

**IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH  
"SMC", BENCH MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 745/Mum/2025 (AY2011-12)**

*(Hybrid Hearing)*

Jagdish Pirchand Jain Room No. 9, Todkari Sadan, 68, 1 <sup>st</sup> Kumbhar Wada Near Goldeval, Mumbai – 400000. <b>PAN: AFIPJ 6569 C</b>	Vs.	ITO – 19(2)(1) Room No. 221, Matru Mandir, Mumbai - 400007
(Appellant)		(Respondent)

Assessee by : Shri V.K. Tulsian (virtually present)  
Revenue by : Shri Rajesh Meshram, Sr. DR

Date of Hearing : 27.03.2025  
Date of Pronouncement : 21.04.2025

**Order Under section 254(1) of Income tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of Id. CIT(A) dated 06.01.2025. The assessee has raised the following grounds of appeal:

*"1. Whether the Ld. CIT(A) was justified in sustaining the Assumption of Jurisdiction under section 147/148 by holding that it is based on definite information/material as well as notice issued u/s 148.*

*2. Whether the Ld. CIT (A) was justified by upholding an Impugned assessment order as well as earlier CIT-A ORDER DT.18.07.19, without providing reasonable opportunity as nowhere pointed out about service of notice during the Covid period or thereafter.*

*3. Whether the Ld. CIT (A) was justified by Passing the order u/s 250/254 in summary manner even without disclosing the facts and GOA.*

*4. Whether the Ld. CIT (A) was justified in sustaining the Assumption of Jurisdiction under section 147/148 as no copy of the reasons recorded by the Ld. A.O was provided to the assessee. Moreover,*

*nothing about the service of copy of reasons recorded appears in the body of assessment order.*

*5. Whether the Ld. CIT (A) was justified by upholding an impugned assessment order is justified and valid as the assumption of jurisdiction u/s 147/148 is not based upon the piece of information and no any tangible material was brought on record.*

*6. Whether the Ld. CIT (A) was justified by upholding the order of Ld. A.O. without appreciating the justification filed by the appellant, towards notice u/s 133(6) if not served by any reasons, no occasion to draw adverse opinion despite the facts no dispute on the evidences filed.*

*7. Whether the Ld. CIT (A) was justified by upholding the additions made by the Ld. AO amounting to Rs. 24,01,718/- i.e. @12.5% of Purchases as the same are unlawful, on surmises and unjustified and not based on any tangible material/Evidence.T*

2. Rival submissions of both the parties have been heard and record perused.

The Id. Authorized Representative (AR) of the assessee submits that this is second round of appeal before Tribunal. In first round of appeal, the matter was restored back to the file of Id. CIT(A) to adjudicate all the issues afresh in order dated 05.03.2020 in ITA No. 5467/Mum/2019. The Id. AR of the assessee submits that the assessee could not furnish his submission before Id. CIT(A) and that he may be allowed one more opportunity to contest the case before Id. CIT(A). The Id. CIT(A) dismissed the appeal for the want of submission by assessee. On merit, the Id. AR of the assessee submits that addition in the assessment is made by making disallowance of hundred percent of purchases on the allegation of bogus purchases. The assessee has good case on merit and is likely to succeed if one more opportunity is allowed to the assessee. The Id. AR of the assessee submits that he undertakes on

behalf of the assessee to more vigilant in future and to make timely compliance before Id. CIT(A).

3. On the other hand, Id. Sr. DR for the Revenue supported the order of Id. CIT(A). The Id. Sr. DR for the Revenue submits that assessee was allowed three opportunities to furnish his submission vide notice dated 03.07.2025, 25.09.2024 and 13.11.2024. However, the assessee failed to furnish his submission. Thus, the assessee does not deserve in further leniency when the assessee fail to furnish any submission. In the order dated 05.03.2020 in ITA No. 5467/Mum/2019 which is authored by one of the member of this Bench, still the assessee has not adhered to the direction in the order. In case this bench is of the view that assessee deserve in further opportunity, same may be allowed only on cost.
4. We have considered the submissions of both the parties and perused the order of Id. CIT(A) dated 06.01.2025. We find that Id. CIT(A) in his order extracted the entire order of this bench in ITA No. 5467/Mum/2019 wherein in para 10 of the order, assessee was directed to appear before Id. CIT(A) and to be more vigilant in attending the hearing. Despite such direction, no compliance was made for the reason best known to the assessee. However, fact remains the same that Id. CIT(A) dismissed the appeal of assessee without adjudicating the merit of the case and uphold the order of his predecessor dated 18.07.2019 without giving his own reasoning. Though the conduct of assessee is not worth appreciable, yet keeping in view the interest

of justice and to keep the fact in mind that assessee has to bear the cost of further appeal before this Tribunal on account of cost of litigation as well as appeal fees. We also find that order of Id. CIT(A) is not in consonance with section 250(6) of the Income Tax Act which mandate the Id. CIT(A) to dispose of the appeal by stating the point for determining the decision thereon and reasons for such decision. Therefore, the matter is again restored back to the file of CIT(A) but by imposing of cost of Rs. 5,000/- to be paid by the assessee in Bombay High Court Legal Aid and Advice Committee. Original receipt be filed before this bench, to placed in the appeal folder. The assessee is again directed not to make any default in making timely compliance before Id. CIT(A). Needless to direct that before passing of order, the Id. CIT(A) shall allow fair and reasonable opportunity to the assessee. In the result, grounds of appeal raised by assessee are allowed for statistical purpose.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21.04.2025.

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 21.04.2025  
Biswajit, Sr. P.S.

Copy to:

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

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai