

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2239 & 2241/PUN/2024
निर्धारण वर्ष / Assessment Year : 2011-12

ITO, Ward-7(1), Pune.	Vs.	Anil Jairam Goel, Flat No.72, Agrasen Society, Koregaon Park, Pune- 411001. PAN : ADRPG2220L
Appellant		Respondent

Revenue by : Shri Ramnath P. Murkude
Assessee by : None

Date of hearing : 07.08.2025
Date of pronouncement : 10.10.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

Both the above captioned appeals filed by the Revenue are directed against the separate orders dated 30.08.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2011-12.

ITA No.2239/PUN/2024 :

2. The Revenue has raised the following grounds of appeal :-

- "1. Whether on the facts and circumstances of the case and in law, the Ld CIT(Appeals) has erred in taking the profit margin at 12.5% on estimate basis without any cogent reason.*
- 2. Whether on the facts and circumstances of the case and in law, the Ld CIT(Appeals) has erred in restricting the addition of*

bogus purchase of Rs 29,37,366/- instead of Rs.2,53,72,426/- without considering the decision of Hon'ble Supreme Court of India in the case of N.K. proteins Ltd vs Deputy Commissioner of Income Tax (769 of 2017) wherein the apex court has confirmed 100% addition made on account of bogus purchases rather than considering only the profit margin on the addition made.

3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in restricting the profit margin to 12.5% by going against the principles of section 68 and 69C of the Act.*
4. *Whether on the facts and circumstances of the case and in law, when the appellate authority has categorically found that the alleged purchases are bogus in nature, the Ld. CIT (A) has erred in restricting the profit margin to 12.5%.*
5. *The appellant craves leave to add, amend or alter any grounds of appeal.”*

3. Facts of the case, in brief, are that the assessee is an individual and has furnished his return of income on 30.09.2011 declaring total income at Rs.4,76,993/-. As per the information received by the Department, the assessee has obtained bogus purchase bills amounting to Rs.2,53,72,426/- from five parties. In view of above information, the case was reopened and notice u/s 148 of the IT Act was issued to the assessee. Subsequently, statutory notices u/s 142(1) were issued to the assessee but assessee failed to comply with the said notices and the assessment was completed u/s 144 r.w.s. 147 of the IT Act on an income of Rs.2,58,49,420/-. The above assessed income includes an addition of Rs.2,53,72,426/- towards bogus purchases.

4. Aggrieved with the above assessment order, the assessee filed an appeal before Ld. CIT(A)/NFAC. The assessee failed to appear before Ld. CIT(A)/NFAC, however, in the light of various judgements including that of N.K. Industries Limited Ld. CIT(A)/NFAC was of the view that instead of addition of whole of the purchase amount of Rs.2,53,72,426/-, only profit element @ 12.50% i.e. Rs.31,71,553/- was required to be added in the income of the assessee. Accordingly, Ld. CIT(A)/NFAC deleted the addition of Rs.2,24,36,836/- & by partly allowing the appeal upheld the addition of Rs.29,37,366/- in the hands of the assessee.

5. It is the above order against which the Revenue is in appeal before this Tribunal.

6. Ld. DR appearing from side of the Revenue submitted before us that the order passed by Ld. CIT(A)/NFAC is unjustified. Ld. DR further submitted that Ld. CIT(A)/NFAC erred in taking the profit margin at 12.5% on estimate basis without any cogent reason, instead of making 100% addition of bogus purchase bills. Ld. DR submitted before the Bench that Ld. CIT(A)/NFAC erred in restricting the profit margin to 12.5% against the principle of section 68 and 69C of the IT Act. Ld. DR also submitted before the

Bench that Hon'ble Supreme Court in the case of N. K. Proteins Ltd. vs. DCIT [2017] 84 taxmann.com 195 (SC) has accepted 100% addition of bogus purchases. Ld. DR also submitted before the Bench that Hon'ble High Court of Bombay in the case of Pr. CIT-5 vs. Kanak Impex (India) Ltd. [2025] 172 taxmann.com 283 (Bombay) order dated 03-03-2025 has allowed the appeal of the Revenue & restored the order passed by the Assessing Officer who made 100% addition towards bogus purchases. Accordingly, Ld. DR requested to set-aside the order passed by Ld. CIT(A)/NFAC and further requested to confirm the assessment order passed by the Assessing Officer.

7. When the appeal was called for hearing, neither anybody appeared on behalf of the appellant-assessee nor any application for adjournment was filed despite due service of notice of hearing. We also find that on earlier four occasions, the assessee remained absent and therefore, we proceed to adjudicate the appeal on the basis of material available on record as well as after hearing Ld DR.

8. We have heard Ld. DR and perused the material available on record including case law furnished by Ld. DR. In this regard, we find that Sales Tax Department has informed that the assessee has

obtained bogus purchase bills from five parties amounting to Rs.2,53,72,426/-. The case was reopened and notice u/s 148 was issued to the assessee. Further, notice u/s 142(1) and show-cause notice was issued to the assessee. The assessee did not reply to any of the notices and remained absent. Therefore, the Assessing Officer issued notice u/s 133(6) of the IT Act to five alleged persons who have issued bogus sale bills, but all the notices were returned back with comment by the Postal Department as “Left or Not known”. In view of this, the Assessing Officer again issued show-cause notice as to why the transaction amount of Rs.2,53,72,426/- be not considered as bogus purchases and why the same be not treated as income of the assessee. However, the assessee has not furnished any reply. Accordingly, the Assessing Officer added the above bogus purchases of Rs.2,53,72,426/- to the income of the assessee.

9. Ld. CIT(A)/NFAC on the basis of grounds of appeal and statement of facts and relying on various judgements held that only 12.50% of bogus purchases was required to be added in the income of the assessee instead of whole of the bogus purchases of Rs.2,53,72,426/-.

10. Before us, it is the contention of Ld. DR that whole of the bogus purchases was required to be added to the income of the assessee. In support of this contention, Ld. DR relied on the judgement passed by Hon'ble High Court of Bombay in the case of Pr. CIT-5 vs. Kanak Impex (India) Ltd. [2025] 172 taxmann.com 283 (Bombay) order dated 03.03.2025, wherein Hon'ble High Court reversed the order passed by the Tribunal, wherein the Tribunal restricted the addition to the extent of GP rate on other genuine purchases. In grounds of appeal, the Revenue also relied on the case of N. K. Protein vs. DCIT [2017] 84 taxmann.com 195 wherein Hon'ble Supreme Court dismissed the SLP filed by the assessee and confirmed the order passed by Hon'ble High Court of Gujarat in the case of N. K. Industries vs. DCIT [2016] 72 taxmann.com 289.

11. We also find that a coordinate bench of this tribunal in the case of assessee itself i.e. Anil Jairam Goel in ITA No.1568/PUN/2019 order dated 14-07-2020 for assessment year 2009-10 involving identical facts and similar issue of bogus purchases has set-aside the order passed by Ld. CIT(A) and remanded the matter back to the file of the Assessing Officer to decide the issue afresh in the light of judgement passed by Hon'ble

Jurisdictional High Court of Bombay after providing reasonable opportunity of hearing to the assessee.

12. Considering the totality of the facts of the case and without going into merits of the case and also in the light of the fact that the Tribunal in assessee's own case for assessment year 2009-10 has already restored the matter back to the file of the Assessing Officer to decide the issue afresh in the light of judgement of Hon'ble Jurisdictional High Court, therefore following the same, we also deem it appropriate to set-aside the order passed by Ld. CIT(A)/NFAC and restore the matter back to the file of the Assessing Officer to decide the issue afresh as per fact and law and also after considering the judgements passed by Hon'ble Jurisdictional High Court of Bombay.

13. In the result, the appeal filed by the Revenue in ITA No.2239/PUN/2024 is allowed for statistical purposes.

ITA No.2241/PUN/2024 :

14. Since we have restored the quantum appeal filed by the Revenue to the file of the Assessing Officer to decide the quantum case afresh, therefore, the appeal involving issue of penalty u/s 271(1)(c) of the IT Act being consequential in nature is also

set-aside to the file of the Jurisdictional Assessing Officer to decide the issue of penalty afresh upon disposal of quantum case. Thus, the appeal filed by the Revenue in ITA No.2241/PUN/2024 is also allowed for statistical purposes.

15. To sum up, both the above captioned appeals filed by the Revenue are allowed for statistical purposes.

Order pronounced on this 10th day of October, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th October, 2025.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.