

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER
AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1774/AHD/2025
Assessment Year:2019-20**

Espee Pharma Chem Pvt Ltd, C/o Ketan H. Shah, Advocate 512, Times Square – I, opp. Ram Baug Bangalow, Thaltej Shilaj Road, Thaltej, Ahmedabad – 380059 [PAN –AAACE8706E]	Vs.	Income Tax Office, Ward 2(1)(1), Ahmedabad - 380015
(Appellant)		(Respondent)
Assessee by	Shri Ketan Shah & Shri Aman Shah, ARs	
Revenue by	Shri Ashok Kumar Suthar, Sr. DR	
Date of Hearing	05.01.2026	
Date of Pronouncement	13.01.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'CIT(A)'], dated 17.09.2025 for the Assessment Year (A.Y) 2019-20 in the proceedings u/s 147 of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed its return of income for the A.Y. 2019-20 on 11.10.2019 declaring total income of Rs. 2,98,50,300/-. The case was reopened on the basis of information flagged on the Insight Portal of the department that the assessee was

beneficiary of bogus purchase of Rs. 42,95,000/- from one M/s. Biotavia Labs Private Limited. Accordingly, the Assessing Officer had recorded his reason and reopened the case by issue of notice under Section 148 of the Act on 19-04-2023. In the course of assessment proceeding, the assessee had produced evidences for purchase of Rs. 42,95,000/- made from M/s. Biotavia Labs Private Limited. However, the AO was not convinced with the documentary evidences filed by the assessee and he treated the purchase as bogus and accordingly made addition of Rs.42,95,00/- under Section 69C of the Act. The assessment was completed under Section 147 of the Act on 26-03-2025 at total income of Rs.3,41,45,300/-.

3. Aggrieved with the order of the assessing officer, the assessee had filed an appeal before the First Appellate Authority, which was decided by the Learned CIT(A) vide the impugned order and the appeal of the assessee was dismissed.

4. Now the assessee is second appeal before us. The following grounds have been taken in this appeal:

The grounds are without prejudice to one another

The Lower Authorities have erred on facts as well as law.

1. *In assuming jurisdiction U/s 148 of the Income Tax Act by issuing notice for the AY 2019-20, it is said that the whole proceedings are bad in law and void ab initio.*

2. *In assuming jurisdiction U/s 148 of the Income Tax Act by issuing notice for the AY 2019-20 dated 19-04-2023 by JAO, it is submitted that the issuance of notice u/s 148 by JAO is illegal in light of provisions of section 151A of the Act, thereby making the entire proceedings and resultant impugned orders void ab initio.*

3

3. In confirming the addition made of Rs. 42,95,000/- towards bogus purchase u/s 69C by passing an order u/s 148 of the Act, without providing the approval granted u/s 151, it is said that the whole proceedings are void-ab-initio illegal and contrary to law and facts.

4. In assessing the total income of the assessee for the AY 2019-20 at Rs. Rs. 3,41,45,300/- as against the returned income of Rs. Rs. 2,98,50,300/-, thereby making an addition of Rs. Rs. 42,95,000/- u/s 69C of the Act, it is stated that the addition is illegal and unwarranted, on facts as well as on law

5. In passing the order dated 26-03-2025 and the CIT(A) erred in confirming the same vide order dated 17-09-2025 confirming the addition of Rs. 42,95,000/- towards bogus purchase, it is submitted that the assessee has discharged the onus lies upon him and therefore, the addition is required to be deleted.

6. The CIT(A) erred in passing a summary order dated 17-09-2025 without giving any reason and passing cryptic order and therefore, the order passed is non-application of mind and liable to be quashed.

7. In confirming / making the impugned addition on account of alleged so-called bogus purchase u/s 69C of Rs. 42,95,000/- without affording an opportunity of cross-examination with the party whose statements have been used against the appellant.

8. That, without prejudice, the addition relating to bogus purchase u/s 69C, if any, should be curtailed to the profit element in it and not the entire amount of purchase which has been done in the present case, it be held as such and the additions be deleted to that extent.

9. The AO erred in passing the impugned order dated 26-03-2025 u/s 147 and the CIT(A) erred in confirming the same vide order dated 17-09-2025, it is submitted that the proper provision applicable would be 153C and not 148 and therefore, the impugned order is bad in law and void.

10. In not appreciating voluminous submissions made before the AO and CIT(A) whereby entire purchase transaction in question was duly substantiated through evidences along with the forward sale details, it is said that the AO and the CIT(A) ought to have accepted the same. It be held as such and order be quashed.

11. The appellant craves leave to add, amend, alter or delete any or all grounds in the interest of justice.

5. The first three grounds taken by the assessee pertain to reopening of the case and assumption of jurisdiction under Section 148 of the Act. In the course of hearing Shri Ketan Shah, Ld. AR of the assessee, did not press these grounds. Hence, the ground number 1 to 3 as taken by the assessee are dismissed.

6. Ground number 4 to 7 pertain to addition of Rs. 42,95,000/- made on account of bogus purchase. Shri Ketan Shah, Ld. AR of the assessee explained that the assessee has brought on record all evidences to establish that the purchase of the assessee was genuine. The invoice in respect of this purchase, transportation documents, payments made by the assessee, confirmation of the opposite party, as well as the evidence for sale of the items corresponding to this purchase, we are all brought on record to establish the genuineness of the purchase. The Ld. AR submitted that the AO did not give any reason as to why the evidences filed by the Assessee was not found satisfactory. He explained that the only reason mentioned by AO was that M/s. Biotavia Labs Pvt Ltd. did not give reply to notice u/s 130(6) issued by the AO in the course of assessment proceedings. When this fact was brought to the notice of the assessee, a request was made to depute the inspector to verify the factual aspects. Further the AO was also requested to provide an opportunity to cross-examine the party, which was not allowed. The Ld. AR submitted, considering the evidences brought on record, there was no reason to treat the purchase of Rs. 42,95,000/- as bogus.

7. Per contra, Shri. Ashok Kumar Suthar, Ld. Sr. D.R submitted a survey was conducted in the case of M/s Biotavia labs pvt ltd, In the

course of which statement of one Shri. AlkeshBhai Bhavsar, who had admitted that this concern was credited to book bogus sale/purchase and there was no actual movement of goods. In view of this categorical admission of the seller, the purchase made by the assessee from the said concern was treated as bogus. He further submitted that M./s Biotavia labs pvt. Ltd. did not respond to the notice u/s 133(6) of the Act, issued by the AO in the course of assessment proceedings. He therefore, strongly supported the order of the Lower Authorities.

8. We have carefully considered the rival submissions. There is no dispute to the fact that the assessee had made purchases of Rs. 42,95,000/- from M/s. Biotavia lab pvt. Ltd. From the copy of the invoice dated 21st November 2018, it is found that the assessee had purchased 400 kg of azithromycin IP. The assessee has also brought on record a copy of the E-Way Bill for the transport of the goods purchased from Biotavia lab pvt. Ltd. from New Delhi to Ahmedabad. It is found that the goods were transported by Lalji Mulsi Transport, and the evidences for transport of the materials was brought on record. The assessing officer did not make any provision in respect of the transportation documents brought on record by the assessee. A copy of the bank statement in support of the payments of the purchase has also been brought on record. The assessee has also filed a copy of the bank statement of M/s. Biotavia lab pvt. Ltd. to establish the genuineness of the payments. It is found that therefrom, there is no cash withdrawal or any transfer immediate after the payment made by the assessee so as to brand the transaction as accommodation entry. The assessee has also filed the details in respect of the sale of Azithromycin IP purchased

from Biotavia lab pvt. ltd., which are all after the date of purchase. Considering the evidences brought on record, the purchase of Rs 42,95,000/- made by the assessee from Biotavia lab pvt. ltd. could not have been treated as bogus. A confirmation of Biotavia lab pvt ltd. was also brought on record by the assessee. The assessing officer has not given any reason in the assessment order as to why the evidences filed by the assessee in support of the purchase were not found satisfactory. The only reason given by the AO is that no reply was received from Biotavia Labs Pvt. Ltd. in response to notice u/s 133(6) issued to the said party. The assessee has brought on record a response dated 13.03.2025 whereby the AO was requested to depute the inspector to verify the factual aspects. The submissions made by the assessee in this respect is found to be as under:

“In reference to the aforesaid matter, we rely upon our earlier submissions and further request to kindly provide cross-examination and statements of authorized persons of M/s. Biotavia Labs Pvt. Ltd. as per para 2.4 of your present notice. In reference to 133(6) dated 19.03.2024, we request that kindly send inspector to the said premises and verify the factual aspect. We have not taken any accommodation entry nor any evidences provided by you even though specifically requested for therefore, there is no question of making any addition. Further the 148 notice issued dated 19.04.2023 is issued by JAO, which is impermissible as per settled law.”

9. From the facts as discussed in assessment order we do not find any evidence for accommodation entry taken by the assessee in the

present case. Merely because a general statement for providing accommodation entry was given in the course of survey conducted in the case of M/s. Biotavia Labs Pvt. Ltd., all the transactions made by that concern cannot be treated as accommodation entry. The evidence for accommodation entry has to be brought on record in each and every case. In the present case the assessee had establish that the purchases were genuine by bringing on record the copy of invoice, transportation documents, payments details as well as evidence from the said party. Considering these facts there was no reason to treat the purchase made by the assessee from M/s. Biotavia Labs Pvt Ltd. as Bogus. Therefrom the addition of Rs. 42,95,000/- made by the AO on account of bogus purchase is deleted. The grounds taken by the assessee are allowed.

10. Ground No. 8 was an alternative ground which is not required to be adjudicated in view of our decision in respect of ground No. 427, hence, the ground is dismissed. Ground No. 9 and 10 were not pressed by the learned counsel in the course of hearing hence, these grounds are dismissed.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Court on 13/01/2026 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Sd/-
(NARENDRAPRASAD SINHA)
Accountant Member

TRUE COPY

Dated - 13th January, 2026
N.K

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

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

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad