

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SHRI MS. PADMAVATHY S, ACCOUNTANT MEMBER  
ITA No. 2094/MUM/2025 (AY: 2009-10)**

*(Physical hearing)*

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| ACIT, Circle – 20(1), Mumbai<br>3 <sup>rd</sup> Floor, Piramal Chambers,<br>Lalbaug, Parel,<br>Mumbai – 400012. | Vs | Anil Monshi Shah<br>103, Sukh Castle, Bhandarkar Road,<br>Matunga East, Mumbai – 400019.<br>[PAN: AACPS9726P] |
| Appellant / Revenue   |    | Respondent / Assessee   |

|                       |                             |
|-----------------------|-----------------------------|
| Assessee by           | Shri Nishit Gandhi, CA      |
| Revenue by            | Shri Surendra Mohan, Sr. DR |
| Date of hearing       | 08.07.2025                  |
| Date of pronouncement | 24.07.2025                  |

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. This appeal by revenue is directed against the order of Ld. CIT(A) dated 30.01.2025 for assessment year (AY) 2009-10. The revenue has raised following grounds of appeal:

*"1. Whether on the facts and in circumstances of the case and in law, the Ld.CIT(A) has erred in restricting the addition to 12.5% of the bogus purchases of Rs.18,06,234/- ignoring the fact that the Maharashtra Sales Tax Department has proved beyond doubt that the parties declared as hawala traders were involved in providing accommodation entry of purchases and the assessee was one of the beneficiary of accepting accommodation entry for the purchases.*

*2. Whether on the facts and in circumstances of the case and in law, the Ld.CIT(A) is erred in restricting the addition to 12.5% of the bogus purchases of Rs. 18,06,234/-without appreciating the fact the assessee failed to produce the parties for verification, in spite of opportunity provided by the Assessing Officer.*

*3. Whether on the facts and in circumstances of the case and in law, the Ld.CI(A) is erred in restricting the addition made by the Assessing Officer to 12.5 % of the bogus purchase of Rs.18,06,234/, without appreciating the*

*fact that the assessee could not produce the alleged parties from whom purchase is claimed to have been made during the year.*

*4. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is erred in restricting the addition to 12.5% of the bogus purchases of Rs.18,06,234/-, without appreciating the fact that the addition was made on the basis of information received from the Sales Tax Department.*

*5. It is prayed that the appeal is filed even if the tax effect is below the monetary limit since the case falls under exception specified in para 3.1(h) of the CBDT Circular 05/2024 dated 15.03.2024.*

*6. The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary."*

2. Perusal of grounds of appeal reveals that the revenue has challenged the order of Id. CIT(A) in restricting the addition on account of alleged bogus purchase to the extent of 12.5%, however, the Id. CIT(A) while allowing relief to the assessee restricted the addition to the extent of 5.00% only.
3. Rival submissions of both the parties have been heard and record perused. The learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that assessee is beneficiary of bogus purchases shown from well-known entry provider. The assessee is beneficiary of purchases shown from Nazar Impex Private Ltd. which is managed by entry provider. The assessing officer made reasonable disallowance of purchases shown from Nazar Impex Private Limited @ 12.5% which was quite fair and reasonable. The Id. CIT(A) reduced such addition to the extent of 5.00% and failed to appreciate the fact that assessee has inflated expenses by showing purchases from entry provider. The Assessing Officer (AO) was having sufficient evidence while making such addition. He prayed to restore the order of AO by reversing order of Id CIT(A).

4. On the other hand, learned Authorised Representative (Id. AR) of the assessee supported the order of Id. CIT(A). The Id. AR submits that assessee has fully substantiated the genuineness of purchases. Though, no addition was liable to be sustained, still the assessee has not filed cross appeal due to smallness of amount of addition and cost of litigation. The purchases shown by assessee are genuine. The assessee furnished purchase bills, confirmation of party, bank statement of assessee as well as Nazar Impex Private Ltd. Copy of affidavit of one of the directors of seller company was also filed. The AO has not made any adverse comment on such evidences. The AO solely relied on vague information mentioned in the assessment order. Neither the book result of assessee was disputed nor the sale of assessee doubted. The assessee has shown reasonable gross profit @ 5.84% on the purchases. Thus, appeal of revenue may be dismissed.
5. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that case of assessee was reopened by AO on the basis of information of bogus purchases. The AO after serving notice under section 148 proceeded for reassessment. During reassessment, the assessing officer issued notice under section 133(6) to Nazar Impex Private Ltd. Notice was served upon such party. Such party submitted required detail and disclosed that the sales by them is only of Rs. 18,06,234/-. Such facts are recorded in para 5.4 of the assessment order. The AO thereafter recorded that case of assessee was reopened on the basis of information received from Maharashtra Sales Tax Department. Such finding of the assessing officer is not correct. In fact,

Nazar Impex Private Ltd. was managed and controlled by Rajendra Kumar Jain, who was subject to search action carried out by investigation wing Mumbai 03.10.2013.

6. We find that the AO ultimately made addition @ 12.5% of the purchases from Nazar Impex Private Ltd. The AO while making addition followed the decision of Gujarat High Court in CIT vs Simit P. Sheth 356 ITR 451 and Bholanath Poly Fab Private Ltd. reported in 355 ITR 290. The AO restricted the addition to the extent of profit element on such disputed purchases. Before Id. CIT(A), the assessee again furnished complete set of documents to substantiate the purchases and further contended that the purchases shown from Nazar Impex cannot be doubted. The sale of assessee is not doubted. Sale is not possible in absence of purchase. The assessee produced the director of sales party and his statement was recorded. In the statement he has stated that goods were sold to the assessee. Copy of statement was also furnished before Id. CIT(A). we find that Id. CIT(A) on considering the submissions of assessee held that estimation of profit @ 12.5% is on higher side as recorded in para 10.6 of order of Id. CIT(A). In case of Bholanath Poly Fab Private Ltd. (supra), the assessee was trader in cloth. The profit in trading of cloth may be achieved up to 12.5% which is not achievable in the trade of diamonds. The Id CIT(A) by referring the task force report of Department of Commerce, Government of India in February, 2013, on the basis of which CBDT issued Instruction No. 2/2008 dated 22.02.2008, noted that threshold net profit rate for the eligibility in trade of diamonds was considered to be 6.00%. The condition was further reduced to 3.00% on the

rational that the profit rate at 6.00% does not reflect market reality. On considering such fact, the Id. CIT(A) restricted the addition to the extent of 5.00% of figure of bogus purchase of Rs. 18,06,234/-, thereby allowed part relief to the assessee.

7. Before us, the Id. Sr. DR for the revenue failed to bring any adverse facts or law to take other view. We on independent examination of fact found that Id. CIT(A) while allowing part relief to the assessee has reasonably considered all the facts including of gross profit (GP) declared by assessee. Thus, in our view, the decision taken by Id. CIT(A) is quite reasonable and does not require any further interference, which we affirmed. In the result, ground of appeal of revenue is dismissed.
8. In the result, the appeal of revenue is dismissed.

Order was pronounced in the open Court on 24/07/2025 as per Rule 34 of ITAT Rules.

**Sd/-**

**PADMAVATHY S  
ACCOUNTANT MEMBER**

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated: 24/07/2025  
*Biswajit*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai