

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.4912/Mum/2025
(Assessment Year :2010-11)**

Income Tax Officer 19(2)(2) Mumbai	Vs.	Mukesh Hirachand Sanghvi 105/106, Gagangiri Towers 25/29, Deshmukh Lane Off. V.P. Road Mumbai
PAN/GIR No.AAGPS1251H		
(Appellant)	..	(Respondent)

**ITA No.5202/Mum/2025
(Assessment Year :2010-11)**

Mukesh Hirachand Sanghvi 105/106, Gagangiri Towers 25/29, Deshmukh Lane Off. V.P. Road Mumbai	Vs.	Income Tax Officer 19(2)(3) Mumbai
PAN/GIR No.AAGPS1251H		
(Appellant)	..	(Respondent)

Assessee by	Shri Prakash Pandit
Revenue by	Shri Annavarani Kosuri, Sr. AR
Date of Hearing	10/12/2025
Date of Pronouncement	22/12/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

These cross appeals have been preferred by the assessee as well as by the Revenue against the order dated 16.06.2025

passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, arising out of the reassessment framed under section 143(3) read with section 147 of the Income-tax Act, 1961 for the Assessment Year 2010-11. Since both the appeals arise out of the same appellate order and involve identical facts and issues, they were heard together and are being disposed of by way of this consolidated order for the sake of convenience and coherence.

2. The solitary controversy requiring adjudication in the present cross appeals pertains to the addition made on account of alleged bogus purchases. The Assessing Officer, while framing the reassessment, treated purchases made by the assessee from certain parties as non-genuine on the basis of information received from the Investigation Wing and applied an estimated gross profit rate of 25 percent on such purchases. The learned CIT(A), while partly allowing the appeal, restricted the said addition by applying a gross profit rate of 12.5 percent. Aggrieved by the sustenance of addition even at the reduced rate, the assessee is in appeal, whereas the Revenue has challenged the reduction of the gross profit rate from 25 percent to 12.5 percent.

3. The facts, in brief, are that the Assessing Officer received information from the Directorate General of Income Tax (Investigation Wing), Mumbai, which was based on data obtained from the Sales Tax Department, Government of Maharashtra, indicating that certain dealers were engaged in

the practice of issuing accommodation purchase bills without actual supply of goods. On the basis of such information, the Assessing Officer noted that the assessee had allegedly made purchases aggregating to ₹5,68,98,134 from twenty-six such parties during the year under consideration. The original return of income filed by the assessee on 01.10.2010 declaring total income of ₹1,11,68,137 was initially processed under section 143(1). Subsequently, relying upon the aforesaid information, the assessment was reopened under section 147 of the Act.

4. During the course of reassessment proceedings, the assessee furnished exhaustive documentary evidence in support of the impugned purchases. The assessee placed on record complete details of purchases and sales, copies of purchase invoices, delivery challans, ledger accounts of the suppliers, bank statements evidencing payment through account payee cheques, and item-wise stock registers reflecting quantitative movement of goods. Through letters dated 15.02.2016, 08.03.2016 and 10.03.2016, the assessee demonstrated that all purchases were duly recorded in the books of account, corresponding sales had been effected, and the quantitative tally of opening stock, purchases, sales and closing stock stood fully reconciled. It was also brought on record that the assessee was maintaining day-to-day stock records and that the purchases had been duly reflected and accepted in the returns filed under the Sales Tax laws.

5. The Assessing Officer, however, issued notices under section 133(6) of the Act to the said twenty-six parties, which were returned unserved by the postal authorities with remarks such as “not known” or “left”. Placing heavy reliance on this fact and on the information received from the Sales Tax Department, the Assessing Officer concluded that the purchases were not genuine. While it was not disputed that the corresponding sales were recorded and accepted, the Assessing Officer was of the view that the assessee must have procured goods from the open market and inflated the purchase value by routing the transactions through accommodation entry providers. Proceeding on this premise, and without pointing out any defect in the quantitative records or banking transactions, the Assessing Officer estimated the profit element embedded in such purchases by applying a gross profit rate of 25 percent.

6. In appeal, the learned CIT(A), after considering the submissions and material on record, upheld the rejection of the books of account under section 145(3) of the Act but held that the application of gross profit rate at 25 percent was excessive. The learned CIT(A) accordingly restricted the addition by applying a gross profit rate of 12.5 percent. The relevant findings of the learned CIT(A), which are to be reproduced verbatim in italics, are as under and shall be incorporated in the final order:

“The matter of rampant issuing of fake purchase/sale bills by way of an organized network was unearthed by the Sales Tax department of Maharashtra. The AO has attempted independently to make inquiries by issuing 133(6) notices and all the notices came back unserved. The AO has utilized one possible mode of enquiry and it is seen that the sellers showed no intention to appear before the AO. Neither did the appellant make any effort to produce the sellers before the AO for examination. Now, at the appellate stage, the appellant cannot claim that enquiry by way of issuing summons would have yielded better/fruitful results. I find that the AO has rightly invoked the provisions of section 145(3), The only question that survives is what should be the fair profit rate out of the bogus purchases which should be added back to the income of the appellant. The AO has adopted a rate of 25%, which appears to be on the higher side. On the other hand, the appellant has proposed a 4% rate which is very low. In my considered view, a rate of 12.5% would meet the ends of Justice. The AO is directed to restrict the addition by considering profit rate of 12.5% on the bogus purchase. The grounds raised are, therefore, partly allowed.”

7. Before us, the learned counsel for the assessee submitted that the issue is squarely covered by the orders of the Tribunal in the assessee's own case for earlier assessment years, wherein on identical facts and involving purchases from the very same parties, the Tribunal has consistently restricted the addition to 5 percent of the alleged bogus purchases. It was contended that once the sales are accepted, quantitative stock records are maintained, and payments are routed through banking channels, the entire purchase amount cannot be disallowed and only the profit element, if any, can be brought to tax, that too at a reasonable rate consistent with past history. The learned Departmental Representative, on the other hand, supported the order of the

Assessing Officer and relied upon the recent judgment of the Hon'ble Bombay High Court in the case of Pr. Commissioner of Income Tax-5 vs. Kanak Impex (India) Ltd., reported in (2025) 172 taxmann.com 283 (Bom), to contend that in appropriate cases, even 100 percent of bogus purchases can be added.

8. We have carefully considered the rival submissions, perused the material on record, and examined the judicial precedents relied upon. It is an undisputed position that the Assessing Officer has not doubted the corresponding sales effected by the assessee, nor has any discrepancy been found in the quantitative tally of stock. The payments for the purchases have admittedly been made through regular banking channels and the transactions stand duly recorded in the books of account. The information relied upon by the Assessing Officer emanates from the Sales Tax Department and essentially indicates default on the part of certain dealers in depositing VAT collected by them. Such information, by itself, does not conclusively establish that the assessee did not receive goods. At the highest, it raises a suspicion regarding the source of procurement and the possibility of inflation of purchase prices.

9. In such circumstances, the settled legal position, as consistently followed by this Tribunal, is that where sales are accepted and quantitative records are maintained, the entire purchase amount cannot be disallowed and only the profit

element embedded in such purchases can be brought to tax. It is further noted that in the assessee's own case for Assessment Years 2011-12 and 2012-13, arising out of identical facts and involving purchases from the same parties, the Tribunal has restricted the addition to 5 percent. For ready reference and completeness, the comparative position for different years is summarized in the following chart, which shall be incorporated in the final order:

		A.Y. 2010-11	A.Y. 2011-2012	A.Y. 2012-13
1.	Addition made by A.O. on A/c. of Bogus Purchase	25%	100%	100%
2.	Addition reduced by CIT(A)	12.5%	12.5% (Page 10, Page 6)	5%
3.	Addition confirmed by ITAT	Appeal Before ITAT	5% (Page 13 & 14, Para7)	5% (page 22 para 10)

10. Consistency and judicial discipline require that in the absence of any distinguishing facts, a similar view be adopted for the year under consideration. Taking into account the totality of facts and circumstances, and respectfully following the coordinate bench decisions in the assessee's own case, we are of the considered view that estimation of profit at 5 percent of the alleged bogus purchases would adequately meet the ends of justice and sufficiently cover any possible inflation or suppression of profit. Accordingly, the addition is restricted to 5 percent of the impugned purchases.

11. In the result, the appeal filed by the Revenue is dismissed and the appeal filed by the assessee is partly allowed in the above terms.

Order pronounced on 22nd December, 2025.

**Sd/-
(ARUN KHODPIA)
ACCOUNTANT MEMBER**

Mumbai; Dated 22/12/2025
KARUNA, *sr.ps*

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai