



dated 27.01.2025 for A.Ys 2019-20 and order dated 27.01.2025 for A.Y 2020-21 respectively.

2. Since these appeals pertain to same assessee and involve common issues, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

**ITA No. 1929/DEL/2025 [A.Y 2019-20] (Assessee appeal)**

**ITA No. 1930/DEL/2025 [A.Y 2020-21]**

3. Briefly stated, the facts of the case are that the assessee filed its original return of income for AY 2019-20 on 27.09.2019 declaring an income of Rs.72,45,970/-. A search and seizure operation u/s 132 of the Income-tax Act, 1961 [the Act, for short] was conducted on 26.10.2020 in the cases of Shri Sanjay Jain and Mehta Group at various residential & business premises.

4. Sanjay Jain is an entry operator found to be running several fictitious entities for providing accommodation entries. During the course of search, 2 sets of books of tally were found and seized from the office premise of Shri Sanjay Jain i.e 87, First Floor, Dharamvir Mann Marg, Sabji Market, Hari Nagar Ashram, New Delhi which were marked as Annexure A-31. The set of tally data contained the receipt and expenditure in cash. The details of commission of ledger of the

intermediaries as per tally of Sanjay Jain Tally books with the name "Jain Enterprises" maintained by Shri Sanjay Jain were found during the search.

5. On the basis of these informations, the case of the assessee for the year under consideration, was opened u/s 153C of the Act, after recording the satisfaction note by the Assessing Officer.

6. The assessee has shown details of Purchases and Sales made during the AY 2019-20 and AY 2020-21 along with the GP & NP Ratios as under:

Particulars	A.Y 2019-20	A.Y 2020-21
Total Purchases	6,03,92,331	12,18,87,429
Total Sales	11,55,75,450	21,28,22,373
Gross Profit Ratio	22.56.%	26.02%
Net Profit Ratio	4.32%	4.51%

7. Details of additions made by the Assessing Officer u/s 37(1) of the Act, in relation to the purchases made from the entities allegedly linked to Shri Sanjay Jain are as under:

SN	Particulars of Suppliers - A.Y. 2019-20	Amount
1	Jain Cement Udyog	28,12,500
2	Shri Lakshmi Associates	1,35,13,306
Total Purchases disputed by A.O. for A.Y. 2019-20		1,63,25,806
SN	Particulars of Suppliers - A.Y. 2020-21	Amount
1	Jain Cement Udyog	2,32,34,500
2	Shri Lakshmi Associates	1,2,59,500
3	Forever Exim India Private Limited	1,23,43,750
4	RK and Co.	7,81,250
5	RR Associates	11,71,875
Total Purchases disputed by A.O. for A.Y. 2020-21		4,98,90,875

9. Accordingly, the AO considered the purchases made from the above entities as bogus and made addition of Rs. 1,63,25,806/- for AY 2019-20 and Rs 4,98,90,875 for A.Y 2020-21 as bogus purchase u/s 37 of the Act. On appeal, the CIT(A) reduced the addition to 32,65,161/- for AY 2019-20 and Rs. 99,78,175/- for A.Y 2020-21 being 20% of the gross profit embedded in the bogus purchase.

10. Aggrieved, both the rival representatives are in appeal before us against the order of the lower authorities. Assessee is before us against the 20% GP addition made by the CIT(A) and the Revenue is against CIT(A) giving relief of 80% of the bogus purchase.

11. The ld counsel of the assessee vehemently argued that the ld. CIT(A) did not consider the complete documentary evidences in support of the purchases including invoices, E-way bills, GST returns, Truck no. and corresponding bank statements evidencing payments, the correctness of which is not in dispute.

12. It is the say of the ld AR that despite such conclusive evidences, the CIT(A) has disregarded the same and solely on the basis of presumptions and conjectures, has passed the order dated 27.01.2025, arbitrarily estimating disallowance at 20% of the disputed purchases, which is not only excessive and without any rational basis, but also in

total disregard to the Gross Profit of 22.56% and 26.02% earned by the assessee during the two respective years.

13. Per contra the Id DR heavily relied on the orders of the AO and relied on the decision of hon'ble Gujrat High Court in the case of ***N.K.Protein*** 72 taxmann.com289(Guj) whose SLP was dismissed by the Supreme Court.

14. We have heard the rival submissions and have perused the relevant material on record. It is a case of treating purchases as bogus as they are from entities linked to Shri Sanjay Jain, an entry operator. The Assessing Officer has considered the entire purchase of Rs. 1,63,31,000/- as bogus and disallowed the same u/s 37 of the Act whereas the CIT(A) has considered 20% of the total bogus purchase as income of the assessee.

15. The assessee has challenged the assumption of jurisdiction u/s 153C before us. We find that the AO, on the basis of search on Sanjay Jain, wherein several incriminating materials/documents pertaining to the assessee was found, initiated the assessment proceedings u/s 153C. The AO recorded the satisfaction note, and validly issued notice u/s 153C. These facts were not controverted by the assessee, nor the assessee could satisfy us as to how the satisfaction note recorded by the AO is invalid.

16. The Id. CIT(A) has factually as well as judicially met the assessee's objections that no incriminating materials were found at Para 7.1 of his order which reads as under:

**"7.1 However, both these claims of appellant are untenable when evaluated in light of the facts and circumstances of the case.**

**\*\*\*\***

## **2. Incriminating Material Found Relating to the Appellant**

The appellant has also argued that no incriminating material pertaining to their business or financial transactions was found during the search operations, thereby contesting the jurisdiction of the AO under Section 153C. However, this claim does not withstand scrutiny. The search conducted at the premises of Mr. Sanjay Jain unearthed documents and tally records that contained references to the entities from which appellant took entries and it implicated them in unaccounted transactions. These documents, though recovered from a third party, clearly pertain to the appellant and provide a sufficient basis for invoking jurisdiction under Section 153C.

The provisions of Section 153C explicitly allow for proceedings to be initiated against a person other than the searched person when documents or assets seized during the search pertain to such other person. In the present case, the incriminating material seized, including ledger entries and transaction details, directly points to the appellant's involvement in financial dealings that were not disclosed in their regular books of accounts. The fact that these documents were recovered from a third party's premises does not

diminish their relevance or the AO's jurisdiction, as long as they pertain to the appellant.

The argument that the mere mention of the appellant's name in the seized documents does not establish ownership or relevance is also unsustainable. The nature and content of the seized material, corroborated with other facts, clearly indicate their pertinence to the appellant. For example, the tally records reference specific transactions and amounts, which have been cross-verified with the appellant's known activities. Such evidence qualifies as "incriminating material" under the law, as it has a bearing on the appellant's undisclosed income.

### 3. Judicial Precedents Supporting Section 153C Action

Judicial precedents have consistently upheld the validity of proceedings under Section 153C when documents or information unearthed during a search pertain to a third party. The Hon'ble Supreme Court in *CIT vs. Calcutta Knitwears* (2014) 362 ITR 673 (SC) affirmed that the jurisdiction under Section 153C is valid as long as there is a prima facie satisfaction that the seized material pertains to the third party and has a nexus to undisclosed income. The AO's decision in this case aligns with this principle, as the seized documents clearly establish such a nexus.

In light of the above, the appellant's claims regarding the invalidity of Section 153C proceedings are unfounded. The search was conducted prior to April 1, 2021, making the procedural changes introduced by the Finance Act, 2021, inapplicable. Furthermore, the incriminating material seized from Mr. Sanjay Jain's premises, which directly relates to the appellant, provides a valid basis for

initiating proceedings under Section 153C. Therefore, the AO's actions are in accordance with the law and must be upheld. Ground of Appeal from 1 & 3 to 8 are dismissed.”

17. We find no reasons to interfere in the decision of the CIT(A) on the issue of assumption of jurisdiction u/s 153C. The grounds 1 to 6 is accordingly dismissed.

18. On merits, the ld. CIT(A) has decided the issues at Paras 8.3 to 8.10 of his order which read as under:

*“8.1 Whereas, the AO concluded that the purchases amounting to ₹1,63,30,100/- were bogus, based on the statement of Sanjay Jain and associates and incriminating materials seized from their premise. Sanjay Jain admitted in his statement that his controlled entities were involved in providing accommodation entries for bogus purchases without actual delivery of goods. Nikhil Sachar, prime associate of Sanjay Jain, corroborated this by confirming the modus operandi of issuing invoices without corresponding movement of goods. AO also relied on the Tally data records seized from the searched entities which demonstrated dubious nature of purchase. The entries reflected financial adjustments for generating invoices to legitimize expenses.*

*8.2 The appellant contended that all purchases were supported by invoices, e-way bills, payment was made through banking channels, and the transactions were recorded in audited books of accounts. Transport details are verified through e-vahan portal. The appellant emphasized that the purchases, whether genuine or not, were ultimately used in the execution of contracts. Thus, the sales and consumption of materials remain undisputed. Citing judicial precedents, the appellant argued that in cases of bogus purchases,*

*only the profit embedded in such transactions should be taxed, rather than disallowing the entire expenditure.*

*8.3 Upon careful perusal of records and evidences produced by appellant after enquiry of undersigned it can be seen that the appellant could counter few of AO' s allegation in Assessment order. One of the key issues raised by the AO was that the transport details related to the purchases could not be verified through the e-Vahan portal. However, during appellate proceedings, the appellant managed to verify the transport details and submitted the evidence before me after being enquired. Additionally, the appellant produced purchase invoices and Goods Receipt Notes (GRNs) to substantiate its claim that materials were procured. For sake of completeness, few of the sample bills and verifications on e-vahan portal is scanned here as under:*

*XXXX*

*8.4 These efforts demonstrate the proactive stance in addressing some of the allegations raised by the AO which is distinguishable facts in this case. The appellant also argued that the purchases in question, whether genuine or disputed, were eventually utilized in the execution of contracts. It was emphasized that the corresponding sales and consumption of materials have not been questioned by the AO, suggesting that the materials were indeed procured, albeit possibly through alternative channels. As per Appellant, this distinction forms the crux of the appellant's argument that only the profit element embedded in the alleged bogus purchases should be brought to tax, rather than disallowing the entire amount of purchases.*

*8.5 The appellant further relied on various judicial precedents to support its contention, citing that in cases involving alleged bogus purchases, it is reasonable to estimate and tax only the profit component of such transactions. The appellant also referred to the fact that all payments for the disputed purchases were made through banking channels, and the transactions were duly recorded*

*in audited financial statements, lending some degree of credibility to the claim.*

*8.6 Despite these submissions, the evidence presented by the AO, including statements from Sanjay Jain and Nikhil Sachar, cannot be disregarded. Sanjay Jain, in his statement, admitted that his entities were involved in providing accommodation entries without the actual delivery of goods. This was corroborated by Nikhil Sachar, who confirmed the modus operandi of issuing invoices solely for the purpose of inflating expenses. Additionally, the seized tally records from the searched entities revealed that no physical delivery of cement was made to the appellant. Instead, the transactions appeared to be financial adjustments aimed at generating invoices to legitimize expenses. The chronology of events are explained by the Assessing Officer in the assessment order*  
**\*\*\*\*\***

*8.7 In evaluating the evidence and submissions, it is clear that while the appellant has successfully addressed some of the AO's allegations, certain critical aspects remain unresolved. The verification of transport details and the submission of purchase invoices and GRNs lend partial credibility to the appellant's claim. However, the absence of stock reconciliation records coupled with corroborative evidence from the statements of Sanjay Jain and Nikhil Sachar, establishes that the purchases in question were not entirely genuine.*

*8.8 It is also important to acknowledge that the corresponding sales and consumption of materials have not been disputed, indicating that the materials were procured through back-channel operations. In such situations, taxing the entire amount of alleged bogus purchases would be excessive and inconsistent with judicial precedents. Instead, it is more appropriate to estimate and tax the profit element embedded in these transactions, taking into account the nature of the industry and the specific facts of the case.*

*8.9 GST rate of 28%, inherently involves significant costs and margins when routed through accommodation entry operators. Given the high GST rate of 28% on cement and the inherent costs associated with back-channel operations (such as commissions and logistics), addition of 20% on the disputed purchases is deemed reasonable. This estimation adequately reflects the profit element involved in the transactions and aligns with the principle that additions must be based on fair and reasonable estimates. Although the Gujarat High Court in CIT vs. Simit P. Sheth upheld a GP addition of 12.5%, the higher GST rate and other circumstances in this case justify a slightly higher addition of 20%.*

*8.10 In light of the above findings, the addition made by the AO is modified. Accordingly, 20% of the disputed purchases, amounting to Rs 32,66,020/-, is sustained as taxable income. Above grounds of appeal are partly allowed."*

19. After perusing the discussion and findings of the ld. CIT(A), we find that there is hardly any scope for our interference with the decision of the ld. CIT(A). In view of the fact that the incriminating materials show that the purchases are bogus but at the same time, the corresponding sales and consumption of materials have been accepted, in such a scenario, we are in complete agreement with the CIT(A) decision that it would be excessive to tax entire amount of bogus purchases and it would be appropriate to estimate and tax the profit element embedded in these transactions. We are however, of the considered view that the addition of 20% on disputed purchases be modified to 15%, which, in our

view, is deemed reasonable estimation of profit element involved in the transactions. Accordingly, the appeal of the assessee is partly allowed.

20. In the result, appeal of assessee in ITA Nos. 1929/DEL/2025 and 1930/DEL/2025 are partly allowed.

**ITA No. 2946/DEL/2025 [A.Y 2019-20]**

21. A perusal of the grievance of the revenue shows that the tax effect would be less than Rs. 60 lakhs, therefore, this appeal is not maintainable as per CBDT Circular No. 9/2024 dated 17.09.2024.

22. This appeal is, accordingly, dismissed with liberty to the revenue to approach the Tribunal as per the provisions of law, should it feel that the tax effect is more than Rs. 60 lakhs.

23. In the result, the appeal filed by the Revenue in ITA No. 2946/DEL/2025 is dismissed.

**ITA No. 2947/DEL/2025 [A.Y 2020-21]**

24. As the facts and circumstances of the instant appeal are admittedly *mutatis mutandis* similar to those discussed and decided hereinabove by us while dealing with similar issue in appeal of the assessee in A.Y 2019-20 and AY 2020-21. We only modify the addition of 20% on disputed purchases to 15%, which, in our view, is deemed

reasonable estimation of profit element involved in the transactions.

Accordingly, the appeal of the Revenue is dismissed.

25. In the result, all the appeals of the

**Assessee in:**

**ITA No. 1929/DEL/2025 [A.Y 2019-20]** - Partly Allowed  
**ITA No. 1930/DEL/2025 [A.Y 2020-21]** - Partly Allowed

Revenue in:

ITA No. 2946/DEL/2025 [A.Y 2019-20] - Dismissed  
ITA No. 2947/DEL/2025 [A.Y 2020-21] - Dismissed

Order pronounced in open court on 12.11.2025.

Sd/-

[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER

Dated : 12<sup>th</sup> NOVEMBER, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	