that remand report is not required to be submitted in the case. However. as the remand report was sought in connection with the appeal filed against the order u/s.147 r.w.s 143(3) of the Act dated 30.12.2017 and not assessment order dated 14.03.2016, the AO was

again requested to submit the remand report vide letters dated 04.03.2025 but till date no remand report has been received from the AO. therefore, it is presumed that the AO has no comments to offer on the admittance of additional evidences submitted the appellants.

Thereafter, the Ld. CIT(Appeals)/NFAC vide Para 4.6 of its order held and observed as follows:

“4.6 Therefore, it is seen that Rule 46A empowers the CIT(A) to admit the additional evidence. The appellant could submit the evidences before the AO due opportunity not given to the appellants during the assessment proceedings. The Hon'ble Bombay High Court in Smt. Prabhavati Shah's case (1998) 231 ITR 1 held that if prima facie an information, evidence is necessary to examine the claim of the assessee, the CIT(A) should consider the necessary evidence in exercise of powers u/s. 250(4) even if the case of the assessee does not fall within the four corners of the circumstances enumerated in Rule 46A(I). I am of the considered view that the said additional evidences submitted by the appellant are important in determining the correct income of the appellant and therefore in the interest of justice, the additional evidences submitted are admitted under the provisions of Rule 46A of the I.T Rules, 1962 and considered in deciding the present appeal on merits.”

4. That on conjoint reading of both the aforesaid paras, it is clearly evident that no remand report has been called for and even if the A.O was directed to submit remand report the A.O had not submitted the same and accordingly, at Para 4.6, the Ld. CIT(Appeals)/NFAC, writes that “*the additional evidences submitted are admitted under the provisions of Rule 46A of the I.T Rules, 1962 and considered in deciding the present appeal on merits.*” The Ld. CIT(Appeals)/NFAC had considered all additional evidences without any remand report from the A.O nor he had provided

any evidence on record to suggest that what was the communication between the first appellate authority and the A.O and that in spite of the direction of the Ld. CIT(Appeals)/NFAC to the A.O to file a remand report, why the A.O had not filed the same before the said authority.

5. Be that as it may, facts are clear that additional evidences have been considered in violation to Rule 46A(3) of the Act while giving relief to the assessee. The mandate regarding decisions arrived at by any quasi-judicial authority regarding both the A.O as well as the Ld. CIT(Appeals)/NFAC is that it is important that a ground verification and an inquiry is conducted with regard to the issues pertaining to the case and accordingly, the decision should be arrived at and this exercise had not been complied with by the revenue.

6. Considering the aforesaid facts and circumstances, even without going into the merits of the matter, on this very aspect itself, in the interest of substantial justice, we set-aside the findings of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file to direct the A.O for furnishing a remand report under Rule 46A(3) of the I.T. Rules, 1962. We also note that the findings in absence of such remand report is also not in terms with Section 250 (4) & (6) of the Act. The Ld. CIT(Appeals)/NFAC is directed to comply with the provisions of the Act while complying with the principles of natural justice.

7. In the result, appeal of the Revenue is allowed for statistical purposes.

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8. That as regards the captioned cross-objection that has been filed by the assessee, the Ld. Counsel for the assessee submitted that they have no grievance so far as the order of the Ld. CIT(Appeals)/NFAC is concerned and that they filed the cross-objection in support of the order of the Ld. CIT(Appeals)/NFAC. However, the Ld. Counsel agreed that the appropriate procedure to support the findings of the first appellate authority was to file an application under Rule 27 of the ITAT Rules, 1963.

9. Considering the submissions of the Ld. Counsel for the assessee, when there is no grievance emanating from the order of the Ld. CIT(Appeals)/NFAC and that the assessee had not filed any application under Rule 27 of the ITAT Rules, 1963, in such scenario, the captioned cross objection filed becomes infructuous, hence, dismissed.

10. In the result, cross-objection filed by the assessee is dismissed as infructuous.

11. In the combined result, appeal of the Revenue is allowed for statistical purposes and cross-objection filed by the assessee is dismissed.

Order pronounced in the open court on 17th November, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 17th November, 2025.
SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.