

IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH MUMBAI

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 1672/MUM/2025
Assessment Year: 2011-12**

Vaibhav Nandkishor Patil, C-602, Patel Heritage, Sector, Kharghar Mumbai Maharashtra-410210 (PAN: AMXPP0196M)	Vs.	Income Tax Officer 3 (4), Kalyan, Mumbai Maharashtra -421301
(Appellant)		(Respondent)

Present for:

Assessee : Shri Mehul Shah, CA
Revenue : Shri Praveen Salunkhe, Sr. DR

Date of Hearing : 13.10.2025
Date of Pronouncement : 31.12.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of ADDL/JCIT(A), Panchkula, vide order no. ITBA/APL/S/250/2024-25/1073638541(1), dated 24.02.2025, passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") against the assessment order u/s. 143(3) r.w.s. 147 by ITO Ward 3(2), Kalyan, dated 23.02.2015, for Assessment Year 2011-12.

2. Grounds taken by the assessee are reproduced as under:

1. *On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in upholding action of the Assessing Officer in disallowing the entire alleged Bogus Purchases of Rs.15,47,224 without making any independent inquiry by treating the purchases as bogus in nature on mere suspicion that the parties were listed on website of MVAT*

Department as Suspicious dealers, and without appreciating the fact that the material sourced was in fact supplied/utilised in course of providing event management services at cost by way of reimbursement, and the Appellant in fact was entitled to and in receipt of fees for his services only.

2. Alternatively, on the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) while upholding action of the Assessing Officer in disallowing the entire alleged Bogus Purchases of Rs. 15,47,224 erred in not appreciating that what could at the best be disallowed was an appropriate profit percentage embedded in such sales, and not entire purchase.

3. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in upholding action of the Assessing Officer in disallowing various Expenses debited to Profit and Loss account on adhoc basis @ 20% amounting to Rs 56,569.

3. Brief facts of the case are that the assessee is engaged in the business of event management under his proprietary concern in the name and style of M/s. Evepro. Assessee filed his return of income on 25.09.2011, reporting total income at Rs. 7,31,202/-. Ld. AO received certain information from the office of DGIT (Inv.), Pune relating to Sales Tax Department, Mumbai which had unearthed racket involving more than 1935 hawala dealers engaged in issuing bogus invoices to allow traders to claim tax credit of Maharashtra Value Added Tax (MVAT). Based on this information, ld. AO noted that assessee is one of such beneficiaries who has inflated the purchase by obtaining bogus purchase bills from the hawala dealers. Details in this respect is tabled as under:

Name of hawala dealer	TIN of hawala dealer	PAN of hawala dealer	Amount of Bill (Rs.)
Adinath Enterprises	27880705721V	BXIPs3607M	15,47,224/-
		Total	15,47,224/-

3.1. Based on this information, proceedings under section 148 of the Act were initiated, alleging that purchase of Rs. 15,47,224/- are accommodation entries and not genuine which has escaped assessment. Notice under section 148 was issued on 05.04.2013.

Subsequently, statutory notices under Section 142(1) were issued on the assessee seeking explanation in this regard, which were duly complied with. Assessee submitted that it maintains regular, books of accounts which are subjected to tax audit. He filed audited financial statements along with tax audit report. Total sales reported by the assessee is of Rs. 60,42, 291/- on which he earned gross profit of Rs. 13,97,641 and net profit of Rs. 8,46,519/-.

4. Ld. AO observed from the submissions so made that assessee had reported purchases of goods worth Rs. 41,60,578/- out of which purchases of goods worth Rs. 15,47,224/- is alleged to be from the hawala dealer i.e. Adinath Enterprises, details of which are tabulated above. Assessee was asked to submit copies of bill, purchase vouchers, transportation and octroi payment receipts, stock register along with details of payment made in this respect. He also issued notice under Section 133(6) of the Act which was returned with the remarks "*Left/Not Known*". Assessee was also asked to furnish bank details of the supplier from whom he obtained the bills, to verify the bank account as well as to produce the supplier.

4.1. In this respect, assessee furnished the copies of invoices for purchases along with ledger account and the bank statements, evidencing the payment of purchase consideration to the supplier. He further explained that he runs an event management company which conducts events on behalf of his clients. Direxions Marketing Solutions Private Ltd. is one such client from whom a contract of organizing a cricket match was entered into. For this purpose, assessee purchased required sports equipment from Adinath Enterprises. For this entire material purchase, bills were raised in the name of Direxions Marketing on reimbursement basis. Since, Adinath Enterprises did not pay MVAT

collected from the assessee, he could not get the set off in the MVAT assessment. In respect of income-tax proceedings, he submitted that sales have been made which are not in dispute and therefore, the purchases alleged to be bogus in the form of accommodation entries is not tenable.

4.2. Ld. AO after taking into consideration the submissions made by the assessee concluded that assessee has inflated the purchases by obtaining bogus/non genuine bills. He thus, treated the purchases to the extent of Rs. 15,47,224/- as unexplained expenditure under section 69C of the Act and made the addition thereof.

4.3. On verification of P&L account, ld. AO further observed in respect of various claims of expenses that for some of the expenses, self-made vouchers are made and therefore, personal element cannot be ruled out. He accordingly, made an ad hoc disallowance of 20% of the total expenses to make an addition of Rs. 56,559/- under Section 37(1) of the Act. Details of expenses which were considered for applying 20% on ad hoc basis are as under:

<i>I) Telephone Charges</i>	<i>Rs. 38,238/-</i>
<i>II) Conveyance Charges</i>	<i>Rs. 81,755/-</i>
<i>III) Staff Welfare expenses</i>	<i>Rs. 30,306/-</i>
<i>IV) Office Expenses</i>	<i>Rs. 33,832/-</i>
<i>V) Travelling & Boarding</i>	<i>Rs. 51,275/-</i>
<i>VI) Sales Promotion Expenses</i>	<i>Rs. 47,390/-</i>
	<i>-----</i>
	<i>Total Rs.2,82,796/-</i>

5. Aggrieved, assessee went in appeal before the ld. CIT(A), who confirmed the addition/disallowance made by the ld. AO. Assessee made detailed submissions before the learned CIT(A) including an alternate proposition to restrict the disallowance in respect of purchases to an appropriate percentage of profit embedded in the same.

6. Before us, ld. Counsel for the assessee reiterated the facts already narrated above. He asserted that assessee is engaged in event management business and his income primarily consists of service charges for managing the events. Assessee is required to make purchases on behalf his clients which are billed directly to them with no profit. In this respect, he referred to the working wherein total sales and purchase were bifurcated into two segments of services and trading. This being the first year of business, there is no data available for preceding years in respect of gross profit and net profit for comparison. From this year's data, he pointed out that there is negligible gross profit earned from trading segment of total sales and purchases. He also referred to complete details with one-to-one co-relation made with purchases and corresponding sales to the clients. Same are placed in the paper book at Page 24 onwards and are extracted below for ready reference:

Mr VAIBHAV PATIL Prop: M/s EVEPRO

Annexure-1

Asst year 2011-12

Quantity Details for on Behalf purchases

Quantity Billed to Direxions Marketing Solutions Pvt Ltd

Sr.No	Name of Party	Bill Date	Item Description	Quantity	Date	Item Description	Quantity	SR No in Bill	
1	Adinath Enterprises	01.10.2010	T.Shirt Event Crew	600	14.12.10	T.Shirt Event Crew	300	8	
						.....".....	300	12	
	.....".....	05.10.2010	Event Crew CAP	600			Event Crew CAP	300	9
							.....".....	300	13
	.....".....	30.10.2010	Autograph Bat	6000			Autograph Bat	6000	21
						".....		
	.....".....	27.10.2010	Cap	30			Caps		
						".....		
	.....".....	18.10.2010	Cricket Cap	720			.....".....	800	17
						".....		
	.....".....	25.10.2010	T-Shirt	30			T-Shirt		
						".....		
	.....".....	18.10.2010	Cricket T-shirt	720			.....".....	800	16
						".....		
.....".....	22.10.2010	Whistle	6000			Whistle	6000	19	
					".....			
.....".....	20.10.2010	Wrist Band	720			Wrist Band	800	20	
					".....			
.....".....	16.10.2010	Cricket Pant	720			Cricket Pant	800	15	
					".....			
.....".....	13.10.2010	Spectator Cap	6000			Spectator Cap	6000	14	
					".....			
.....".....	09.10.2010	Utility Bag	6000			Utility Bag	6000	11	
					".....			
2	Dipal Arts	14.09.2010	I Cards	350		Badges	350	3	
			.....".....	Chest Stickers	900		Chest Stickers	900	4
			.....".....	certificates	360		certificates	360	5
			.....".....	Standee with flex banner	20		Standee with flex banner	25	7

Asst year 2011-12

Quantity Details for on Behalf purchases

Quantity Billed to Direxions Marketing Solutions Pvt Ltd

Sr.No	Name of Party	Bill Date	Item Description	Quantity	Date	Item Description	Quantity	SR No in Bill		
	.....".....	02.11.2010	Stickers mix	1000		Stickers mix	1000	30	
			.....".....	Certificates	20		Certificates	20	5
			.....".....	cones and flag stickers	300		cones and flag stickers	300	28 and 29
			.....".....	callouts	2200		Plac Card	2200	22
			.....".....	I Cards	150		Badges	150	18
		".....	03.11.2010	Chest Stickers	1050		Chest Stickers	1050	4
		".....	03.11.2010	certificates	420		certificates	420	5
		".....	30.11.2010	callouts	2800		callouts	2800	22
		".....		I Cards	150		Badges	150	18
			3	Ghanshyam Sport	14.09.2010	Cricket Ball	24		Cricket Ball	24	34
.....".....	Gear	15					Gear	15	35	
.....".....	Net	4					Net	4	33	
4	OM corporation	13.09.2010	Fabric	196		Pitch Cover	196	32		
5	Sadhana Coporation	27.12.2010	Sport Keychain	6000		Sport Keychain	6000	27		
			.....".....	Sport CUP Big	2		Sport CUP Big	2	24
			.....".....	Sport CUP Medium	2		Sport CUP Medium	2	25
			.....".....	Sport Trophy Big	10		Sport Trophy Big	10	23
			.....".....	Sport Acrylic Trophy (Medium)	166		Sport Acrylic Trophy	166	26

6.1. He thus, contended that since sales are not in dispute, there cannot be sales without purchases, and therefore, treating part of purchases as bogus is not tenable and devoid of factual position. According to him, even if the contentions are not accepted, then at best what can be added is the profit element in such alleged purchases. It was also submitted that assessee has established the identity, credit worthiness of the supplier, as well as genuineness of the transaction. In this respect, reference was made to the MVAT Registration Certificate which identifies the supplier. To further establish the credit worthiness and genuineness, he referred to other documents like delivery challan, bank details, tax invoices, PAN etc. which were all placed on record. According to the learned counsel, the addition is based primarily on information received from the MVAT Department without bringing any tangible material on record to allege the purchases made by the assessee as bogus.

7. Per contra, ld. DR relied on orders of the authorities below and asserted that the addition so made is rightfully done as assessee failed to furnish the required details.

8. We have heard both the parties and perused the material on record. Assessee has claimed to be engaged in the business of event management whereby certain purchases are required to be made on behalf of the clients for whom he manages their events. According to him, purchases made are directly billed to the clients on a cost-to-cost basis without any mark-up. For this, details in respect of one-to-one mapping of purchases so made and corresponding sales are placed on record along with corroborative documentary evidence in the form of purchase orders, purchase invoices as well as relevant sales invoices, delivery documents which includes transport bills from Blue Dart

Express Limited and travel bills for travel made by the assessee for managing the events of his clients. Assessee has also placed on record certain photographs of events managed by him to demonstrate he is actively engaged in the business of event management for his clients.

8.1. On the documentary evidence placed on record by the assessee as narrated above, ld. AO did not point out any discrepancy or deficiency in the same. Except for issuing notice under section 133(6) of the Act, no further exercise was undertaken by the ld. AO to examine and verify the information received alleging purchase made by the assessee as bogus. In this respect, ld. AO only mentions that notice under section 133(6) were issued on the hawala dealers without specifying exact details in respect of when and on whom the same were issued. Ld. AO has placed his reliance on the information received from the MVAT Department. Nothing more concrete has been brought on record to taint the purchases made by the assessee as bogus.

8.2. We note that ld. AO has made the addition in respect of one supplier who was declared as hawala dealer by the MVAT Department. Information in this respect received by the AO needs further corroboration and investigation so as to come to a logical conclusion for tainting the purchase as bogus in the hands of the assessee. However, approach adopted by the ld. AO appears to be half-hearted, making it more of suspicion based rather than fact based. Assessee demonstrated with tangible evidence that transportation of goods to the clients site took place through Blue Dart Express Limited. He also placed on record his own travel related documents and made one-to-one correlation of purchases and sales made by him, which have been perused. These details have not been disputed by the authorities below by pointing out any discrepancy or deficiency in the same. In this respect, it is

important to note that the sales side has not been disputed or disregarded, which cannot happen unless corresponding purchases have been made for which assessee has provided one-to-one correlation for each of the item along with purchase and sales invoices. Further, assessee maintains regular books of accounts which are subjected to tax audit and no qualification has been made by the auditor in respect of books of accounts so maintained by the assessee. Addition made by the ld. AO treating purchases from one party as bogus is based merely on the basis of information received from the MVAT Department without any corroboration.

8.3. Considering the entire factual matrix and documentary evidence placed on record along with the detailed submissions, we delete the addition so made by the ld. AO in respect of purchases made from Adinath Enterprise, amounting to Rs. 15,47,224/-. Ground nos. 1 and 2 raised by the assessee in this respect are allowed.

9. In respect of ground no. 3 whereby it is contended that ld. AO has made disallowance of various expenses on ad hoc basis at the rate of 20%, is without any basis. According to the assessee, the said disallowance has been made merely by holding that certain personal element cannot be ruled out while incurring these expenses. Details of various expenses out of which this ad hoc disallowance has been made is already listed above. Ld. AO has not brought anything cogent on record to demonstrate the existence of personal element in these expenses incurred by the assessee except for noting that there are some self-made vouchers which are not verifiable. Also, in respect of these observations, there is no quantification by the tax auditor to take an adverse view. It is important to note that assessee maintains regular books of accounts and is subjected to tax audit and no adverse

qualification has been made by the auditor. Accordingly, the approach of ld. AO by making an ad hoc disallowance without pointing any deficiency is not tenable. The disallowance so made is thus deleted. Ground no. 3 in this respect is allowed.

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

Order is pronounced in the open court on 31st December, 2025.

Sd/-
(Pawan Singh)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 31st December, 2025

Rajat, P.S.

Copy to:

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai