

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)  
AND  
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 882/SRT/2025  
Assessment Year: 2009-2010**

Yogendrakumar Ramavtar  
Agarwal,  
2053-Mahaveer Textile Market,  
Ring Road, Textile Area,  
Surat-395002.

**Vs.**

ITO, Ward-1(2)(5),  
Surat Current Jurisdiction:  
ITO, Ward 1(2)(1),  
Aayakar Bhavan, Near Majura  
Gate, Opp. New Civil Hospital,  
Surat-395001

**PAN NO. AARPA 7623 C  
Appellant**

**Respondent**

Assessee by : Mr. Rasesh Shah, CA  
Revenue by : Mr. J.K. Chandnani, Sr. DR

Date of Hearing : 06/10/2025  
Date of pronouncement : 30/10/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 12.06.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2009-2010, raising following grounds:

- 1. On the facts and circumstances as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in reopening assessment u/s. 147 by issuing notice u/s. 148 of the I.T. Act, 1961.*



2. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in making addition of Rs. 34,24,930/- on account of unexplained expenditure u/s. 69C of the I.T. Act

3. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in making addition of Rs. 9,33,219/- on account of unexplained investment u/s. 69 of the I.T. Act.

4. It is therefore prayed that above assessment framed u/s. 147 may kindly be quashed and/or the additions made by the assessing officer may please be deleted.

2. Briefly stated, the assessee is engaged in the business of art silk cloth under the proprietorship concern *M/s Shree Om Textile*. The assessee filed its return of income for the assessment year under consideration on 04.09.2009 declaring a total income of ₹3,18,580/-. During the relevant year, the assessee purchased grey cloth from the open market and got the same processed on job-work basis through various processors, including *M/s Bajrang Processors Pvt. Ltd.* and *M/s Betex India Pvt. Ltd.*

2.1 A search and seizure operation was carried out by the Income-tax Department on the entities of the “Sumeet” Group, which included *M/s Bajrang Processors Pvt. Ltd.*. The investigation revealed that the said group maintained two sets of accounts in electronic form — one in the software titled “FAS.exe” and another in “Purchi.exe”. It was observed that the data recorded in “Purchi.exe” was not reflected in the regular books of account.

2.3 Upon analysis of the digital data, the Investigation Wing found that job-work aggregating to ₹34,24,930/— comprising



₹30,53,235/- from *M/s Bajrang Processors Pvt. Ltd.* and ₹3,71,695/- from *M/s Betex India Pvt. Ltd.* — was allegedly carried out for the assessee, though the same was not accounted for in its books.

2.4 Based on the said information received from the Investigation Wing, the Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment and issued notice under Section 148 of the Income-tax Act, 1961 (“the Act”) on 30.03.2016. In response, the assessee reiterated its return of income originally filed.

2.5 During reassessment, the assessee was required to explain the job-work receipts appearing in the *Purchi.exe* data. The assessee denied having undertaken any such job-work and disowned the entries appearing in the said software. The Assessing Officer, after examining the seized data, rejected this explanation, holding that the *Purchi.exe* data reflected *fresh processing* of grey fabric and not *re-processing* as contended by the Sumeet Group.

2.6 The findings of the Assessing Officer, summarised in paragraph 6.3.3 of the assessment order, record that (i) the Sumeet Group was maintaining two sets of books in electronic form; (ii) the *Purchi.exe* data did not reconcile with the audited figures; and (iii) shortages of grey fabric appeared therein, which were possible only in fresh processing, not in re-processing of defected processing of fabric. Consequently, the Assessing Officer



concluded that unaccounted job-work had been carried out and added the corresponding amount to the income of the assessee, together with an estimated profit element of 10%. For ready reference same is reproduced as under:

*“6.3.3. In this regard, first of all, it would be pertinent to mention here that a racket of unaccounted job work carried out by various companies of Sumit Group has been unearthed and established by the Department. It is established that the companies are maintaining two sets of books of account in electronic form ie. in the FAS.exe software and Purchi.exe software. When sale/job work data maintained in both the software were compared with sales /jobwork income disclosed in audit report, it is found that data maintained in FAS.exe software matched with the data of sale register based on which audit report was prepared. But data of sale/job work maintained in purchi.exe software does not matched with job work disclosed. The only explanation offered by the principal officer/director of respective company is that parties return the material on the grounds of defect, etc. that needs to be reprocessed by them and purchi software contains only reprocessed material, and final dispatch invoices have been prepared in financial software whereas reprocess or double printing data/reprinting is shown in purchi software. On re-examining the data found in purchi.exe software and fas.exe, the following facts emerged:*

*(I) In most of the cases where name matches, the quantity of grey received from the parties in purchi.exe software is more than the quantity of grey received shown in fas.exe/GP.exe software. It shows that data found in purchi.exe software is not related with reprocessing/reprinting because in that case the quantity of grey received shall be less than quantity shown in fas.exe/GP.exe software. It is very clear that during reprocessing/reprinting, finished fabrics will be received by company and not the grey fabrics. But the data and Name of the parties identified from Purchi.exe and FAS.exe shows that grey has been received and after printing the length of grey received got shrunk and is reflected in the shortage table.*

*(II) In the purchi.exe software, the number of parties for which job work done is around 3 to 4 times the numbers of parties found in Fas.exe/GP.exe software. It also corroborates the finding that data found in purchi.exe*



*software is not related with reprocessing/reprinted. In the case of Betex India Ltd., the parties found in Purchi.exe and Fas.exe/GP.exe match upto 50%. Such high match percentage of parties name is only due to involvement of party in unaccounted sale of finished material after the job work.*

*(III) The concerned parties were also summoned by the Investigation Wing to verify whether they get reprocessing/reprinting of the grey on which job work has not been done to their satisfaction. In their submission, they have explicitly stated that they did not get reprocessing/reprinting of fabrics by the job worker company. Perusal of their ledger account submitted further revealed that they have not shown the job work details mentioned in the Purchi.exe software.”*

2.7 Accordingly, the Assessing Officer asked the assessee to explain the source of the grey fabric, which was subjected to processing and recorded in Purchi.Exe.software, but the assessee did not accept the fact of carrying out processing recorded in Purchi. Exe software, thus, the source of investment in grey fabric was also not accepted. The Assessing Officer made addition for the jobwork charges as well as 10% profit on the sales of such grey fabric.

3. On appeal, the Learned Commissioner of Income-tax (Appeals) rejected the challenge to reassessment as well as the addition on merits, holding that the findings of the Investigation Wing constituted cogent material sufficient to sustain the addition.

4. The Ld. Counsel for the assessee filed a Paper Book containing various judicial pronouncements.

5. Before us, the Learned Counsel for the assessee, at the outset, did not press the legal ground concerning the validity of



reassessment. On merits, it was contended that the assessee had no concern with the entries found in the *Purchi.exe* software of the Sumeet Group, and that no documents, challans, or delivery notes bearing the assessee's signature were found during the search. It was further urged that, in the absence of any seized material from the assessee's premises, no addition could be made solely on the basis of third-party data, without affording opportunity of cross-examination of those persons whose statements were relied upon. It was submitted that the addition based solely on third-party digital data violated the principles of natural justice. The assessee cannot be held responsible for wrong doing if any done by the Sumeet group of entities.

5.1 The Learned Departmental Representative, however, submitted that the Tribunal in the case of *Sumeet Group* had already upheld additions based on the *Purchi.exe* data, establishing the genuineness of the same, and therefore, corresponding expenditure on jobwork was liable to be brought to tax in the hands of the assessee as well.

6. We have carefully considered the rival submissions and perused the material available on record. The central issue for determination before us is whether an addition can be sustained in the hands of the assessee solely on the basis of third-party documents and data, without any direct nexus being established and without confronting the assessee with the underlying evidence or affording opportunity of cross-examination.



6.1 It is undisputed that in the case of Sumeet group of entities it is found that same were engaged in carrying out jobwork of processing, which was recorded in the Purchi.Exe Software but same was not considered for the purpose of regular books of accounts. Entries in the name of the assessee were also found in data of said Purchi. Exe software maintained by “Sumeet” Group. A detailed of such entries for the period from 01.09.2008 to 30.03.2009 in the account of Bajranj Processors Pvt. Ltd. and entries for the period from 24.20.2008 to 20.11.2008 in the account of Betex India Ltd. has been reproduced by the Assessing Officer in the impugned order.

6.2 Before us, the Ld. Departmental Representative (DR) pointed out that addition made by the Assessing Officer in the case of Sumeet group of the entities has been upheld by the Tribunal and since the corresponding income from jobwork appearing in Purchi.Exe. software has been held by the ITAT as assessable in the hands of Sumeet Group of companies, therefore, this fact is established that said entities were engaged in carrying out activities of jobwork of processing of grey fabric recorded in Purch. Exe software.

6.3 So the question arise as to whether in such circumstance can addition made in the hands of the assessee. We find that the assessee was carrying out jobwork from those two companies of Sumeet group in regular course and entries for such job work are appearing in the FAS Software in relation to Jobwork carried out by Bajrang Processors Pvt. Ltd. and Betex India Ltd.



6.4 In our opinion, appearing of entries in the name of assessee in Purchi. Exe software cannot be a work of imagination or any enemy with such said entities. The assessee was doing regular jobwork which is recorded in the books of account of the assessee also, so it is not unlikely that assessee might had not carried out such work but during the course of assessment the assessee did not seek any cross examination of those parties, but now assessee is claiming that no such opportunity was provided to the assessee.

6.5 It is trite law that the edifice of assessment must rest upon credible evidence tested through due process. The Hon'ble Supreme Court in *Kishinchand Chellaram v. CIT* [(1980) 125 ITR 713 (SC)] held that no material collected from third parties can be used against an assessee unless the assessee has been informed of such material and given an opportunity to controvert it. In that case, the Court emphasised that evidence behind the back of the assessee, however incriminating, cannot be made the foundation of an addition unless duly confronted and proved.

6.6 Likewise, in *Andaman Timber Industries v. Commissioner of Central Excise* [(2015) 281 CTR 241 (SC)], the Supreme Court held that denial of cross-examination of witnesses whose statements form the basis of an order is a serious flaw that vitiates the entire proceedings, as it amounts to a violation of the principles of natural justice. The Court observed that an order



based on statements not subjected to cross-examination “cannot stand in the eye of law”.

6.7 Further, in *Dhakeshwari Cotton Mills Ltd. v. CIT* [(1954) 26 ITR 775 (SC)], it was enunciated that while the Income-tax authorities are not bound by the strict rules of evidence, they are bound by the rules of natural justice. Any assessment founded upon suspicion, conjecture, or surmise, without providing the assessee an opportunity to rebut the evidence relied upon, is invalid.

6.8 In the present case, it is undisputed that the foundation of the addition rests upon data recovered from the computer system of a third party — the “Sumeet” Group. The assessee was neither confronted with the full contents of such data nor afforded the opportunity to cross-examine the officers or representatives of *M/s Bajrang Processors Pvt. Ltd.* and *M/s Betex India Pvt. Ltd.*, whose alleged transactions were attributed to the assessee. Such omission, in our considered view, constitutes a procedural infirmity going to the root of the matter.

6.9 Applying the aforesaid judicial dicta to the present case, we find that although the data contained in the *Purchi.exe* software was treated as incriminating evidence, the assessee was not provided copies of the relevant material nor afforded any opportunity to cross-examine the persons of the Sumeet Group whose statements were made the foundation of the addition. The Assessing Officer’s conclusion rests on material unearthed from a



third party, and in the absence of independent corroboration or opportunity to rebut, such material cannot be treated as conclusive evidence against the assessee.

6.10 In light of the foregoing discussion and guided by the ratio of *Andaman Timber Industries (supra)*, *Dhakeshwari Cotton Mills Ltd. (supra)*, and *Kishinchand Chellaram (supra)*, we are of the considered opinion that the matter requires reconsideration at the stage of the Assessing Officer. Accordingly, the impugned orders of the lower authorities are set aside, and the issue on merits is restored to the file of the Assessing Officer with the following directions:

- (a) The Assessing Officer shall furnish to the assessee complete details and copies of all material, data, and digital records found from the “Sumeet” Group pertaining to the assessee.
- (b) The Assessing Officer shall afford to the assessee an opportunity of cross-examination of the concerned persons of *M/s Bajrang Processors Pvt. Ltd.* and *M/s Betex India Pvt. Ltd.*, if so desired. We have noticed that such request had not been made on the part of the assessee during reassessment proceedings but for finalization of this issue in dispute, it is important that those parties are confronted by the assessee
- (c) The Assessing Officer shall thereafter re-adjudicate the issue afresh, by a reasoned and speaking order, in accordance with law and after affording the assessee due opportunity of being heard.



6.11 Accordingly, the grounds on merit are restored back to the file of the Assessing Officer.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced by way display of result on notice board on 30/10/2025 under Rule 34(4) of ITAT Rules, 1963.**

Sd/-  
**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Sd/-  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Surat;  
Dated: 30/10/2025  
Rahul Sharma, Sr. P.S. (on Tour)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Surat**