

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "G", MUMBAI

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.1233/Mum/2025  
(Assessment Year: 2011-12)**

<b>Girish Narpatchand Kanungo</b> Flat No.3, 2 <sup>nd</sup> Floor, 5, Ramnivas Building, 2 <sup>nd</sup> Parsiwada Lane, Opp. V.P. Road, Police Station, Mumbai- 400 004 <b>PAN: AOAPK9201M</b>	<b>vs</b>	<b>Income-tax Officer, 19(1)(3), Mumbai,</b> Piramal Chamber, Parel Mumbai- 400012
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Pankaj Jain  
Respondent by : Shri Swapnil Choudhary – Sr AR  
  
Date of hearing : 21/07/2025  
Date of pronouncement : 24/07/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

Instant appeal of the assessee was filed against the order of National Faceless Appeal Centre (NFAC), Delhi, [in short, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for Assessment Year 2011-12, date of order 28/03/2024. The impugned order emanated from the order of the Income-tax Officer-19(1)(3), Mumbai [in short, "Ld. AO"] passed under section 143(3) r.w.s. 147 of the Act, 1961, date of order 26/06/2016.

2. the brief facts of the case are that the assessee filed the return under section 139(1) of the Act. The case was reopened under section 148 of the Act on the basis of information received from Sales-tax Department and the same has been forwarded by the DGIT (Inv), Mumbai to the Ld. AO. During the assessment proceedings, the Ld.AO found that the assessee has made bogus purchases amount Rs.4,73,87,306/-. The Ld.AO considering the assessee's business and verified the few parties related to alleged purchases had confirmed the addition @12.5% of gross profit on alleged purchase which comes to Rs.59,23,413/-. The assessee prayed that the gross profit related to the impugned year & earlier years is far below the assessed rate of 12.5%. The assessee prayed that the addition should be confirmed @2.73% gross profit (in short "GP") ratio. Accordingly, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) upheld the order of the Ld.AO. Being aggrieved, assessee filed an appeal before us.

3. The Ld.AR filed a paper book which is kept on record. The assessee has submitted preceding 3 years and succeeding one year GP ratio, which is reproduced as below: -

Particulars	Assessment Years				
	2008-09	2009-10	2010-11	2011-12	2012-13
Turnover	13,75,75,895	9,45,95,436	8,04,76,094	14,64,44,990	21,44,67,975
Gross Profit	24,10,269	23,06,806	32,45,261	40,02,446	49,82,272
G.P.Ratio	1.75%	2.44%	4.03%	2.73%	2.32%
Net Profit	5,98,165	5,99,774	6,23,463	10,27,663	11,42,425
<b>N.P. Ratio</b>	0.43%	0.63%	0.77%	0.70%	0.53%

The Ld.AR further argued that considering above GP ratio, the average gross profit is determined to 2.73%, which is liable to be confirmed related to the alleged purchases, amount to Rs.4,73,87,306/-. The Ld.AR respectfully relied on the order

of Hon'ble Bombay High Court in the case of **CIT-1, Mumbai vs M/s Nikunj Exim Enterprises Pvt Ltd Income Tax Appeal No. 5604 of 2010**, date of order **17/12/2012**. The relevant para 7 is reproduced as below:-

*"7 We on have considered the submission behalf of the revenue. However, from the order of the Tribunal dated 30.04.2010, we find that the Tribunal has deleted the additions on account of bogus purchases not only on the basis of stock statement i.e. reconciliation statement, but also in view of the other facts. The Tribunal records that the Books of Accounts of the respondent-assessee have not been rejected. Similarly, the sales have not been doubted and it is an admitted position that substantial amount of sales have been made to the Government Department i.e. Defence Research and Development Laboratory, Hyderabad. Further, there were confirmation letters filed by the suppliers, copies of invoices for purchases as well as copies of bank statement all of which would indicate that the purchases were infact made. In our view, merely because the suppliers have not appeared before the Assessing Officer CIT(A), one cannot conclude that the purchases were on or the not made by the respondent-assessee. The Assessing Officer as well as CIT(A) have disallowed the deduction of Rs.1.33 crores on account of purchases merely the basis of suspicion because the sellers and the canvassing agents have not been produced before them. We find that the order of the Tribunal is well a reasoned order taking into account all the facts before concluding that the purchases of Rs.1.33 crores was not bogus. No fault can be found with the order dated 30.04.2010 of the Tribunal."*

4. The Ld.AR further stated that the relevant documents are duly submitted before the Ld.AO related to evidence of the alleged purchases. The relevant para 6 of the assessment order is duly reproduced as below: -

*"6. Based on the information, an independent inquiry was made by this office and details were called for from the assessee as per notices u/s 142(1) dated 06.04.2016 and 16.12.2016. The assessee was asked to produce certain details and also the purchases from above mentioned parties as per Annexure- A.*

*(a) Name of the Seller with current full address, (b) PAN*

*(c) Bill and Voucher No. with date (d) Description of goods purchased*

*(e) Quantity (1) Rate, (g) Amount*

*(h) Goods dispatched from (name of the place) with date*

*(i) Mode of transportation, if by Road Vehicle No. and also payments, detailed in the annexure-A.”*

5. The Ld.DR fully stands in favour of the order of the revenue authorities but was unable to rebut by submitting any of the contrary judgement.

6. We have heard the rival submissions and perused the material available on record. The Ld. AO determined the gross profit rate at 12.5% on the alleged bogus purchases amounting to Rs. 4,73,87,306/-. The assessee submitted a year-wise chart analyzing the gross profit for Assessment Years 2008-09 to 2012-13, which reflects an average gross profit rate of 2.73% in the assessee's line of business.

Upon perusal of the impugned assessment order, we observe that the assessee had furnished all relevant documents in support of the purchases, and such evidence was not rejected by the Ld. AO. Respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of **M/s. Nikunj Exim Enterprises Pvt. Ltd.** (supra), we restrict the addition to the extent of 2.73% gross profit rate on the alleged bogus purchases pertaining to the impugned assessment year. The Ld. DR had not made any strong objection against the submission of the Ld. AR.

Accordingly, the matter is remanded to the file of the Ld. AO with a direction to modify the assessment order in light of the above observations and in accordance with law.

7. In the result, the appeal of the assessee bearing **ITA No.1233/Mum/2025** is allowed for statistical purpose.

Order pronounced in the open court on 24<sup>th</sup> day of July, 2025.

Sd/-

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 24/07/2025  
Pavanan

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्ड फाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Mumbai