

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.195/Ahd/2025  
(Assessment Year: 2017-18)

M/s. Ankur Fine Products, Sagar House, Opp. Stock Exchange, Panjarapole Char Rasta Azad Society, Ahmedabad-380015	Vs.	Income Tax Officer, Ward-6(1)(2), Ahmedabad
<b>[PAN No.AADFA0503F]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Parin Shah, AR
<b>Respondent by:</b>	Shri Ravindra, Sr. DR

<b>Date of Hearing</b>	04.11.2025
<b>Date of Pronouncement</b>	06.11.2025

**ORDER**

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), ADDL/JCIT(A)-2, Noida vide order dated 04.10.2024 passed for A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

“1. On the facts and circumstances of the case, and in law, the Ld. Commissioner of Income-tax (Appeal) [‘the CIT(A)’] erred in confirming the disallowance amounting to Rs.9,99,393/- made by the Income Tax Officer Ward 6(1)(2)-Ahmedabad (Ld. AO), without considering the submission filed the Appellant which has resulted in violation of principle of natural justice.

2. In doing so, the CIT(A) further erred in upholding the disallowance of purchases amounting to Rs. 9,99,393/-, merely on account of the difference between the VAT returns and as per books of account, without rejecting audited books of account, and bringing any corroborative contrary evidence on record.

**Without Prejudice to the above:**

3. *The CIT(A) further erred in upholding the action of the Ld. AO in accepting the total sales as per books of account which is much higher than the sale turnover as per VAT return. In doing so, he failed to appreciate that if the purchase is to be considered as per VAT Return than sales is also to be considered based on the VAT Return.*

4. *Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing.”*

3. The brief facts of the case are that the assessee, *M/s. Ankur Fine Products*, is a partnership firm engaged in the business of sale and purchase of pharmaceutical products, chemicals, bulk drugs and health-related items. The assessee filed its return of income for the Assessment Year 2017–18 declaring total income of Rs. 7,24,280/-. The return was filed electronically in Form ITR-5 and was based on duly audited books of accounts under section 44AB of the Income-tax Act, 1961 (the “Act”). The case was selected for scrutiny for verification of large turnover reported in ITR vis-à-vis non-filing of the audit report and to verify the correctness of purchases, VAT declarations, and profit disclosures. During the course of the assessment proceedings, the Assessing Officer observed that there **was a discrepancy between the purchases reflected in the VAT returns and those recorded in the audited Profit & Loss Account**. As per the VAT return for the financial year, total purchases (exclusive of VAT) amounted to Rs. 30,40,76,076/-, less purchase returns of Rs. 66,04,712/-, resulting in **net purchases of Rs. 29,74,71,364/-**. However, **as per the Profit & Loss Account, purchases were shown at Rs. 29,89,09,398/-, thus leading to a difference of Rs. 14,38,034/-, which upon adjustment for VAT came to Rs. 9,99,393/-**. The Assessing Officer was of the view that the assessee **had inflated purchases to the extent of Rs. 9,99,393/-** thereby reducing gross

profit and taxable income. The assessee, in response to the show-cause notice issued by the Assessing Officer submitted that the difference arose solely due to the manner in which purchase returns were treated under the Gujarat Value Added Tax (GVAT) Act vis-à-vis in the books of account. Under Rule 15 of the GVAT Rules, an assessee was required to reverse input tax credit (ITC) on all goods returned to suppliers, **even if the supplier did not issue a credit note for the returned goods**. Thus, VAT returns showed higher purchase returns and consequently lower purchases. However, in the books of account, **only actual commercial credit notes issued by suppliers were recorded as purchase returns**. The assessee explained that many goods returned were expired or near-expiry pharmaceutical products which suppliers refused to accept; therefore, while VAT compliance required ITC reversal, such goods did not result in commercial credit in the books. The difference of Rs. 9,99,393/- was therefore due to statutory compliance under VAT law and not due to inflation of purchases. The Assessing Officer, however, rejected this explanation on the ground that no ledger or supplier confirmations were filed by the assessee to substantiate the claim and treated Rs. 9,99,393/- as inflated purchases, and therefore the Assessing Officer added the same to the total income and assessing the income at Rs. 17,23,673/-.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT(Appeals). During the appellate proceedings, the CIT(Appeals) reiterated the same reasoning as the Assessing Officer and held that the assessee failed to furnish adequate supporting documentation such as supplier-wise reconciliation, credit notes, or confirmations to reconcile the

difference between VAT and book figures. Accordingly, the addition was confirmed.

5. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. Before us, the learned Counsel for the assessee reiterated that the difference of Rs. 9,99,393/- arose solely due to reversal of input tax credit as mandated by Rule 15 of the GVAT Rules, and not due to inflation of purchases. It was submitted that under the VAT law, reversal of ITC is mandatory on all goods returned, regardless of whether the supplier accepts the goods or issues a credit note. However, in the profit and loss account, the assessee's books record only those returns where the supplier has issued a commercial credit note, whereas the VAT return includes all goods for which ITC reversal is required, whether or not credit is received. The learned Counsel submitted that such a difference is a result of differing accounting treatment and statutory compliance, and this cannot by itself lead to the conclusion that the assessee inflated purchases or suppressed profits. The assessee furnished before us a detailed supplier-wise reconciliation showing purchase returns as per VAT returns and books of account. The assessee submitted that the total difference of Rs. 9,99,393/- denoted those goods for which input tax credit was reversed under VAT but no commercial credit was received from suppliers. The learned Counsel further submitted that the difference constituted a negligible 0.33% of total purchases of over Rs. 30 crores, and therefore, could not be considered material or indicating any motive to suppress income by the assessee. The Counsel for the assessee placed reliance on decision of **CIT v. President Industries [2002] 258 ITR 654 (Guj.)**, where it was held that mere variations

in figures or procedural differences between statutory returns and books cannot justify an addition unless there is evidence of suppression of income. The assessee also relied on **ACIT v. Mahavir Dyeing & Printing Mills (P.) Ltd. [2023] 151 taxmann.com 298 (Surat - Trib.)**, where it was held that mismatch between VAT data and book figures cannot lead to addition unless the Revenue establishes that the purchases are fictitious or the transactions are non-genuine. Further reliance was placed on **ITO v. Arihant Plastics [2024] 169 taxmann.com 477 (Ahmedabad - Trib.)**, wherein the Tribunal held that mere difference between VAT and book figures, arising due to statutory treatment of ITC, does not justify disallowance of purchases without corroborative evidence of falsification.

6. The Departmental Representative, on the other hand, supported the orders of the lower authorities, and submitted that no independent evidence was provided at the assessment stage to substantiate the reconciliation.

7. We have carefully considered the rival submissions and examined the record. We are of the considered view that it is undisputed that the difference of Rs. 9,99,393/- arose out of statutory reporting under VAT and accounting treatment in the books. **Under Rule 15 of the Gujarat VAT Rules, an assessee is required to reverse input tax credit on goods returned to suppliers, even if the supplier has not accepted the goods or issued a credit note. Consequently, VAT returns will invariably reflect a higher purchase return figure and correspondingly lower purchases. The books of account, on the other hand, can only recognize those purchase returns for which actual commercial credit is issued.** The assessee has furnished before us a detailed supplier-wise reconciliation substantiating its claim that

the difference arises purely due to statutory compliance and not due to any inflation of purchases. The Assessing Officer has not brought on record any material to show that the purchases recorded by the assessee are bogus, non-existent, or unverifiable. It is further noted that sales figures as per VAT returns and books have been accepted as identical, thereby indicating that the trading results are otherwise consistent and reliable. In such circumstances, a minor accounting variation of less than one percent of total purchases cannot justify the addition made. In *CIT v. President Industries* (supra), the Hon'ble Gujarat High Court has held that the burden lies on the Revenue to establish that any variation between statutory returns and accounts represents suppression of income. Similarly, in *ACIT v. Mahavir Dyeing & Printing Mills (P.) Ltd.* (supra), the Tribunal deleted an identical addition, holding that differences due to statutory treatment of tax credits under VAT law cannot be equated to inflation of purchases. In *ITO v. Arihant Plastics* (supra), it was further held that unless the Assessing Officer disproves the assessee's reconciliation or demonstrates fictitious transactions, the difference cannot be treated as income.

8. We also find guidance from the decision of the Hon'ble Delhi High Court in **CIT v. Modi Rubber Ltd. [1992] 193 ITR 379 (Del.)**, where it was held that statutory adjustments made to comply with indirect tax laws cannot be treated as income or disallowance under the Income-tax Act unless they are found to be false or fabricated. The principle laid down therein applies squarely to the present case. Having regard to the explanation furnished by the assessee, the statutory nature of VAT adjustments, and the negligible quantum of difference, we hold that the disallowance of Rs. 9,99,393/- made

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by the Assessing Officer and confirmed by the CIT(A) is unsustainable in law as well as on facts. The difference, in our view is fully explained, the reconciliation has been furnished, and there is no evidence on record to show that the assessee inflated its purchases or manipulated its profits.

9. Accordingly, we direct the deletion of the addition of Rs. 9,99,393/-.

10. In the result, the appeal of the assessee is allowed.

**This Order pronounced in Open Court on**

**06/11/2025**

**Sd/-**  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

Ahmedabad; Dated 06/11/2025

TANMAY, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad