

**IN THE INCOME TAX APPELLATE TRIBUNAL
"H (SMC)" BENCH, MUMBAI**

**SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.3098/MUM/2025
(Assessment Year:2010-2011)**

Income Tax Officer, Mumbai

Room No.651, 6th Floor, Aayakar Bhawan,
M.K.Road, Mumbai – 400020. Maharashtra.
[PAN:AABCS9405M]

..... **Appellant**

Vs

**Sanghvi Plywood & Timber Private
Limited**

98 2 Reay Road, K.R.Mahatre Reay Road,
Mumbai – 400010. Maharashtra

..... **Respondent**

Appearance

For the Appellant/Department : Shri Pravin Salunkhe
For the Respondent/Assessee : None

Date

Conclusion of hearing : 23.07.2025
Pronouncement of order : 31.07.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Revenue is directed against the order, dated 07/03/2025, passed by the Additional Commissioner of Income Tax/ Joint Commissioner of Income Tax (Appeals), Madurai [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had partly allowed the appeal against the Assessment Order, dated 29/01/2016, passed under Section 143(3) read with Section 147 of the Act for the Assessment Year 2010-2011.

2. The Revenue has raised following grounds of appeal :

"1. Whether on the facts and in circumstances of the case, the Ld.

Addl/JCIT(A) erred in law in restricting the addition to 12.50% of the alleged amount of purchases of Rs.45,991/- being profit/GP rate qua alleged bogus purchases shown by the assessee, though the Ld. Addl/JCIT(A) itself had agreed that the assessee had failed to prove the genuineness of the purchase transactions?

2. *Whether on the facts and circumstances of the case, the Ld. Addl/JCIT(A) erred in law in restricting the addition to 12.50% of the alleged amount of bogus purchases without appreciating the fact that in the case of NK Protein Ltd. Vs. DCIT (2017) 292 CTR 354 (SC) where the Hon'ble Supreme Court had upheld the finding of Hon'ble Gujrat High Court that if the purchases from certain parties are bogus, it was not incumbent on it to restrict the disallowance to any extent of such purchases.*
3. *Whether on the facts and circumstances of the case, the Ld. Addl./JCIT(A) erred in law in restricting the addition to 12.50% of the alleged amount of bogus purchases ignoring the fact that there is no blanket Rule or Provision that disallowance in respect of bogus purchases cannot be made in respect of the entire amount i.e.100%.*
4. *Whether on the facts and circumstances of the case, the approach adopted by the Ld. Addl./JCIT(A) is correct in restricting the addition to the profit element embedded in the bogus purchases, when the genuineness of the purchases remains unproved?"*

3. The relevant facts in brief are that the assessment under Section 143(3) read with Section 147 of the Act was framed on the Assessee vide Assessment Order, dated 29/01/2016, whereby the addition of INR.52,561/- was made in the hands of the Assessee under Section 69C of the Act by the Assessing Officer. The Assessing Officer of the view that the Assessee had failed to discharge the onus to prove genuineness of the purchases amounting to INR.52,561/- made by the Assessee from M/s. Global Trade Impex. Being aggrieved, the Assessee carried out in appeal before the CIT(A). Vide order, dated 07/03/2025, the Learned CIT(A) granted substantial relief to the Assessee by restricting the disallowance in respect of alleged bogus purchases to 12.5% of purchases. Thus, the CIT(A) sustained the

disallowance of INR.6,570/- and deleted the disallowance of INR.45,991/-. Being aggrieved, with the aforesaid relief granted by the Learned CIT(A), the Revenue has preferred the present appeal before the Tribunal on the grounds reproduced at Paragraph 2 above.

4. When the appeal was taken up for hearing none was present on behalf of the Assessee. We have considered the submissions advanced by the Learned Departmental Representative and have perused the material on record.
5. We find that out of purchases aggregating to INR.3,17,43,768/- made by the Assessee during the relevant previous year, the Assessing Officer had doubted the genuineness of the purchases of INR.52,561/- made from M/s. Global Trade Impex. The Assessee furnished Ledger Account of M/s. Global Trade Impex, purchase bills with quantity details descriptions, bank statement, and sales bills in support of the submission and contended that the purchases made by the Assessee were genuine. However, the Assessing Officer was not convinced and therefore, proceeded to make disallowance of entire purchases of INR.52,561/- made from M/s Global Trade Impex. Before the CIT(A), the Assessee reiterated the contention that the purchases under consideration were genuine. It was submitted that non-appearance by the purchasers/supplier before the Assessing Officer to verify the purchases could not be the sole reason for trading transaction as not genuine. Further, on a without prejudiced basis, it was contended on behalf of the Assessee that the addition made in the hands of the Assessee on account of alleged bogus purchases be restricted to 12.5% of such purchases being profit element embedded therein. The CIT(A) accepted the alternative contention of the Assessee and restricted the addition to INR.6,570/- Now the Revenue is in appeal before the Tribunal.
6. We have given thoughtful consideration to the submission of the

Learned Departmental Representative and have perused the orders passed by the Assessing Officer and the CIT(A). On perusal of the impugned order, it was clear that Assessee had purchased Timber & Plywood of INR.52,561/- from M/s. Global Trade Impex and the same constituted just 0.17% of the total cost of goods sold during the relevant previous year. We note that while making the addition, the Assessing Officer had placed heavy reliance upon the fact that Global Trade Impex was declared as hawala dealer by Sales Tax Authority and the fact that the Assessee was not able to produce the party before the Assessing Officer. On perusal of the order passed by the CIT(A) it can be seen that during the hearing before the CIT(A), it was explained by the Assessee that Global Trade Impex was not a regular party; at the time of assessment the Assessee-Company was not undertaking any transactions with the said party; and therefore, the Assessee could not produce the said party before the Assessing Officer. The CIT(A) has recorded that the Assessee had furnished Ledger Account of M/s. Global Trade Impex in the Books of Assessee, copies of purchase bills with quantity details descriptions attached to the said purchase bills, copy of bank statement along with copies of sales bills of customers for the sale of goods out of the purchases made from the said there suppliers as proof of the purchases, sales, and payments made. The fact that aforesaid documents/details were filed by the Assessee has not been disputed by the Revenue. Further, no infirmity has been pointed out by the Revenue in the documents/details furnished by the Assessee - company. The contention of the Assessee that payments for purchases were made through banking channels has also not been disputed by the Revenue. We note that the Assessing Officer has not doubted the sales affected by the Assessee and/or corresponding sale receipts. During the appellate proceedings before the Tribunal, the Revenue had failed to point out any perversity in the order passed by the CIT(A). Therefore, given the aforesaid, we are of the view that there is no infirmity in the approach adopted by the CIT(A)

by brining to tax only the profit element embedded in the purchases alleged to be bogus by the Assessing Officer. We note that the Learned CIT(A) has placed reliance upon order passed by First Appellate Authority in case of the Assessee in the Assessment Year 2009-2010 whereby the addition in respect of bogus purchases was also restricted to 12.5%. Keeping in view the totality of facts and circumstances of the case, we are not inclined to interfere with the order passed by the CIT(A). Accordingly, all the contentions raised by the Revenue in the present appeal are rejected as being without merit. In terms of above, Ground No.1 to 4 raised by the Revenue are dismissed.

7. In result the appeal preferred by the Revenue is dismissed

Order pronounced on 31.07.2025.

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 31.07.2025
Milan, LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai