

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH SURAT**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
HON’BLE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No.64/Srt/2025  
(Assessment Year: 2019-20)**

**&**

**ITA No.65/Srt/2025  
(Assessment Year: 2021-22)**

**&**

**ITA No.66/Srt/2025  
(Assessment Year: 2022-23)**

Assistant Commissioner of Income Tax 9 <sup>th</sup> Floor, Fortune Square II, Daman Road, Chala, Vapi 396191	Vs.	Gujarat Polysol Chemicals Limited 1, Plot No. 1734, 3 <sup>rd</sup> Phase, GIDC, Vapi, Gujarat 396195
PAN/GIR No. AAACG8908Q		
(Applicant)		(Respondent)

Assessee by	Shri. P M Jagasheth, CA
Revenue by	Shri. Mukesh Jain, CIT-DR.

Date of Hearing	08.10.2025
Date of Pronouncement	26.11.2025

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

These present appeals have been filed by the revenue challenging the impugned order 20.11.2024 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2019-20, 2021-22 and 2022-23 respectively.

2. Since all the issues involved in these three appeals are common and identical, therefore, they have been clubbed, heard together and consolidated order is being passed for the sake of convenience and brevity. we shall take ITA No. **64/SRT/2025, A.Y 2019-20** as lead case and facts narrated therein.

**ITA No. 64/SRT/2025, A.Y 2019-20**

The assessee has raised the following grounds of appeal:

*1. On the facts and in the circumstances of the case and in law the Ld. CIT(A) has erred in restricting the addition to Rs.25,00,000/- as against total addition Rs.6,20,62,643/- made by the assessing officer on account of GP @25% of claim of Bogus Purchases of Rs.24,82,50,571/- ignoring the fact that the addition has been made on the basis of incriminating details/documents recovered during the search proceedings.*

*2. On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition made by the Assessing Officer by not following the ratio laid down by the Hon'ble Apex Court in the case of CIT Vs Reliance Telecomm Ltd reported in 2021 SCC Online SC 1170 and passing a perverse order by exceeding jurisdiction.*

*3. The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.*

3. The ground Nos. 1 & 2 raised by the assessee relates to challenging the order of Ld. CIT(A) in restricting the addition to Rs. 25,00,000/- as against total addition of Rs. 6,20,62,643/- made by the AO on account of gross profit at

@ 25% of the claim of bogus purchases, therefore we have decided to take up both the grounds together and adjudicate the same through the present consolidated order.

4. At the very outset, we noticed that this issue is squarely covered by the decision of Hon'ble ITAT in assessee's own case for the A.Y 2018-19 in ITA Nos. 513 & 595/SRT/2023.

5. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that the Ld. CIT(A) decided the issue in question by following the decision of the Coordinate Bench of ITAT in assessee's own case for the earlier assessment year i.e 2018-19, and the operative portion of the order of Ld. CIT(A) is reproduced herein below:

*6.4 I have gone through the assessment order and the submissions made by the AR of the appellant. During the course of Appellate Proceedings, the AR of the appellant submitted written submissions and explained the same. He stated that the instant case is covered by decision of the Hon'ble ITAT in appellant's own case for earlier AY 2018-19. He further stated that the CIT(A)'s order was taken up before the ITAT who passed order and there was an M.A. as well of ITAT and that facts are identical. The submissions filed by the AR were examined. I find that indeed the facts of the case are identical to the earlier AY in which my predecessor had passed order and the same was taken up before the Hon'ble ITAT who has passed*

*order as well. A few instances of how the case is identical is as follows:*

- (i) Search action is same and date of search is 18.11.2021.*
- (ii) Seizure of documents and digital data is same relating to unaccounted cash transactions and cash purchases.*
- (iii) Statements of various employees were taken which were later retracted.*
- (iv) Verification with SVNIT was done regarding quantity consumed.*
- (v) Verification of stock details was made with bank.*
- (vi) Show cause was done by AO regarding disallowance of bogus purchases.*
- (vii) Books were rejected.*
- (viii) Disallowances of 25% of bogus purchases were made.*

*6.5 The same chronology of action of the AO is there in the instant year as well. My predecessor held, on basis of various judicial decisions, that there cannot be sales without corresponding purchases. He then restricted addition to 7.5% of alleged bogus purchases. The ITAT Bench, Surat however made an analysis of G.P. of various years and held that in allegation of bogus purchases, only profit element embedded in such purchase is to be brought to tax. The ITAT held that since the appellant has shown good G.P. of 8.62% of Rs.36.05 Cr. would be on higher side. The ITAT increased the G.P. to 9% in place of 8.68%. Later in M.A., the ITAT modified its order and stated that to avoid leakage of revenue, a reasonable disallowance of Rs.25 lacs is to be made.*

*6.6 To sum up, the ITAT restricted the addition to Rs.25 lacs out of total bogus purchases of Rs.36.05 Cr., holding that only the profit element embedded in such purchases is to be brought to tax and not substantial part of the transaction. Accordingly, a disallowance of Rs.25 lakhs pertaining to alleged bogus purchase of Rs.36.05 Cr. was directed. The operative part of*

*para 4 of order dated 12.04.2024 of ITAT Surat Bench is quoted as under:*

*"Thus to make the order more meaningful, para 15 of the order dated 28/12/2023 is directed to be read as under:*

*"15. We are also conscious of the fact that when there is allegation of bogus purchases only profit element embedded in such purchase is to be brought to tax and not substantial part of the transaction. The alleged bogus purchases have already suffered tax at the rate of 8.68% alongwith the other regular / genuine purchases. Thus, keeping in view the facts and circumstances of the case, the disallowance of Rs.25.00 lacs pertaining to alleged bogus purchases of Rs.36.05 Cr. would be sufficient to avoid the possibility of revenue leakage. This ground of assessee's appeal is partly allowed in above terms whereas corresponding ground of appeal raised by Revenue in cross is dismissed." sed."*

*6.7 Since order of the ITAT is for appellant's own case and as explained earlier, facts are identical including search being same and addition too being identical as in AY 2018-19, therefore for instant year, ITAT order being order of jurisdictional ITAT is binding on undersigned. It is also pertinent that G.P. of 10.58% has been disclosed by the appellant. In written submission, it has been requested that no addition is warranted as G.P. is higher than the rate of 9% adopted by the ITAT in earlier year.*

*6.8 However, in my view, the ITAT has directed on adhoc disallowance of Rs.25,00,000/- which is slightly less than 1% of the alleged bogus purchases in the A.Y. 2018-19. Holding the same logic, in instant A.Y. 2019-20, I direct that addition be restricted to Rs.25,00,000/- which is around 1% of the alleged bogus purchases, which can be taken as profit element embedded in such bogus purchases. Addition is therefore directed to be restricted to Rs.25,00,000/-. Appellant gets relief of Rs.5,95,62,643/- [Rs.6,20,62,643- Rs.25,00,000 ]. Ground No.1 is partly allowed.*

6. More over from the records, we also noticed that the Coordinate Bench of ITAT in assessee's own case has dealt in detail the *identical issue* and the same is reproduced herein below:

*8. We have heard the submission of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Commissioner of Income Tax- Departmental Representative (Ld. CIT-DR) for the Revenue and have gone through the order of lower authorities carefully. The Ld. AR for the assessee submits that assessee is a very reputed company having turnover more than Rs.350 crores. The Ld. AR for the assessee submits that assessee while filing return of income has shown income of about Rs.11.00 crores (Aprox) on 31.10.2018. The case of assessee was re-opened on the basis of search initiated by Department at the office and factory premises of assessee on 18.11.2021. During the search action various documents and digital data were seized by Investigation Wing on the ground that such documents contain incriminating evidence about the inflated / bogus purchase, in fact, at the time of search no major discrepancy was found in the purchase and stock register by the search party except in respect of a few items, in respect of entries were pending and later on which was made and in normal difference of about slightly 1.00% more than was found. Such discrepancy was explained and reconciled the quantitative details were exactly matched with the bills and record and supporting purchase were made from the parties. Since all the purchases are either consumed in manufacturing process or sold directly in a trading activities. All quantitative details were reconciled when provided in the tax audit report. The bankers of assessee also examined the stock audit from time to time. All quantitative details were maintained right from the inception of business and assessee maintains its all details of production, which was cross-verified and examined during the search action. No major discrepancy was found and no disclosure of Director was insisted or obtained by the search party as all quantitative details were matching with the purchase and the material consumed.*

9. The Ld. AR for the assessee submits that Assessing Officer concluded that some raw materials were purchased from grey market though all purchased were supported by genuine bills on which GST were paid and all payments made through banking channel, where name and address of all suppliers were provided. All suppliers were summoned under section 131 and enquiry conducted under section 133(6) respectively. All persons attended and replied to the notices under section 133(6). The assessee submits that actual consumptions were verified by Assessing Officer by independent agency Le., SVNIT, which is an independent State Government Institution. The independent institution ie., SVNIT supported the case of assessee and no adverse remark was reported, rather such report supports the case of assessee. The Ld.AR for the assessee submits that gross profit of assessee was comparatively increased to the last years GP. The assessee has filed return of income much before the date of search conducted. The Assessing Officer has not given details about the investigation or enquiry conducted under section 131 and/or under section 133(6) of the Act, wherein all suppliers have confirmed their supplies and Sunil Patel in his affidavit by extracted in a statement during the search proceedings as clarified that he was under pressure and has no experience of working in manufacturing industry and made a statement under misconception of cash discounting on purchase; and no evidence of investment from outside books were found. The Ld. AR for the assessee submits that once the quantitative details were completely matched in and no discrepancy in stock register were found and independent institution supported the case of assessee about consumption that no addition was warranted. The Assessing Officer has worked out the alleged bogus purchases on the basis of seized excel sheets and disallowed 25% of purchases identified as bogus. The Ld. CIT(A) despite accepting the stand taken by assessee still confirmed the addition to the extent of 7.5% of the purchases, which were identified as disputed purchases. The turnover of assessee is in several 100 crores of rupees. The assessee has shown very good profit during the currency of impugned assessment year and no further addition was warranted. Even the Ld. CIT(A) on confirming the addition would resultantly

*increase the gross profit will to the extent 9.44% the assessee has already declared gross profit of 8.68%, which is comparatively on higher side.*

*10. The Ld. AR for the assessee submits that he has furnished the comparative chart of gross profit of last four years, wherein the average gross profit 7.03% and current year GP is 1.65% more than earlier years. The Ld. AR for the assessee submits that there is no evidence on inflated purchase, hence, no addition is warranted. To support his submission, Ld. AR for the assessee relied upon Central Board of Direct Taxes instruction No.5/2011 [F.No.225/61/2011-IT(A-II)] dated 30.03.2011, wherein CBDT directed to obtain the report of technical expert in case of complex issues, decision of Hon'ble Apex Court in the case of CIT vs. Virtual Soft Systems Ltd. [2018] 92 taxmann.com 370 (SC)/[2018] 255 Taxman 352 (SC)/[2018] 404 ITR 409 (SC)/[2018] 302 CTR 65 (SC) [24-04/2018]; CIT vs. Emptee Poly-Yarn (P.) Ltd. [2010] 188 Taxman 188 (SC)/[2010] 320 ITR 665 (SC)/[2010] 229 CTR 1 (SC)[20-01-2010] and in the case of PCIT (Inv.) & Ors. Vs. Laljibhai Kanjibhai Mandalia 2022 IETL 1944: (2022) 446 ITR 18: (2022) 327 CTR 353: (2022) 215 DTR 417: (2022) 288 Taxman 361.*

*11. On merit of the addition, the Ld. AR of the assessee also relied upon the decision of Hon'ble Delhi High Court in the case of CIT vs. JMD Computers & Communications (P.) Ltd. [2009] 180 Taxman 485 (Del) [16-01-2009], wherein it was held that when the Department has accepted the purchase, it could not have been assumed that assessee has inflated its purchase by introducing fictitious purchase. The Ld. AR for the assessee also relied upon following case law;*

*→ Pr.CIT Vs Tejus Rohitkumar Kapadia SLP (Civil) No.12670/2018 (SC),*

*\* Pr.CIT Vs Tejus Rohitkumar Kapadia Tax Appeal No.691 of 2017 (Guj),*

*\* Tejus Rohitkumar Kapadia Vs ACIT ITA No.2095/Ahd/2010,*

*\* CIT Vs Nangalia Fabrics (P.) Ltd [2013] 40 taxmann.com 206 (Guj),*

*\* Ramesh Kumar & Co. Vs ACIT (ITA No.2959/Mum/2014 (ITAT Mumbai)*

*DCIT Vs Mahendra Ambalal Patel Tax Appeal No.462 of 1999 (Guj)*

*12. On the other hand, Ld. CIT-DR for the Revenue vehemently defended the order of Assessing Officer and submits that during the assessment sufficient evidence was found regarding inflated purchase shown by assessee. The inflated purchase is supported by the statement of employees of assessee. The Director of assessee and staff / employee retracted from their statements. The statements retracted is not in a proper form, retraction is in a summary minor, which has been recorded by Assessing Officer at pages 84 and 85 of the assessment order. Though, it was a case of 100% disallowance of purchase, yet the Assessing Officer on a very reasonable basis disallowed only 25% of purchase on the basis of decision of Hon'ble jurisdictional High Curt in the case of Vijay Proteins Ltd. vs. CIT (2015). The Ld. CIT-DR for the Revenue submits that addition made by the Assessing Officer to the extent of 25% of inflated purchase may be restricted by reversing finding of Ld.CIT(A).*

*13. We have considered the rival submission of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on various case law relied by Ld. AR for the assessee. We find that Assessing Officer made addition of 25% of alleged inflated purchase on the basis of sized excel sheets, details of which is extracted in the assessment order. We find that Assessing Office as well as search party made investigation from seller of goods. However, no such investigation report is made on part of assessment order. We further find that during the assessment proceedings, Assessing Officer obtained the report from SVNIT. Complete report of SVNIT is available at pages 74 to 92 of the paper book. We find that SVNIT in a detailed analysis about the material consumed and ultimate production of finished goods prepared its report and reported that based on the documents / data provided by*

*Assessing Officer and on inspection of industrial process in the factory of assessee at Vapi on 29.12.2022. It was certified that material quality consumed vis-à-vis output of finished products by the assessee-company in respect of financial years 2020-21, 2017-18 and 2021-22 are theoretically correct subject to process normal embedded by the chemical industry. We find that Assessing Officer despite relying upon the report of SVNIT still proceeded to make addition of bogus purchase.*

*14. We are conscious of the fact that this was the case of search under section 132, yet the Assessing Officer instead of issuance of notice under section 153A proceeded to make the assessment under section 147 of the Act. The Assessing Officer disallowed 25% of purchase considered by him disputed / inflated purchase. We further find that before Ld. CIT(A), the assessee reiterated its stand and contended that assessee's purchase are supported by bills, vouchers and their sales were not disputed. The consumption and sales are not possible in absence of any purchase. We find that this contention of assessee, couple with the report of SVNIT suggests that the stand of assessee is appears to be correct. It is settled position under law that no sale or consumption is possible in absence of purchase. The finished products of assessee is not in dispute. No evidence was brought on record to show that at the time of search, there was discrepancy in the stock register. No adverse evidence from the seller either in the form of their statements or other evidence suggesting on such bogus purchase are brought on record. No doubt, that employees of assessee during search action has accepted inflated purchase though such statement was retracted within a reasonable time. No comparable stances of GP in similar industry is brought on record either by assessing officer or by assessee. Thus, keeping in view overall facts and circumstances, when their certain statements of staff member of assessee though it was retracted, we are of the view that 7.5% of impugned purchase is seems to be a higher side when the assessee itself as declared income of Rs.10.87 crores during current assessment year, which is higher than earlier years. We find that in the earlier year, assessee has shown gross profit at 7.69% and 8.68% in the current year respectively, which is 0.98% to earlier years also.*

*15. We are also conscious of the fact that when there is allegation of bogus purchase only profit element embedded in such purchase is to be brought to tax and substantial part of the transaction. Therefore, keeping in view that assessee has shown good gross profit of 8.68%.*

*Therefore, further addition of 7.5% of Rs.36.05 crores would be on higher side. Therefore, in order to avoid possibility of revenue leakage, the gross profit of assessee is increased at 9.00% in place of 8.68%. This ground of assessee's appeal is partly allowed in above term whereas corresponding ground of appeal raised by Revenue in cross- appeal is dismissed.*

*16. We find that assessee has challenged the fact of reopening under section 147, however, at the time of making submission no specific submission made by Ld. AR for the assessee. Therefore, such ground of assessee's appeal is treated as not pressed and dismissed.*

*17. In the result, the appeal of assessee is partly allowed whereas appeal of Revenue is dismissed. Copy of this order be placed in both the appeal folder. File be consigned to record room as per rules & practice of Tribunal.*

7. After having gone through the decision of the Coordinate Bench as mentioned above, we find that the facts of the present case are identical and in the absence of any distinguishing factual matrix, we are bound to follow the decision of the coordinate Bench of ITAT in assessee's own case nothing has been placed on record in order to demonstrate that the said decision has been stayed, notified or reversed by Hon'ble High Court therefore adhering to the principles of judicial consistency and while relying upon the order of the Coordinate bench of ITAT in assessee's own case for the A.Y 2018-19 and

moreover no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful findings so recorded by Ld. CIT(A). Hence, the ground raised and by the revenue stands dismissed.

**65/SRT/2025, A.Y 2021-22**  
**66/SRT/2025, A.Y 2022-23**

8. As the facts and circumstances in these appeals are identical to ITA No. 64/SRT/2025 for the A.Y 2019-20 (except variance in figures) and the decision rendered in above paragraph would apply *mutatis mutandis* for these appeals also. Accordingly, the grounds of appeal of the present appeals also stands dismissed.

9. In the result, all the appeals filed by the revenue stands dismissed.

Order pronounced in the open court on 26.11.2025

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

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

Mumbai, Dated 26/11/2025  
KRK, Sr. PS.

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Surat