

**IN THE INCOME TAX APPELLATE TRIBUNAL
J "SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER
ITA No. 6297/Mum /2025 (AY: 2011-12)
ITA No. 6298/Mum /2025 (AY: 2012-13)
ITA No. 6299/Mum/2025 (AY: 2013-14)
ITA No. 6300/Mum/2025 (AY: 2014-15)
(Physical hearing)**

Blues IT Innovations India Private Limited, Flat No. 24, J 24, Mahavir Nagar, Dahanukarwadi, Kandivali (W) Mumbai-400067 [PAN: AACCB4562D]	Vs	Add/ JCIT(A)/ Income Tax Officer Ward-12(1)(3) Room No. 145A, Ist Floor, Aayakar Bhawan, M.K.Road, Mumbai-400020
Appellant / Assessee		Respondent / Revenue

ITA No. 6465/Mum/2025 (AY: 2011-12)

Income Tax Officer Ward-12(1)(1) Room No. 129, Ist Floor, Aayakar Bhawan, M.K.Road, Mumbai-400020	Vs	Blues IT Innovations India Private Limited, Flat No. 24, J 24, Mahavir Nagar, Dahanukarwadi, Kandivali (W) Mumbai-400067 [PAN: AACCB4562D]
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Vimal Punamia, CA/ AR
Revenue by	Shri Aditya Rai, Sr. DR
Date of Institution of appeal (s)	04.10.2025 & 09.10.2025
Date of hearing	24.12.2025
Date of pronouncement	24.12.2025

Order under section 254(1) of Income Tax Act

PER BENCH, JUDICIAL MEMBER:

1. This group of five appeal, out of which two cross appeal for 2011-12 and other three appeal by assessee for A.Y. 2012-13, 2013-14 & 2014-15 are direct the separate orders of Id. CIT(A) all dated 07.08.2025. In all the appeals the assessee as well as revenue has

raised certain common / interconnected grounds of appeal therefore, with the consent of parties on the appeals were clubbed, heard together and are decided by common order to avoid the conflicting decisions. For appreciation of fact, facts in A.Y. 2011-12 are treated as lead case. In A.Y. 2011-12 both the parties have failed their respective grounds of appeals. The assessee in its appeal has raised following grounds:

"1. On the facts and circumstances of the case and in law, The Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs.25,25,208/- on account of purchase made by the assessee treating them as bogus non-genuine expenditure under section 69C of Income Tax Act.

2. On the facts and circumstances of the case and in law, The Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs. 25,25,208/- being 100% of purchases without considering that the corresponding sales have been offered to tax in return of income.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the additions made by the Ld. AO solely relying on the information received from investigation conducted by Sales Tax Authority and without conducting any independent inquires and application of his mind.

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the additions made by the Ld. AO without providing cross examination of the information relied upon by the Ld. AO which has been the primary base for making the said additions.

5. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in passing the assessment order without considering the documents and submissions submitted during the assessment procedure.

6. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the rejection of the books of accounts made by the Ld. AO under section 145(3) of the IT Act, 1961.

7. On the facts and in the circumstances of the case and in law, The Ld. CIT(A) erred in confirming the order passed by the Ld. AO under section 143(3) r.w.s 147 of income tax Act which is passed against the principal of natural justice

a. No reassessment can be made just to make an enquiry or verification

b. Reassessment proceeding cannot be initiate merely on the information received from investigation wing.

c. Reassessment proceeding cannot be initiated when the LD AO have reason to suspect and not reason to believe

8. On the facts and in the circumstances of the case and in law, The Ld. CIT(A) erred in confirming the charging of interest under section 234A, 234B & 234C of the Income Tax Act 1961.

9. On the facts and in the circumstances of the case and in law, The Ld. CIT(A) erred in confirming the charging of Penalty proceeding under 274 r.w.s. 271(1)(c) of the Income Tax Act 1961

10. The appellant craves leave to add further grounds or to amend or alter the existing grounds of appeal on or before the date of hearing."

2. Revenue in its appeal 6465/M/2025 has raised following grounds of Appeal;

"1. "Whether on the facts and circumstances of the case, Ld.CIT(A) is justified in directing the AO to verify the sales and closing stock details and restrict the disallowance to only the profit element despite the fact that the purchases were treated as bogus by the AO and upheld by the Ld.CIT(A)".

2. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in directing the AO to verify the sales and closing stock details and restrict the disallowance to only the profit element without considering the position of law established by the Hon'ble Apex Court in the case of N.K. Proteins Ltd, which has been recently followed by the Hon'ble Bombay High Court in the case of PCIT-5 Vs Kanak Impex (India) Ltd, ITA No. 791 of 2021 dated 03.03.2025 & PCIT vs DishaImpex Pvt Ltd dated 07.04.2025, that 100% disallowance on bogus purchase is upheld".

3. "The appellant craves leave to add, alter, amend or delete all or any of the aforesaid grounds of appeal"."

3. Rival submissions of both the parties have been heard and record perused. The Id. Authorized Representative (AR) of the assessee

submits that Assessee Company was in the business of trading of computing accessories. Case of assessee was reopened on the basis of information from sales and tax department Government of Maharashtra that assessee is one of the beneficiaries of purchases shown from hawala dealers. On the basis of such information case of assessee was reopened. The Assessing Officer while passing the assessment order made disallowance of entire purchase shown from Shubham Enterprises, Riya Trading Company Pvt. Ltd. and Eleven Impex. In A.Y. 2012-13, 2013-14 and 2014-15 the Assessing Officer made similar disallowance from the purchases shown from Banjara Enterprises, Daksh Enterprises and Karan Enterprises. The Assessing Officer while making addition solely relied upon the information received from investigation wing. During the assessment the assessee provided complete details of purchases to substantiate the purchase which includes invoices of purchases, payment proof through account pay cheque, details of bank account of suppliers. The books of assessee were duly audited. The goods purchase from suppliers was sold to the customers. The sales of assessee were accepted in all the years. Sale is not possible in the absence of purchases. The assessee has shown good gross profit (GP) in all the years ranging from 10% to 17%. The Assessing Officer rejected the books of account and made addition of 100% of purchases shown from such parties solely on the basis of information with the

Assessing Officer. No independent investigation of facts were carried out nor any opportunity of cross examination of hawala dealers was provided to the assessee. There are series of decision of Tribunal as well as jurisdictional High Court wherein it has been consistently held that sale is not possible in absence of purchases and in such cases only profit elements embedded in such type of disputed/ tainted purchases to the extent of the profit element embedded in such purchases could be added and not the entire purchases. The Id. AR of the assessee relied upon a series of decision and also filed his written strongly his submission and vehemently argued that only addition to the extent of profit element minus GP declared by assessee made be added and not the entire purchases. The Id. AR further submitted that revenue in its cross appeal has raised grounds of appeal that 100% addition to be sustained on the basis of decision of Kanak Impex Jurisdictional High Court in Kanak Impex in ITA No.791 of 2021 dated 03.03.2025. The ration decision in Kanak Impex (supra) is not applicable on the facts of present his case. In the Kanak Impex (supra), that assessee neither appear before the Assessing Officer nor substantiated the purchase as well as source of such purchases. However, in his case the Assessing Office not doubted the source. The assessee furnished complete details during assessment and provided reconciliation of sale *vis a vis* purchases. Thus, the facts of his case entirely different.

The Ld. CIT(A) in A.Y. 2011-12 directed that the assessee has included purchases in computing sales and closing stock then taxing on full amount of purchases under section 69C would result in double taxation and distortion of gross profit ratio and directed the AO to verify sale and closing stock details and restrict the disallowance only to the profit element. The direction given by Id. CIT(A) is not practically possible for compliance at this stage. Though, the revenue in its cross appeal has thus, raise plea that 100% purchase should be disallowed.

4. On the other hand, the Id. Sr. DR for the revenue submits that investigation wing carried out full-fledged investigation on the basis of information of sales tax department Government of Maharashtra. The assessee is discovered to be beneficiary of purchase shown from hawala dealers which were identified by Sales Tax Department. Hawala dealer were providing bogus entry without actual delivery of goods. The assessee failed to prove the movements of good by cogent evidence. The purchases were shown by assessee only to inflate the expenses. Thus, entire purchases shown from hawala dealers to be disallowed. In support of cross appeal by revenue in A.Y. 2011-12, the Id. Sr. DR for the revenue submit that jurisdictional High Court in Kanak Impex (supra) upheld similar addition to the extent of 100%. In all cases, the CIT(A) was same, however, he

passed different in first year and confirmed action of assessing officer in all other years.

5. In short rejoinder submissions, the Id. AR of the assessee submits that his case is quite different from the facts in the case of Kanak Impex as already explained, he has also filed detailed submission in differentiating the facts in Kanak Impex and his cases. Moreover, in subsequent decision after Kanak Impex (supra) the jurisdictional High Court restricted the similar disallowance to the extent of 15% in PCIT vs. Ramelex (P) Ltd. reported in (2025) 179 taxmann.com 374 (Bombay).
6. 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 documentary evidences furnished by assessee and various case laws relied in his written submissions. We find that during assessment, the Assessing Officer rejected the books of account as per finding Para 11 of assessment order by taking view that the purchases shown by assessee during the year remained unverifiable, there is possibility of revenue leakage. Therefore, books of account of assessee are hereby rejected to the extent of hawala purchases by invoking provision of section 145(3) of the Income Tax Act. The assessing officer made the 100% of disallowance of deposited purchases shown from Shubham Enterprises of Rs.5,64,316/- Ria Trading Company Pvt. Ltd. of

Rs.3,05,911/- and Eleven Impex of Rs.16,549,81/- Thus, aggregating of Rs.25,25,208/-. The Assessing Officer in Para 9 of his order noted that persons indulging in the practice of purchase of goods from Grey Market and obtain bogus bills of third parties to support the grey purchases of alleged qualification at genuine purchases to get the same benefit what would be the magnitude of benefit in this type of cases and hawala parties become conduit between the assessee and the sellers goods to inflict the price of goods. In other finding the Assessing Officer held that assessee produce certain details but could not prove beyond doubt that the transaction was genuine. The parties (hawala dealers) have given affidavit before Sales Tax Department that they have not supplied the goods and only bills were issued. Subsequent to the action of Sales Tax Department these parties (hawala parties) have closed their bank account and left the business premises from where bills were issued. The parties were only paper concern and were not having capacity to produce or to store such stock. The Assessing Officer made reference to case of N. K. Protein and disallowed 100% purchases. The Id. CIT(A) held that assessee has failed to establish actual delivery of goods. No confirmation was obtained from supplier. No delivery challan was furnished. Sales are not automatically validate purchases from specific parties.

7. We find that the lower authorities have relied solely on the information with investigation wing which was based on third party information. No independent investigation on various evidence furnished by assessee was carried out. The Id. CIT(A) in AY 2011-12 have gave direction for verification of sale and closing stock and to disallow only profit element in AY 2011-12. We find that about 15 years have passed and it may not be possible for assessee or for the Assessing Officer to verify sale and closing stock detail at this stage. We find that no finding was not given by lower authorities on the evidences furnished by assessee about purchase invoices and delivery challan. In AY the assessee has shown GP of 17.24%. Similarly for other subsequent year the GP of assessee is more than 10% the assessee has shown sales of Rs. 2.14 Crore and the impugned purchases from hawala dealers is only Rs. 25.25 lakhs which is about 11% of the total sales. Considering the overall facts of the case, we find that Assessing Officer made addition on account of bogus purchase solely relied upon the information of Sales Tax Department without giving any finding on the various evidences; in our view the reasonable disallowance of impugned purchases would be sufficient to avoid the possible of revenue leakage. Therefore, following the recent decision of Hon'ble jurisdictional High Court in PCIT vs Ram L. Ltd (supra) the disallowance made by AO and

conform by Id. CIT(A) is restricted to 15% of the alleged/ disputed bogus purchases.

8. So far as reliance by Id SR DR for revenue in case of Kanak Impex (supra), we find that facts of said case are not similar with the case in hand. In the present case the Assessing Officer has not doubted the source of purchases. Moreover, the assessee right from the beginning has taken a firm stand that his purchases are genuine and his has furnished details to substantiate purchases. However, in Kanak Impex the assessee has not contesting the remained proceedings moreover; source of investment/purchases was doubted by Assessing Officer right from the beginning. Considering the fact that we have restricted the addition of bogus purchases to the extent of 15% of impugned purchases shown from alleged hawala dealers therefore, the grounds of appeal raised by the assessee in AY 2011-12 is partly allowed and ground of appeal by revenue are dismissed.

9. In the result, the appeal of the assessee is partly allowed and the appeal of revenue is dismissed.

ITA No. 6298 to 6300/Mum/2025 (AY 2012-13 to 2014-15)

10. Considering the fact in ITA No(s) 6298 to 6300/Mum/2025, the assessee raised similar grounds of appeal as raised in appeal for AY 2011-12, which we have partly allowed in favour of the assessee, thus, following the principle of consistency the disallowance made

by Assessing Officer in all these years, are also restricted to the 15% of alleged purchases shown from alleged bogus/ hawala dealers. In the result, the grounds of appeal raised by the assessee are partly allowed.

11. In the result, all three appeals of assessee are partly allowed.

Sd/-

**GIRISH AGRAWAL
ACCOUNTANT MEMBER**

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 24/12/2025

Somya Sr PS

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai