

IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH 'C', MUMBAI

**BEFORE SHRI AMARJIT SINGH, HON'BLE ACCOUNTANT MEMBER
AND SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER**

**ITA Nos.3687 to 3694/Mum/2024
Assessment Year: 2007-08 to 2014-15**

DCIT, CC-8(2), Mumbai		Pamstar Exports
	vs	DC 5101-102 Bharat Diamond Bourse, Bandra Kurla Complex, Bandra East, Mumbai-400051.
		PAN: ASEFP 4255 A
(Appellant)		(Respondent)

Present for:

Assessee by : Mr. Suchek Anchaliya
Revenue by : Shri H.M. Bhatt (Sr. DR)

Date of Hearing : 03.09.2024

Date of Pronouncement : 06.11.2024

ORDER

PER BENCH:

All these eight appeals filed by the revenue are directed against the different order of Id. CIT(A)-50, Mumbai pertaining to A.Y. 2007-08 to 2014-15. Since common issue on identical facts are involved in these appeals filed by the revenue therefore for the sake of convenience all these appeals are adjudicated together by taking the ITA 3688/M/2024 as a lead case and its finding will apply to the other appeals mutatis mutandis wherever it is applicable. The revenue has raised the following grounds of appeal:

"1. Whether on the facts and circumstances of the case and in law, the Ld CITA) is justified in restricting the addition on account of bogus purchases to the extent of gross profit margin on genuine purchases, by disregarding the fact that in respect of the bogus purchases, the assessee would have made purchases from the grey market, thereby avoiding paying many taxes, and hence the gross profit margin in the case of bogus purchases would be higher than the gross profit margin in the case of genuine purchases"

2. Whether on the facts and in circumstances of the case and in law, the Ld CITA) was justified in deleting the addition made on account of unproved purchases, by disregarding the fact that various appellate authorities across the country have confirmed addition on the basis of higher GP estimate in cases related to Bhanwarlal Jain group?

2 Fact in brief is that the case of the assessee for the year under consideration was subject to scrutiny assessment. The assessing officer has referred the search and survey action conducted in the case of Shri Bhanwarlal Jain Group on 03.10.2013 by the Investigation Wing, Mumbai. During the course of search action, it was seen that various entities managed by Bhanwarlal Group were involved in providing accommodation entries by issuing of bogus bill to various parties. During the year under consideration, the assessee had taken accommodation entries of purchases from the following concerns of Shri Bhanwarlal Jain Group:

Sl. No.	Name of the hawala parties	Bill Amount
1	Malhar Exports	29229666
2	Meenaxi Diamonds Pvt. Ltd.	16771850
3	Megha Gems	10755158
4	Mukti Mexports	36710850
5	Parvati Exports	2579289
6	Navkar Diamond	11702723
7	Nisha Diamonds Pvt. Ltd.	15998248
	Total	123745784

3. The assessing officer has discussed the outcome of the search action taken in the case of Bhanwarlal Jain to establish that Shri Bhanwarlal Jain and family through their concerns provided accommodation entries of bogus purchases to various beneficiaries. The assessing officer after considering the submission of the assessee concluded that diamonds were not purchased from the concerns of Bhanwarlal Jain by the assessee but infact against the diamond so purchased from Bhanwarlal Jain group entities the assessee had also

shown corresponding sales. It only shows that the diamonds were bought by the assessee from grey market and to adjust the transaction in the books of account the assessee had obtained bills for purchases from Bhanwarlal Jain group concerns. The assessing officer has also considered that the diamonds in the Grey Market were always cheaper than the diamonds sourced from the genuine dealers because the genuine dealer would charge the incidental cost including administrative cost etc. Looking to the above facts and circumstances, the assessing officer has come to the conclusion that assessee must have earned additional gross profit by purchasing the diamonds from the Grey Market. Therefore, after analyzing all these facts and circumstances the assessing officer considered that assessee would have not obtained benefit of more than 5% of the purchases cost of the diamonds, therefore, assessing officer has taken the profit margin embedded in this transaction at 5% of the value of the purchases made from the above mentioned parties. Therefore, amount of Rs. 61,87,289/- was added to the total income of the assessee.

4. The assessee filed appeal before the ld. CIT(A). The ld. CIT(A) after following the decision of Hon'ble Mumbai High Court in the case of Mohammad Haji Adam & Co. vide Income Tax Appeal No. 1004 of 2016 dated 11.02.2019 held that the addition on account of purchases is to be restricted to the extent of gross profit declared on genuine purchases. The relevant extract of the decision of ld. CIT(A) is reproduced as under:

"14. DECISION

I have considered the submission of the appellant, assessment order and the facts available on record.

14.2 The relevant and material facts involved in this ground of the appeal are that a search action u/s. 132 of the Act was conducted by the Investigation

Wing of the Income Tax Department on Shri. Bhawarlal Jain on 03.10.2013. During the course of search, it was found that all the directors, partners, proprietors of the nearly 70 concerns are dummy and the same belong to native place of Shri. Bhawarlal Jain and family in Rajasthan. In their respective statements recorded under oath they admitted that they were made directors, partners and proprietors of various concerns at the direction of Shri. Bhawarlal Jain and family which were eventually being managed and controlled by the later. During the course of search, the evidence found established that Shri. Bhawarlal Jain and family have been using 70 benami concerns to give accommodation entries in the nature of bogus purchases and bogus unsecured loans to various beneficiaries.

14.3 The main thrust of the arguments of the appellant is that it has produced all the details before the AO with regard to genuineness of the purchases, however, the AO has merely relied on the information received from the DGIT (Inv.), Mumbai, and made the additions to the income of the appellant on account of bogus purchases without making any independent enquiries at his end. It is also the contention of the appellant that the AO has not issued notices u/s 133(6) of the Act to the parties for verification of the purchase transaction, therefore the disallowance is in gross violation of the principle of natural justice and the failure to do so has rendered the additions unsustainable.

14.4 The appellant has further alleged that no defects have been found in the books of accounts of the appellant. I have considered the submission of the appellant, in my view, it is not necessary for the AO to explicitly reject the books of account. The Hon'ble High Court of Bombay in the case of Dhondiram Dalichand vs. Commissioner of Income Tax (1971) 81 ITR 609 has very explicitly observed that "ITO need not make explicit statement showing that method of accounting employed by assessee is such that profits made cannot be properly deduced there from. It is sufficient if his order has the effect of impliedly recording such a finding." Hence this contention of the appellant is not acceptable.

14.5 It is also the contention of the appellant that all the payments are made through account payee cheques and payment transactions can be verified from copy of bank statement as submitted before the AO. In my view, such an argument has weightage, but cannot be considered in isolation. There are judicial precedents on this issue wherein it is held that the transaction cannot be held to be genuine merely because the payment is made by cheques. The Hon'ble Supreme Court of India in the case of CIT vs. P. Mohanakala &Ors. (2007) 291 ITR 0278 has held that "The transactions though apparent were held to be not real one. May be the money came by way of bank cheques and paid through the process of banking transaction but that itself is of no consequence."

14.5.2 *The Hon'ble High Court of Karnataka in the case of CIT &Ors. vs. Saravana Constructions (P.) Ltd. (2012) 72DTR 0258, has held that "there is no presumption that merely because the payment is made by cheque, it is a genuine transaction. First it has to be found out whether the transaction in question is genuine and only thereafter, the assessee would be entitled to the benefit of disallowance"*

In the light of above decisions, the payment by way of bank cheques or payment through the process of banking transaction in itself is of no consequence.

14.6 *During the course of appellate proceedings, the appellant submitted the following documents in respect of the alleged parties:*

i. Acknowledgement of Income Tax Return filed

ii. Confirmation of Accounts

iii. Audited Financial Statement

iv. Bank Statement

v. One-to-One mapping of purchases with sales

14.6.2 *The appellant further made the submission vide letter dated 04.10.2023, showing the working of the gross profit margin on the alleged bogus purchases as per the decision of the the Hon'ble Bombay High Court in the case of The Principal Commissioner of Income Tax-17 Vs. Mohommad Haji Adam & Co (103 taxmann.com 459). The appellant contends that the A.O has ignored the overwhelming factual evidences. The confirmations of the parties are placed on record. The purchases made from these parties have entered in the stock register and the corresponding sales have not been disputed by the A.O. The payments for such purchases have been carried out through banking channel. A reference was made to the judgment of Bombay High Court in the case of Nikunj Exim [2013] 35 taxmann.com 384 (Bombay) to submit that purchases could not be disbelieved in such circumstances.*

14.6.3 *The appellant claims that the stock register maintained by it affirms its contentions. The goods purchased from the alleged parties were subsequently sold in the market. In the event, where the stock so purchased and corresponding sales were duly recorded in the stock book and stock stand tallied, the said purchases is to be regarded as sufficiently explained and hence cannot treated as bogus.*

14.7 *Though the appellant submitted that all these details were duly filed before the AO, the same were forwarded to the A.O to verify the fact of one to one mapping of purchase and sales. In response to the same, the A.O vide letter dated 11.03.2024 submitted a report which is as under-*

“Ref: 1. CIT(A)-50/Pamstar/2023-24, dated 19/10/2023.

2. Letter no. DCIT-CC-8(2)/Remand Report/Pam Star/2023-24 dated 14.12.2023 Kindly refer to the above.

2. In continuation to the remand report submitted by the undersigned on 14.12.2023, further submission is made on specific queries raised by you vide letter dated 19.10.2023.

3. Vide above referred letter dated 19.10.2023, you have requested the undersigned to comment on submission of the assessee with respect to purchase and sales regarding the genuine purchase/ sales and alleged purchase/ sales. Further, you had asked the undersigned to comment on the GP worked out by the assessee on genuine purchase/ sales and alleged purchase/ sales separately.

4. With respect to the GP worked out by the assessee on genuine purchase/ sales and alleged purchase/ sales separately, the same is reproduced below, for your perusal and kind consideration:

Gross profit margin	AY 2007- 08	AY 2008- 09	AY 2009- 10	AY 2010- 11	AY 2011- 12	AY 2012- 13	AY 2013- 14	AY 2014- 15	Average gross profit margin
On genuine purchase/sales	3.86	5.66	1.47	7.29	.79	(.79)	(4.69)	2.21	2.08
On alleged bogus purchase	3.49	5.01	0.06	8.74	3.37	1.76	4.26	3.34	3.5

5. From the above table, it is observed that the gross profit margin on genuine purchase/ sales was higher than the gross profit margin on alleged bogus purchase/ sales during the initial years i.e. from A.Y. 2007-08 to A.Y. 2009-10. However, from A.Y. 2010-11 onwards, the gross profit margin on genuine purchase/ sales was lower than the gross profit margin on alleged bogus purchase/ sales. Moreover, in some cases i.e. for A.Y. 2012 - 13 and A.Y.2013-14, the gross profit margin on supposedly non bogus purchase/ sales is negative.

Hence, application of gross profit margin of supposedly non bogus purchase/ sales to bogus purchase/ sales would be an absurdity.

6. For determining the above gross profit margins, reliance has been placed on submissions made by the assessee with respect to mapping of non bogus purchase to sales and alleged bogus purchase to sales. Hence, the veracity of the above gross profit margins is contingent on the accuracy of the data provided by the assessee with respect to mapping of non bogus purchase with sales and bogus purchase with sales. As it is not possible to independently verify the genuineness of the data submitted by the assessee regarding mapping of non bogus purchase to sales and bogus purchase to sales, it is

proposed to adopt the gross profit margin at 5% for the A.Ys 2008-09, 2010-11, 2011-12, 2013-14 and 2014-15 and 8% for the A.Y.s 2007-08, 2009-10, 2012-13 (as per assessment orders passed u/s 143(3)/147 of the Act.)

7. In this context, it is submitted that 5%-8% GP is a fair estimate for bogus purchases, since various appellate authorities have time and again held additions on the basis of GP estimates at 5-8%. In the instant case, accommodation entries were provided by various parties controlled by Bhanvarlal Jain and associates. Various appellate authorities across the country have confirmed additions made on account of accommodation entries provided by entities controlled by Bhanvarlal Jain. Some of the cases are mentioned below:

a) In the case, of Deputy Commissioner of Income Tax, CC-3(1), Mumbai v. Lucent Diamond, [2021] 128 taxmann.com 262 (Mumbai Trib.), The Hon'ble ITAT Mumbai has observed that 6% GP is a reasonable rate for the diamond industry.

b) In the case of DCIT Vs Silmohan Gems Private Limited (ITAT Mumbai), ITA Nos. 450 & 449/Mum/2023, the Hon'ble ITAT Mumbai has confirmed addition on estimate basis @ 5% of the bogus purchase.

c) In the case of CIT v. Bholanath Poly Fab (Purchase) ltd. ITA.No. 63 of 2012, the Hon'ble High Court of Gujarat has confirmed addition on estimate basis @ 6% of the bogus purchase.

d) In the case of Principal Commissioner of Income-tax v. Surya Impex, [2023] 148 taxmann.com 154 (Gujarat), the High Court of Gujarat confirmed addition on account of GP determined at 6% of purchases.

e) In the case of Mayank Diamonds Pvt. Ltd. v. ITO[2014 (11) TM1812], the Hon'ble High Court of Ahmedabad had directed to make addition at the rate of 5% of the total turnover

8. Further, in the following cases related to the diamond industry, various appellate authorities have upheld addition on account of bogus purchases:

a) In the case of Goenka Jewellers v. Commissioner of Income-tax I, Jaipur, the Hon'ble High Court of Rajasthan has confirmed disallowance of bogus purchases to the tune of 15%.

b) In the case of Income-tax Officer 24(1)(4) v. Deepak Khusaldas Mehta, [2017] 83 taxmann.com 63 (Mumbai) / [2016] 50ITR(T) 229, the Hon'ble Mumbai ITAT has upheld addition on estimate basis @ 6% of the bogus purchase.

9. In view of the above discussion, the estimation of GP at 5-8% of purchases is reasonable and hence the additional information submitted by the assessee

during the course of appellate proceedings wherein it has submitted revised GP calculations for various assessment years may not be admitted.

10. In view of the above discussion, it is prayed that the additions made by the Assessing Officer in the assessment orders passed u/s 143(3) / 147 of the I.T. Act 1961 may be upheld, in toto.

This is issued with the prior approval of the Addl. CIT-Central-Range-8, Mumbai vide letter dated 11.03.2024.”

14.7.2 It is seen from the A.O's report that, she has not carried out the verification of one to one mapping of alleged bogus purchase with the sales on the ground that it is not possible to verify the genuineness of the data submitted by the assessee. Instead she has reiterated the contention of the A.O as per the assessment orders.

14.8 I have considered the contentions of the appellant and the A.O. and gone through the record. In present case, though the appellant has provided all the relevant documents, it gives suspicion that purchases may be from grey market and bills were only provided by the Bhawarlal Jain group, although the parties were produced by the appellant that cannot make the purchases as genuine.

Therefore, the profit element embedded in such bogus purchase which the appellant could have made, has to be assessed as undisclosed income of the appellant. This being the position, it needs to be determined what should be the fair profit rate out of the bogus purchases which should be added back to the income of the appellant.

14.9 At this juncture it would pertinent to consider the judgment of the Hon'ble Bombay High Court in the case of The Principal Commissioner of Income Tax17 Vs. Mohommad Haji Adam & Co103 taxmann.com 459 (Bombay)[11/02/2019]. The Hon'ble Bombay High Court held as under:

“8. In the present case, as noted above, the assessee was a trader of fabrics. The A.O. found three entities who were indulging in bogus billing activities. A.O. found that the purchases made by the assessee from these entities were bogus. This being a finding of fact, we have proceeded on such basis. Despite this, the question arises whether the Revenue is correct in contending that the entire purchase amount should be added by way of assessee's additional income or the assessee is correct in contending that such logic cannot be applied. The finding of the CIT(A) and the Tribunal would suggest that the department had not disputed the assessee's sales. There was no discrepancy between the purchases shown by the assessee and the sales declared. That being the position, the Tribunal was correct in coming to the conclusion that the purchases cannot be rejected without disturbing the sales in case of a trader. The Tribunal, therefore, correctly restricted the additions limited to the

extent of bringing the G.P. rate on purchases at the same rate of other genuine purchases. The decision of the Gujarat High Court in the case of N.K. Industries Ltd. (supra) cannot be applied without reference to the facts. In fact in paragraph 8 of the same Judgment the Court held and observed as under—

" So far as the question regarding addition of Rs. 3,70,78,125/- as gross profit on sales of Rs. 37.08 Crores made by the Assessing Officer despite the fact that the said sales had admittedly been recorded in the regular books during Financial Year 1997-98 is concerned, we are of the view that the assessee cannot be punished since sale price is accepted by the revenue. Therefore, even if 6% gross profit is taken into account, the corresponding cost price is required to be deducted and tax cannot be levied on the same price. We have to reduce the selling price accordingly as a result of which profit comes to 5.66%. Therefore, considering 5.66% of Rs. 3,70,78,125/- which comes to Rs. 20,98,621.88 we think it fit to direct the revenue to add Rs. 20,98,621.88 as gross profit and make necessary deductions accordingly. Accordingly, the said question is answered partially in favour of the assessee and partially in favour of the revenue."

9. In these circumstances, no question of law, therefore, arises. All Income Tax Appeals are dismissed, accordingly. No order as to costs."

14.9.2 The Hon'ble Mumbai ITAT in case of Adesh Exports vs. ACIT ITA 5921, 5922, 5923, 5924/ Mum/ 2019 followed the decision of Mohommad Haji Adam & Co. and held that

"11. Following the decision of the Hon'ble Bombay High Court (supra), we direct the Assessing Officer to restrict the addition/disallowance only to the extent of bringing the Gross Profit rate on alleged bogus purchases at the same rate of the other genuine purchases declared by the assessee. We observe that assessee has submitted that it has earned Gross Profit of 10.76% in the transaction involving alleged bogus purchases. Therefore, Assessing Officer is directed to restrict the addition/disallowance to the extent of 1.74% (12.50% - 10.76%) of the alleged bogus purchases. In the result, appeal filed by the assessee is partly allowed"

14.9.3 The Hon'ble Mumbai ITAT in case of DCIT Vs. Asian Star Company Limited in ITA 2778/ Mum/ 2022 held that

"22. With respect to one-to-one mapping therefore only criteria is the sale of carats of the diamond. Assessee has shown that number of carats purchased from the three entities is 585.88 carats and the sale of the diamond is also 585.88 carats. The amount of purchases recorded is 6.27 crores whereas the sale of the same diamond is shown at 6.71 crores. With respect to purchases from RA Distributors private limited, the assessee has purchased 496.88 carats and identical carats were sold. The purchase price of these diamonds is Rs. 5.39 crores and the sale is Rs. 5.79 crores. With respect to the purchases

from three different entities the learned CIT – A has noted that assessee has purchased from these parties Rs. 5.29 crores, 6.97 crores and Rs. 7.40 crores out of which the learned assessing officer has doubted only Rs. 2.49 crore, 2.19 crores and Rs. 1.58 crores. The total purchases affected by the parties are also having identical billing narration. Thus, according to us the learned CIT - A has correctly decided that there is a one-to-one mapping available from purchases which are considered as alleged bogus purchases by the AO and corresponding sales. Further, it has been held that there is no connection established by the learned assessing officer with respect to purchases from these three parties by the assessee with the alleged bogus purchases recorded in the investigation wing information as well as the charge sheet filed by the enforcement directorate. The learned assessing officer has also not challenged that assessee has not maintain proper books of accounts including purchase and register, since register, stock register and day-to-day bankbook. No specific defect or irregularity was recorded by the AO. With respect to the gross profit computed by the assessee from bogus sales is based on the number of carats purchased by the assessee and the same number of carats sold by the assessee. With respect to purchases from three different entities, the learned CIT - A has computed gross profit of Rs. 44.49 Lacs and purchases from our A Distributors private limited gross profit is computed at Rs. 40.72 lakhs. Thus, the average gross profit earned by the assessee on total purchases of Rs. 11.66 crores; assessee has earned gross profit of Rs. 85.21 lakhs, which is 6.81%. Gross profit as per the regular books of account is 6.73%. Thus, no infirmity can be found in the finding of the learned CIT - A whereas assessee has shown higher gross profit from alleged bogus purchases compared to its regular transaction. The honourable Bombay High Court in has dealt with identical issue in case of Mohammad Haji Adam & Co [supra]

14.9.4 The Honble Mumbai ITAT ,In the case of Shri Rameshkumar Daulatraj Vs ITO in ITA No. 4192/Mum/2018 order dated 07/05/2019 has held as under:

“9. When these facts were confronted to the learned Sr. DR, he requested for application of reasonable profit rate and according to him the profit rate applied by the AO and confirmed by CIT(A) is quite reasonable in view of the decision of Hon’ble Gujarat High court in the case of Smith P. Seth (supra). We have considered the rival contentions ITA No. 4192/Mum/2018 and are of the view that Hon'ble Bombay High Court in the case of Mohammad Haji Adam & Co. and Ors. (supra) has considered this issue and respectfully following the same, we direct the AO to restrict the profit rate only to the extent of differential percentage as declared on the bogus purchases and as declared on the regular purchases, Hence, we direct the AO accordingly.”

14.9.5 The Honble Mumbai ITAT ,in the case of Mudra Exim Pvt. Ltd. VS. ITO5(2)(3) in ITA No. 6971 & 6972/Mum/2018 dated, 06.01.2020.where the

purchases are made from the Bhawarlal Jain Group by the assessee. The relevant para of the order is reproduced as under:

“3. Shri Himanshu Gandhi appearing on behalf of the assessee submitted that the authorities below have erred in estimating addition of 8% on alleged bogus purchases by the assessee from Bhanwarlal Jain Group concern. The ld. Authorized Representative of the assessee submitted that assessee had furnished tax invoices and bank statements to the lower authorities, however, the documents furnished by the assessee were not taken into consideration. The ld. Authorized Representative for the assessee prayed that if at all addition is to be made it should be restricted only to the extent of the difference in gross profit not disclosed by the assessee on the alleged bogus purchases. The ld. Authorized Representative for the assessee prayed for restoring the issue back to the file of Assessing Officer in the light of decision of Hon'ble Bombay High Court in the case of PCIT vs. Mohammed Haji Adam & Co in Income Tax Appeal No.1004 of 2016 decided on 11/02/2019.

4. On the other hand, Shri R. Boopati representing the Department vehemently defended the impugned order and prayed for dismissing the appeal of assessee.

5. Both sides heard, orders of lower authorities perused. The assessee is engaged in the business of import and export of diamonds. It is alleged that the assessee has procured bogus bills to the tune of Rs.3,35,06,028/- from M/s. Marc Gems, one of Bhawarlal Jain Group concern. Consequently, the Assessing Officer estimated gross profit @8% of such alleged bogus purchases. The CIT(A) has upheld the addition made by Assessing Officer. The contention of the assessee is that the addition may be restricted to the extent of difference between actual gross profit and G.P declared on non-genuine purchases from hawala dealers. Taking into consideration entirety of facts, I deem it proper to restore this issue back to the file of Assessing Officer for fresh adjudication in the light of the decision of Hon'ble Jurisdictional High Court in the case of PCIT vs. Mohammed Haji Adam & Co (supra).”

14.9.6 The Honble Mumbai ITAT, in case of R. K. Color Diamonds Pvt. Ltd. Vs. ITO 5(3)(1) in ITA 4998/ Mum/ 2019 where the assessee has obtained bogus purchase bills from M/s. Prime Star a firm belonging to Bhawarlal Jain Group. It was held that

“5. Submissions made by ld. Departmental Representative heard, orders of authorities below examined. The assessee has allegedly obtained bogus purchase bills from M/s. Prime Star a firm belonging to Bhawarlal Jain Group. Undisputedly, the assessee failed to discharge its onus in conclusively proving genuineness of alleged bogus purchases. However, at the same time the Assessing Officer has accepted the sales turnover declared by the assessee. The Assessing Officer estimated profit margin on such purchases at 8% and the CIT(A) has upheld the same. Taking into consideration the nature of

assessee's business, I am of the view that profit margin estimated by the authorities below are on higher side. I deem it appropriate to restore this issue back to the file of Assessing Officer to decided the same afresh in line with the decision of Hon'ble Bombay High Court in the case of PCIT vs. Mohommad Haji Adam & Co. in Income Tax Appeal No.1004 of 2016 decided on 11/02/2019."

14.10. The appellant is a trader and has submitted one to one mapping of purchases and sales. The A.O has not doubted the sales of the appellant. Hence in the facts of the case, the decision of Hon'ble Bombay High court in case Mohommad Haji Adam & Co as discussed above is applicable.

As per the gross profit working submitted by the appellant, the gross profit shown on the sales made out of bogus purchases is 3.49% as compared to the gross profit of 3.71% made on sales from genuine purchases. Accordingly, on applying the ratio of the Jurisdictional High Court in the case of Mohommad Haji Adam & Co (Supra), the addition on account of bogus purchases is to be restricted to the extent of gross profit declared on genuine purchases. Therefore, I sustain the addition at 0.23% (being difference in overall GP @ 3.71% and GP on Bogus Purchases @ 3.49%) of the bogus purchase amount of Rs. 33,82,20,177. Thus, the addition of Rs. 7,77,906/- (0.23% of Rs. 33,82,20,177) is confirmed. The AO is directed to verify the facts of G.P shown on account of Bogus purchases and G.P. on genuine purchases while giving effect to the appeal order. Accordingly, the ground of appeal is PARTLY ALLOWED.

Therefore, the ld. CIT(A) has partly allowed the appeal of the assessee.

5. Heard both the sides and perused the material on record. Without reiterating the facts as discussed above against the alleged bogus purchases the assessee has shown corresponding sales against the purchases made. Before the assessing officer assessee has provided requisite detail in support of purchases made from the above parties including copy of purchase invoice, bank statement, stock register/quantity detail and confirmation of the aforesaid parties along with the affidavit of these parties as well as their ITR acknowledge and audited financial statement. However, during the course of search and survey action carried out in the case of Bhanwarlal Jain and group it was found that the aforesaid entities controlled by Bhanwarlal Jain

group were merely issuing accommodation bills of purchases. However, after taking into account the corresponding sales shown against such purchases, the assessing officer concluded that assessee had made purchases from the grey market even though all the documentary evidences were furnished and estimated the profit element embedded in such purchases as undisclosed income of the assessee. The ld. CIT(A) after following the decision of Hon'ble Bombay High Court in the case of Mohammad Haji Adam & Co. vide Income Tax Appeal No. 1004 of 2016 dated 11.02.2019 restricted the additions to the extent of gross profit declared on genuine purchases. Following the decision of Hon'ble Bombay High Court in the case of Mohammad Haji Adam & Co. we do not find any reason to interfere in the decision of ld. CIT(A) therefore both the grounds of appeal of revenue are dismissed. Accordingly, the appeal of the revenue is dismissed.

ITA 3694/M/2024

6. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3694/M/2024, the appeal of the revenue is dismissed.

ITA 3687/M/2024

7. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3687/M/2024, the appeal of the revenue is dismissed.

ITA 3689/M/2024

8. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3689/M/2024, the appeal of the revenue is dismissed.

ITA 3690/M/2024

9. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3690/M/2024, the appeal of the revenue is dismissed.

ITA 3691/M/2024

10. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3691/M/2024, the appeal of the revenue is dismissed.

ITA 3692/M/2024

11. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3692/M/2024, the appeal of the revenue is dismissed.

ITA 3693/M/2024

12. On identical issue based on similar fact vide ITA No. 3688/M/2024 for A.Y. 2014-15 we have dismissed the appeal of the revenue applying the findings of ITA No. 3688/M/2024 on the similar issue and identical fact mutatis and mutandis in ITA No. 3693/M/2024, the appeal of the revenue is dismissed.

13. In the result, all the appeals of Revenue are dismissed.

Order pronounced in the open court on 06.11.2024

Sd/-

Sd/-

**(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**(AMARJIT SINGH)
ACCOUNTANT MEMBER**

Mumbai: 06.11.2024
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT:
4. The DR:

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai