

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ " D", अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
" D " BENCH, AHMEDABAD

श्री टी.आर. सेन्थिल कुमार, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2111/Ahd/2024
निर्धारण वर्ष / Assessment Year : 2018-19

| | | |
|--|-----------------------------|---|
| Leela Greenship Recycling Pvt. Ltd., Office No.303, 3 rd Floor, B Wing, Leela Efcee, Near Aksharwadi Temple, Waghawadi Road, Bhavnagar-364002. | <u>बनाम/</u> <u>v/s.</u> | The Deputy Commissioner of Income Tax, Circle-1, Bhavnagar. |
| स्थायी लेखा सं./PAN: AAGCG8956L | | |

AND

आयकर अपील सं./ITA No. 2135/Ahd/2024
निर्धारण वर्ष / Assessment Year : 2018-19

| | | |
|--|-----------------------------|--|
| The Assistant Commissioner of Income Tax, Circle-1, Bhavnagar. | <u>बनाम/</u> <u>v/s.</u> | Leela Greenship Recycling Pvt. Ltd., Office No.303, 3 rd Floor, B Wing, Leela Efcee, Near Aksharwadi Temple, Waghawadi Road, Bhavnagar-364002. |
| स्थायी लेखा सं./ PAN: AAGCG8956L | | |

| | |
|-------------------------------|---------------------------------|
| अपीलार्थी/ (Appellant) | प्रत्यर्थी/ (Respondent) |
|-------------------------------|---------------------------------|

| | |
|---------------|--|
| Assessee by : | Shri Tushar Hemani, Sr. Advocate with Shri Parimalsinh B Parmar, AR |
| Revenue by : | Shri Hargovind Singh, SR-DR |

सुनवाई की तारीख/Date of Hearing : 25/06/2025
घोषणा की तारीख /Date of Pronouncement: 26/06/2025

आदेश/ORDER

PER BENCH:

These two appeals, one by the Revenue and the cross appeal by the Assessee, are directed against the order dated 22.10.2024 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the Assessment Year 2018-19. The said appellate order arises from the assessment order dated 09.03.2023 passed by the Assessing Officer (AO) under section 147 read with section 144B of the Act, whereby the AO made an addition of Rs. 1,40,03,670/- under section 69C of the Act treating the purchases from M/s. Mahadev Trading Co. as bogus, resulting in the assessed income being enhanced to Rs. 1,55,90,420/-. The CIT(A), while partly allowing the appeal of the assessee, restricted the disallowance to Rs. 7,00,184/- and deleted the balance addition of Rs. 1,33,03,486/-, giving rise to these cross appeals.

Facts of the Case

2. The assessee formerly known as Ganpatrai Jaigopal Shipbreakers Pvt. Ltd., is engaged in the business of ship breaking and trading of iron and steel items. It filed its original return of income for A.Y. 2018-19 on 31.08.2018, declaring a total income of Rs. 15,86,750/-. The case was reopened under section 147 based on information received from the Anti-Evasion Wing of CGST, Kutch Commissionerate, which had unearthed that M/s. Mahadev Trading Co., a concern run by Shri Bharat Vaghajibhai

Prajapati, was engaged in issuing accommodation invoices without any actual supply of goods or services. The assessee was alleged to have made purchases of Rs. 1,40,03,670/- from the said party in F.Y. 2017-18. Pursuant to issuance of notice under section 148 dated 26.03.2022, the assessee filed return in response on 25.04.2022, declaring the same income as in the original return. Notices under sections 143(2) and 142(1) were issued and complied with, albeit partially, culminating in the assessment order passed on 09.03.2023 under section 147 r.w.s. 144B. In the course of reassessment, the assessee produced purchase register entries, ledger and confirmation from M/s. Mahadev Trading Co., invoices and transport documents, RTGS evidence of payments, matching entries in GSTR-2A; and handwritten weighment slips. The AO rejected the explanation, observing that the invoices mentioned the buyer as "Ganpatrai Jaigopal Shipbreakers Pvt. Ltd.", not "Leela Greenship Recycling Pvt. Ltd." The AR also noted that the supplier was found non-existent during field verification and the transport documents and weighment slips were allegedly not verifiable. Despite payment through banking channels, it was suspected that funds were routed back in cash. The AO concluded that there was failure to conclusively prove the physical movement of goods. Accordingly, the AO invoked section 69C, treating the entire sum of Rs. 1,40,03,670/- as unexplained expenditure, and added it to the returned income. The assessed income was thus computed at Rs. 1,55,90,420/-, and penalty proceedings under section 271AAC were initiated separately.

3. In appeal before the CIT(A), the assessee challenged the reopening itself as without jurisdiction and also contested the addition on merits. The learned CIT(A) carefully examined the entire assessment record, written

submissions of the assessee, material produced before the Assessing Officer, and the legal contentions raised. The CIT(A) first addressed the issue relating to the validity of the reassessment initiated under section 147 of the Act. After setting out the statutory framework governing reopening of assessments and analysing a series of judicial pronouncements, the learned CIT(A) recorded a categorical finding that the reopening was valid. It was held that the information received from the GST anti-evasion wing regarding the assessee's transactions with Mahadev Trading Co., allegedly a non-genuine entity issuing accommodation invoices, constituted tangible material sufficient to enable the Assessing Officer to form a prima facie belief that income chargeable to tax had escaped assessment. The CIT(A) emphasized that, at the stage of reopening, what is required is the existence of "reason to believe" and not conclusive proof of escapement of income. The sufficiency or correctness of such material could not be examined at the threshold stage. Thus, the reopening was upheld as legally sustainable, and the assessee's ground challenging the reopening was dismissed.

4. Thereafter, the learned CIT(A) proceeded to examine the merits of the addition made by the Assessing Officer under section 69C of the Act. The assessee, during the appellate proceedings, placed on record detailed documentary evidence to demonstrate the genuineness of purchases, including purchase invoices, ledger extracts, confirmation from the supplier, stock records, weighment slips, transportation documents, RTGS payment details, bank statements, and copies of GSTR-2A reflecting the disputed transactions. The assessee also produced ROC records to demonstrate that the name of the company had been changed from *Ganpatrai Jaigopal Shipbreakers Pvt. Ltd.* to *Leela Greenship Recycling Pvt. Ltd.*

on 14.03.2018, which explained the discrepancy in name appearing in some invoices. The learned CIT(A) observed that the assessee had discharged the initial onus cast upon it by producing primary evidences to substantiate the fact of actual purchases. The CIT(A) noted that the Assessing Officer did not dispute the fact that payments were made through normal banking channels, that the purchases were recorded in the books of account and audited financial statements, that the goods were reflected in stock records, and that the sales arising out of these purchases were duly recorded and subjected to tax. The CIT(A) further observed that the Assessing Officer failed to rebut the documentary evidence filed by the assessee with any direct evidence demonstrating that no purchases had actually taken place or that the payments were routed back to the assessee. The conclusion drawn by the Assessing Officer was found to be based purely on suspicion, surmises, and conjectures. In respect of the Assessing Officer's reliance on field verification and non-traceability of the supplier, the learned CIT(A) observed that such verification was carried out nearly five years after the transaction and, therefore, absence of the supplier at the address cannot ipso facto vitiate the otherwise documented purchases. The CIT(A) further held that non-appearance of the supplier to summons under section 133(6) did not absolve the Assessing Officer from the responsibility of conducting effective inquiry and confronting the assessee with any adverse findings. Moreover, the material relied upon by the Assessing Officer, including third-party statements and reports from GST authorities, was neither furnished to the assessee nor was any opportunity of cross-examination provided. The CIT(A) recorded that this failure of the Assessing Officer amounted to a serious violation of principles of natural justice.

5. The CIT(A) then analysed the applicability of section 69C and observed that this provision deals with unexplained expenditure where the source of expenditure is not explained. In the present case, the source of payment was never in dispute, as payments were made through banking channels, out of disclosed funds, and properly recorded in the audited financials. The CIT(A), therefore, held that the application of section 69C was factually and legally misplaced. However, while fully accepting the genuineness of the payments and noting that the sales have also been offered to tax, the learned CIT(A) took into account the possibility of inflation of purchases or involvement of accommodation bills to some extent and, therefore, proceeded to estimate the profit element embedded in such purchases. Following the consistent approach adopted by various High Courts and coordinate benches, the CIT(A) applied a rate of 5% profit margin on the disputed purchases. Accordingly, the addition was restricted to Rs. 7,00,184/- being 5% of Rs. 1,40,03,670/-, and the balance addition of Rs. 1,33,03,486/- was deleted.

6. Aggrieved by the order of CIT(A) both Revenue and Assessee are in cross appeal before us raising following grounds:

i. In assessee's Appel ITA No. 2111/Ahd/2024

- 1. The Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. AO in reopening the assessment u/s. 147 of the Act which is bad in law and without jurisdiction.*
- 2. The Ld. CIT(A) has erred in law and on facts in partly confirming the addition of alleged bogus purchases to the tune of Rs. 7,00,184/-.*

3. *The Ld. CIT(A) has erred in law and on facts in partly confirming the addition of alleged bogus purchases made by Ld. AO without providing material relied upon and opportunity of cross-examination resulting in gross violation of principles of natural justice.*
4. *The Ld. CIT(A) has erred in law and on facts in upholding the invocation of S. 69C r.w.s. 115BBE of the Act despite restricting the addition based on estimated business profit.*
5. *The Ld. CIT(A) has erred in law and on facts in not granting set off of the profit already declared in the return of income on alleged bogus purchases against the estimated profit.*
6. *Alternatively, and without prejudice, the estimation of profit at the rate of 5% over and above the declared profit is highly excessive and does not reflect the real income earned of the appellant.*
7. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
8. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in levying interest u/s. 234A/B/C/D of the Act.*
9. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in initiating penalty u/s. 270A of the Act.*
10. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

ii. In Revenue's Appeal ITA No. 2135/Ahd/2024

1. *Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) was justified in deleting addition of Rs. 1,33,03,486/- (Rs.1,40,03,670 - Rs.7,00,184) being unexplained expenditure u/s 69C of the Act, without appreciating the facts of the case?*
2. *Whether on the facts and in the circumstances of the case and in law, the ld.CIT(A) has erred in ignoring the fact that the assessee engaged into transaction being bogus entries with Mahadev Trading Co., which was merely paper company and had no actual business?*

3. *The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.*
4. *It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored?*

7. During the course of hearing, the learned Authorised Representative (AR) appearing on behalf of the assessee submitted that the reopening of assessment under section 147 was bad in law and without jurisdiction. The reopening was solely based on third-party information received from the GST Department without independent application of mind by the Assessing Officer. The material was not confronted to the assessee prior to initiation of reassessment. In fact, as per the facts and circumstances, there was no independent inquiry or tangible material on record to justify "reason to believe" that income has escaped assessment. The AR strongly submitted that reopening based on borrowed satisfaction is impermissible in law.

8. The learned AR further submitted that the assessee had submitted full details and documentary evidences of purchases made from Mahadev Trading Co., including Purchase Register, Ledger of Mahadev Trading Co., Confirmation of Mahadev Trading Co., Purchase Invoices, Transport Receipts & Weighing Slips, Bank Statements showing RTGS payments, GST Returns (GSTR-2A) and GST Profile of Mahadev Trading Co. The AR took us through the paper book and explained the documents submitted before lower authorities. The AR emphasized that the AO has not found any specific fault or discrepancy in any of these documents, nor has the AO doubted the sales made out of such purchases. No contrary evidence has been brought on record by the AO. It was further submitted that Mahadev Trading Co. was a registered GST dealer during the relevant period. Its

registration was not cancelled ab initio but only later. GST returns were regularly filed by the supplier for the relevant financial year. The AR pointed out that both opening stock and closing stock have been accepted and no discrepancies were found by the Assessing Officer in the audited financials and books of accounts of the assessee. Without purchases, the sales reflected in the turnover could not have been achieved. The AR relied on the well-settled legal principle that without actual purchases, there cannot be any corresponding sales. Hence, the very basis of disallowance as bogus purchases was fundamentally flawed. The AR further stated that the addition made by AO was broadly based on information obtained from external sources without any opportunity of cross-examination, which is a clear violation of the principles of natural justice.

9. The AR further contended that the assessee had already declared profit at 5.11% on trading activity for the year under consideration, as reflected in audited financials. The AR argued that if the impugned addition of Rs. 1,40,03,670/- is added in entirety, the gross profit ratio would rise to an absurd level of 26.36%, which is commercially impossible in this line of business. The AR also argued that the CIT(A) erred in not granting proper set-off of profit already declared while applying 5% profit estimation on the disputed purchases. The addition should have been deleted in entirety or reduced further.

10. The AR submitted that even if for argument's sake, the authorities presume that the assessee might have procured goods from unregistered dealers or unverified sources (who do not issue invoices), such purchases are often regularized by obtaining accommodation bills from registered

dealers like Mahadev Trading Co. However, this does not mean that actual purchase of goods has not taken place. The AR explained that the actual goods were indeed purchased, but possibly not directly from the supplier appearing in books and such accommodation bills merely provide documentary support for otherwise genuine purchase transactions where the physical movement of goods is undisputed. In such circumstances, AR argued, that the entire purchases cannot be treated as bogus or non-genuine. Therefore, as an alternative proposition, the AR submitted that even assuming some element of accommodation billing, the only proper course would be to estimate reasonable profit margin attributable to such purchases, rather than disallowing entire purchase amount. The AR submitted that in similar circumstances, Hon'ble Gujarat High Court has consistently held that when documentary evidences are available and sales are not doubted, entire purchases cannot be disallowed and only profit element can be estimated. The AR placed strong reliance on following decisions of jurisdictional High Court in support of his contentions:

- i. PCIT v. Surya Impex (2023) 451 ITR 395 (Guj)
- ii. PCIT v. Pankaj K. Choudhary (2022) Tax Appeal 617 (Guj)
- iii. PCIT v. Jigisha Satish Mehta (2023) 155 taxmann.com 279 (Guj)
- iv. PCIT v. Keshri Exports (2024) 168 taxmann.com 528 (Guj)
- v. PCIT v. Rakesh Kailashchand Jain (2023) 156 taxmann.com 82 (Guj)
- vi. PCIT v. Mohit Pukhraj Kawdiya (2024) 167 taxmann.com 473 (Guj)
- vii. Mayank Diamonds Pvt. Ltd. v. ITO (TA 200 of 2003) (Guj)
- viii. CIT v. Gujarat Ambuja Export Ltd. (Tax Appeal 840 of 2013)

11. On the other hand, the learned Departmental Representative (DR) vehemently supported the assessment order passed by the Assessing Officer. The DR submitted that the Assessing Officer had rightly treated the entire purchases amounting to Rs. 1,40,03,670/- made from M/s. Mahadev Trading Co. as bogus and as unexplained expenditure under section 69C of the Act, since the assessee utterly failed to establish the genuineness of such transactions during the reassessment proceedings. The DR emphasized that the proprietor of the said concern could not be traced during field inquiries and failed to respond to notices issued under section 133(6). Therefore, the very existence of the supplier was highly doubtful. The learned DR further submitted that the assessee has failed to explain why such transactions were carried out only in the year under consideration and that there were no purchases either from the said party in earlier years or in the subsequent years. The absence of any business dealings with the supplier in past or future periods only corroborates the conclusion that these were fabricated transactions arranged specifically to inflate purchases for one year to suppress profits or to accommodate funds. The DR also contended that the documentary evidences furnished by the assessee such as invoices, transport documents, bank payments, weighment slips, and GST filings were self-serving and were mere paper documentation without any evidentiary value, since the ultimate supplier itself has been proved to be a non-existent entity. The DR argued that in such cases where the existence of the supplier is disproven, it is settled law that the entire purchase amount is liable to be disallowed, as there remains no question of allowing any part of the alleged purchase as genuine. The learned DR accordingly prayed that the entire addition made by the Assessing Officer under section 69C be

restored in full, and the relief granted by the CIT(A) by restricting the disallowance to 5% profit element be set aside.

12. In response to the arguments advanced by the learned Departmental Representative, the learned Authorised Representative (AR) reiterated that the assessee had already discharged its primary onus by producing complete documentary evidences in support of the impugned purchases. The AR submitted that merely because the transactions were not repeated with the said supplier in the earlier or subsequent years cannot by itself render the current year's purchases as non-genuine. The AR further submitted that if any suspicion remains in the mind of the department, the AO may further investigate or summon any other evidence, but in absence of any contradictory material, the entire purchase cannot be disallowed on mere conjectures. The assessee cannot be penalized for the failure or inaction of the department to verify or disprove the evidence filed.

We have carefully considered the rival submissions of both the parties, the detailed arguments advanced during hearing, the documentary evidences placed on record, the orders of the lower authorities, as well as the legal precedents cited by the assessee.

13. The Revenue's grievance rests on the broad premise that since M/s Mahadev Trading Co. was found to be a non-existent entity during GST inquiry, the entire purchases made by the assessee are bogus and liable for disallowance in full. The DR stressed that no dealings existed with the said supplier either in prior or subsequent years, thereby suggesting that the transactions are fabricated and accommodated through accommodation entries merely to inflate purchases and reduce taxable profits.

14. Per contra, the assessee furnished comprehensive documentary evidence substantiating the purchases, including invoices, ledger accounts, transport documents, weighment slips, bank statements reflecting RTGS payments, GST returns, supplier confirmation, and GST profile of the supplier. The AR emphasized that there was no dispute as to the recorded turnover, corresponding sales, or the existence of goods purchased and utilized for business. It was argued that even if the supplier's profile is questioned, the purchases were genuine as physical movement of goods took place and sales were made therefrom.

15. The assessee also relied heavily on various binding decisions of Hon'ble Gujarat High Court where in similar circumstances the Courts have held that when sales are not doubted and payments are through banking channels, the entire purchases cannot be disallowed and only profit element embedded therein may be estimated.

16. The AR, during hearing, further submitted an alternative proposition that even if accommodation bills were used to regularize purchases made from unregistered sources, actual goods were purchased and used in the business, and therefore, only reasonable profit element should be taxed.

17. During the course of hearing, the Bench drew the attention of the learned Authorised Representative to the recent decision of the Hon'ble Bombay High Court in *Principal Commissioner of Income-tax v. Shree Ganesh Developers* [2025] 172 taxmann.com 542, with a view to examine its applicability to the present facts. After careful consideration of the said decision, and after hearing the submissions of the learned Authorised

Representative thereon, we are of the considered opinion that the ratio laid down therein does not apply to the facts of the present case and is clearly distinguishable for the following reasons:

- a. In *Shree Ganesh Developers*, the Assessing Officer had issued summons under section 133(6) to all the suppliers. Most of the suppliers furnished full details including bank statements. The Assessing Officer independently verified the suppliers' bank accounts and recorded a categorical factual finding that there were no cash withdrawals from the bank accounts after receipt of cheques from the assessee. Only two suppliers – Neptune Trading Co. and Hari Om Traders – did not furnish their bank statements despite opportunity. Thus, for these two suppliers, the crucial cash trail verification could not be carried out. In contrast, in the present case, no such independent verification of bank accounts was conducted by the Assessing Officer. The assessee herein has produced comprehensive documentary evidence such as purchase invoices, stock records, RTGS payments, GST returns, supplier confirmations, and segment-wise accounts. The Assessing Officer has not brought any independent material on record to disprove these documents or trace any cash withdrawals after payments.

- b. In *Shree Ganesh Developers*, the assessee had accepted an addition of 12.5% on the purchases from Neptune Trading Co. and Hari Om Traders. The Hon'ble Bombay High Court held that by accepting partial addition, the assessee impliedly accepted that such purchases were not fully verifiable, and therefore, the entire purchases should have been disallowed instead of estimating profit. In the present case,

the assessee has never accepted any part of the disallowance nor admitted that the purchases were bogus. Rather, the assessee has consistently maintained that the purchases were genuine and has produced extensive documentation in support of its claim.

- c. A key distinguishing feature in *Shree Ganesh Developers* was that bank trail verification played a decisive role. In the present case, such factual verification of cash trail has not been undertaken by the Assessing Officer. There is no finding that payments made by the assessee were ultimately withdrawn in cash and routed back as accommodation entries.
- d. Most importantly, the present appeal falls within the jurisdiction of Hon'ble Gujarat High Court, which has consistently taken a different and settled view in several binding precedents including those relied upon by the assessee, where it has been held that in cases where sales are not disputed and purchases are otherwise evidenced by books of accounts and banking transactions, entire purchases cannot be disallowed, and only embedded profit element may be estimated for addition. The principle laid down by the Hon'ble Gujarat High Court fully governs the present case.
- e. It may further be noted that while the Bombay High Court in *Shree Ganesh Developers* dealt with section 69C and its applicability, the Hon'ble Gujarat High Court has consistently applied the doctrine of real income, emphasizing that where purchases are indirectly

established by sales and books of accounts, estimation of profit is the proper course, rather than full disallowance under section 69C.

We also examined the judgment of the Hon'ble Gujarat High Court in *N.K. Industries Ltd. v. DCIT* [2016] 72 taxmann.com 289, which was referred to by the Hon'ble Bombay High Court while delivering its decision in *Shree Ganesh Developers*. In our considered view, this decision is clearly distinguishable on facts and not applicable to the present case for the following reasons:

- a. In case of *N.K. Industries*, substantial incriminating material was found during the course of search conducted under section 132 at the business premises of the assessee. The search revealed blank signed cheque books, vouchers, blank bill books, letterheads, and endorsed cheques belonging to several supplier concerns. These suppliers were shown as parties from whom the assessee allegedly procured purchases. On the strength of the seized materials, the Assessing Officer held that these concerns were merely name-lenders providing accommodation entries. Thus, the factual basis for treating purchases as entirely bogus in *N.K. Industries* was direct material unearthed during search which exposed falsity of the purchases recorded in the books of account. In contrast, in the present case, no search was conducted on the assessee. No incriminating material has been found either in assessee's possession or through third-party searches. The present assessment is a reassessment based solely on external information received from GST authorities. The assessee has furnished complete books of accounts, bank payments, stock records, purchase invoices, GST returns, supplier confirmations, and segment-

wise financials to establish the purchases. No direct falsification of books has been discovered here.

- b. In case of N.K. Industries, both the Assessing Officer and the Tribunal recorded categorical concurrent findings that the purchases recorded by the assessee were entirely bogus based on clinching evidences found during search. Even then, the Tribunal restricted the disallowance to 25% of purchases instead of disallowing the entire amount. In the present case, there is no categorical finding by the Assessing Officer that purchases were wholly bogus. The addition was made primarily on the ground that the supplier Mahadev Trading Co. was not found at the address and was suspected to be non-genuine based on external intelligence input. No direct evidence of fictitious purchases, cash back, or fund rotation was brought on record.
- c. It may also be noted that N.K. Industries arose in the context of block assessment under Chapter XIV-B of the Act (post-search assessment). The Hon'ble High Court was dealing with the extent of additions permissible in a search case where seized material directly exposed non-genuine purchases. In the present case, the reassessment proceeding is governed by regular provisions under sections 147/143(3), where the standards of evidence, burden of proof, and principles of natural justice operate differently.
- d. It is crucial to note that even after the decision of *N.K. Industries*, the Hon'ble Gujarat High Court in several subsequent decisions,

including those relied upon by the assessee, has consistently held that when sales are not disputed and books of account record corresponding stock movement and payments through banking channels, full disallowance of purchases is not justified and only reasonable estimation of profit element embedded therein is permissible. Thus, the present appeal continues to be governed by the prevailing ratio consistently laid down by the Hon'ble Gujarat High Court, which directly supports the estimation approach adopted by the learned CIT(A).

18. During the course of hearing, the learned DR submitted that full disallowance is warranted in view of the supplier's non-genuineness, particularly in light of discussion on the decision of Hon'ble Bombay High Court in case of *Shree Ganesh Developers (Supra)*, while the learned AR submitted that even if some doubt exists, only profit element should be estimated. However, upon further deliberations, the learned AR fairly submitted that if the matter is restored to the file of the Assessing Officer for the limited purpose of factual verification as to whether any cash trail exists between the supplier and the assessee - i.e., whether the amounts paid by the assessee through banking channels have been withdrawn in cash by the supplier - then the assessee has no objection to such limited verification being carried out.

19. Having carefully considered the rival contentions and in view of the factual and legal position discussed above, we are of the view that limited verification on this aspect would serve the ends of justice.

20. Accordingly, while upholding the fundamental legal proposition that when sales are not doubted, entire purchases cannot be disallowed merely on the ground that suppliers were non-genuine, we deem it appropriate to restore the matter back to the file of the Assessing Officer for carrying out limited verification as under:

- i. The Assessing Officer shall obtain the bank account details of M/s. Mahadev Trading Co. (or any other relevant bank account connected to the transaction), and verify whether there exists any cash trail i.e., whether the payments made by the assessee through banking channels were withdrawn in cash by the supplier or its associates after deposit of cheques received from the assessee.
- ii. If such cash withdrawals are established, and the Revenue is able to demonstrate that the payments were routed back to the assessee or utilized as part of accommodation transactions, the Assessing Officer shall proceed to make disallowance in accordance with law, considering the full or partial disallowance as warranted.
- iii. However, if no such cash-back trail is established upon verification, and payments are found to have remained within the banking system, then in that event, the addition shall be restricted only to the embedded profit element, for which the profit estimation of 5% as adopted by the CIT(A) may be applied as reasonable and fair estimation, considering the segmental profit declared by the assessee and judicial precedents discussed above.

- iv. On perusal of the ledger extract placed on record (Page No. 136 and 137 of the Paper Book), it is observed that while total purchases recorded from Mahadev Trading Co. aggregate to Rs. 1,40,03,670.00, total payment made to the said party stands at Rs. 1,24,94,654.00, leaving an outstanding balance of Rs. 15,09,016.00 unpaid, which represents approximately 10.78% of the total purchase value. This aspect has not been specifically dealt with or examined by the CIT(A) in the impugned order. The Assessing Officer shall specifically verify whether the said balance payment has been subsequently made by the assessee. If the assessee establishes that the entire unpaid amount has been fully discharged, no adverse inference shall be drawn. However, if the outstanding amount or any part thereof remains unpaid, the Assessing Officer shall examine the nature, status and reasons of such unpaid amount in the context of the overall factual matrix of the transaction, and after affording due opportunity to the assessee to explain the same, shall factor such aspect appropriately while determining the addition on account of bogus purchases in accordance with the directions contained herein above.
- v. The assessee is directed to fully cooperate and provide all necessary evidences to facilitate the bank trail verification by the Assessing Officer.
- vi. The Assessing Officer shall afford reasonable opportunity of hearing to the assessee and shall complete the verification and

fresh assessment strictly within the limited scope as defined hereinabove.

21. In the result, **both the appeals are treated as partly allowed for statistical purposes** in terms of above directions.

Order pronounced in the Open Court on 26th June, 2025 at Ahmedabad.

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

(True Copy)

Ahmedabad, Dated 26/06/2025
Manish, Sr. PS

**Sd/-
(MAKARAND V.MAHADEOKAR)
ACCOUNTANT MEMBER**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(Exemption)-Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad