

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K(SMC)", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**I.T.A No.6284/Mum/2024
(Assessment Year: 2011-12)**

Income Tax Officer W-42(2)(3), Mumbai 7 th Floor, Room No-719, Kautilya Bhavan, BKC, Bandra	vs	Javerilal Dalichand Bhansali Office No.3,35, Pandya House, 2 nd Carpenter Street C.P. Tank, Maharashtra-400004 PAN : AFZPB2388G
APPELLANT		RESPONDENT

Assessee by : Ms. Riddhisha Jain & Mr. Karan Jain (virtually)
Revenue by : Shri Bhagirath Ramawat (SR DR)

Date of hearing : 05/01/2026
Date of pronouncement : 13/01/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the revenue filed against the order of the Ld. Commissioner of Income-tax-(Appeals) Addl/JCIT-A3-Delhi [for brevity, 'Ld.CIT(A)'] under section 250 of the Income-tax Act, 1961 (for brevity, 'the Act') for the Assessment Year 2011-12, date of order 01/10/2024. The impugned order was emanated from the order of the Learned Income-tax Officer 20(2)(1), Mumbai

(for brevity, 'the Ld.AO') order passed u/s143(3) r.w.s. 147 of the Act, date of order 27/12/2016.

2. The revenue has taken following grounds:

1. *"On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs. 8,51,329/- being 1% of bogus sales of Rs. 8,51,32,913/-, as nothing but an accommodation entry duly admitted by the assessee."*

2. *"On the facts and circumstances of the case and in law, the Ld.CIT(A) has failed to appreciate the fact that during the enquiry conducted by the DDIT(Inv.), statement of the assessee was recorded u/s. 131 of the Income Tax Act, 1961, wherein the assessee, himself, admitted that he was indulged in providing accommodation entries of sale and purchase."*

3. *"On the facts and circumstances of the case, the Hon'ble ITAT is requested to entertain this appeal, though, the tax effect is below the monetary limit prescribed in the CBDT Circular No. 5/2024 dated 15.03.2024 but the case falls within the exceptions laid down in clause (h) of Para 3.1 of the Board's Circular no. 5/2024 dated 15.03.2024."*

4. *"The appellant crave leave to amend or alter or add a new ground which may be necessary."*

3. The brief facts of the case are that the assessee filed the return and declaring total income Rs.6,69,040/-. As per the report of the DDIT (INV) the statement of the assessee was recorded under section 131 and assessee stated the the assessee has two types of business that is the actual business of trading of iron and steel and another business providing accommodation bills to parties in which bills are received and issued through broker without any actual delivery of the goods. The assessee also conceded that the commission was charged @.5% to @1% for providing the accommodation entries. The Ld. AO determined the purchase to the extent of Rs.8,31,92,582/- and calculated commission at the rate of 1% on the purchase which comes to Rs.8,31,925/- and also the sale to the extent of Rs.8,51,32,913/- and calculated commission at the rate of 1% of the

bogus sale which comes to Rs.8,51,329/-. Both the commission amounts of Rs.8,31,925/- and Rs.8,51,329/- were added back with the total income the assessee. The aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) relying on the order of Coordinate Bench of ITAT, Mumbai in the assessee's own case for assessment year 2010-11 bearing **ITA No.4578 & 4885/Mum/2017** restricted the addition to the extent of 1% on alleged purchase. But related to addition of commission on sale was duly deleted by the Ld. CIT(A). Being aggrieved revenue filed an appeal before us.

3. Ld. DR argued and stated that the assessee is already conceded in recorded statement U/s 131 of the Act for providing accommodation entry to the parties. So both the purchase and sales entries are considered as a bogus. The Ld. AO in correct understanding calculated the commission @1% both on purchase and sale of the assessee related to this accommodation entry business. He invited our attention in assessment order para 3 which is reproduced as below:

"3. An open enquiry and inspection of books was conducted DDIT (Inv) on 14-12-2012. Statement of the assessee was recorded u/s131 of the Income Tax Act, 1961. The assessee admitted that the assessee has indulged in two kind of business activities Le. the actual business of trading of iron and steel and providing accommodation bills to parties in which bills are received and Issued through broker without any actual delivery of goods. The assessee explained modus operandi of the non genuine business carried out. He stated that the brokers approach him with some sales bill of other concern (the bogus/Hawala parties) in the name of his proprietary concern M/s Sunil Metal(India) and ask him to issue sales bill corresponding to these bills in the name of other concerns. The sale and purchase parties in such transaction are known to the broker only. Further the assessee stated that these broker provide cheque from the sale parties in the name of M/s Sunil Metals (India) and receive cheque issued by M/s Sunil Metal (India) in the name of bogus concern. The cheques are deposited in bank and the issued cheques are cleared from the account. Generally the sales bills are issued at a slightly higher amount as mentioned in purchase bills and as a result amount deposited in the account is greater than the amount of cheque issued. The difference in the sale and purchase bills amounts is the profit/brokerage in this business of providing accommodation bill which remains in the

account of the concern. The assessee admitted in his statement that the commission is charged is of 0.5 to 1%. The relevant portion of the statement of the assessee recorded at the time of enquiry is reproduced hereunder:

"Ans: (to question no.17) Sir, I want to clarify that I am involved in two type of business activities Le. one in which real business is done and material is actually delivered and other in which only bills are received and given without any actual delivery of material and which is done through a broker. On the purchase bills pertaining to actual business, there is stamp of payment and cheque no is mentioned on the same However, there is no stamp of payment or cheque no is not mentioned on the purchase bills of bill-issuing business activity because in this case I give the cheque for purchase bills corresponding to cheque received for bill issued and this process is completed in very small time with the help of broker. Apart from this there is lack of manpower with us, therefore, stamp of payment and cheque number could not be mentioned on the sale purchase bills pertaining to broker."

3.1 The analysis and evidences as gathered by the investigation wing also reveals that the assessee's purchases are non-genuine to the extent of Rs.8,31,92,583/- for the A.Y. 2011-12 and sale to the extent of Rs.8,51,32,913/-. The assessee was asked to submit the details of sales made to various parties corresponding to the 45 parties (for period F.Y.2006-07 to 2012-13) as found during the statement. The assessee admitted that all the transactions with these 45 concerns are only paper transactions without any actual dejn of material/goods. He was unable to provide the details of the sales made tovarious parties corresponding to purchases made from these 45 parties. Thus, the quantification was not provided by the assessee. At Qus.23 of the statement the assessee stated Sir, it will take time to provide that I have issued one sale invoice against two or more purchase invoices or I have issued sale invoice to more than one party against one purchase invoice. Therefore, I request you to provide me time of seven day for submitting these details.

However, the assessee submitted vide letter dtd. 28/1/2013 that he is unable to provide the details of sales made to various parties corresponding to purchases.

3.2 The bill to bill mapping was made by the investigation Wing of these 45 parties on the basis of back up of books of accounts. From the analysis of data backup, the business of providing the accommodation bill was quantified. The purchase of Rs. 8.31.92.583/-and sale of Rs.8,51.32,913/- was quantified as bogus.

3.3 During the assessment proceedings, it was brought to the notice of AR that the assessee has admitted the business of issuing accommodation bills for 0.5 to 1% of commission. Further it was asked to show cause as to why commission of 1% on the entry provided of sale and

purchase, should be added to the income. To this the assessee submitted that vide letter filed on 30/3/2016 that

At the outset it is vehemently submitted that no addition can be made on account of commission as assessee has nowhere stated to have earned commission on sale and purchases. A reading of last line of question no. 17 to statement your good self will appreciate that assessee has stated to have earned gross profit of 0.5% to 1%. Here it is pertinent to mention that the same is embedded in the sales made.

Our aforesaid contention is further fortified by question no.6.6 & 6.7 to the statement wherein he has stated to have earned GP of Rs.97,00,739 from AT 2006-07 to AY 2012-13 and nowhere stated to have earned commission. Therefore again addition on a/c of commission will amount to double taxation of the same income which is not only against the principle of natural justice and law but against the IT Act.

In view of the above facts and circumstances it is submitted that addition cannot be made on account of commission as assessee has nowhere declared that he has earned commission on sales and purchases. He has categorically stated during the course of recording of statement that he earned gross profit on sale and purchases made.”

3.4 The contention of the assessee is considered. The assessee objected on the term 'commission'. His another point is the gross profit from the business of issuing accommodation bill is 0.5% to 1%. On this background, the facts are put logically.”

4. The Ld. DR further stated that the Ld. CIT(A) wrongly asserted the fact of the Coordinate Bench of the ITAT Mumbai in assessee's own case for F.Y.2010-11. He invited our attention in para 6 of the said order of the Coordinate Bench of ITAT Mumbai in **ITA No.4578 & 4885/Mum/2017** date of order **16.12.2018**. The relevant para 6 is reproduced as below:

“6. From the record, we found that assessee is a dealer of ferrous and non-ferrous metals. During the year under consideration the AO got information from the DGIT (Investigation) regarding assessee having purchased the goods from the suspicion dealers. Accordingly, assessment was reopened and AO made addition of 12.5% of such purchases which was reduced by the CIT(A) after considering assessee's contention to the extent of 3.24%. From the record, we found that before the AO assessee has filed all the details, confirmation from the parties, quantitative statement of purchases and sales. Thus, corresponding sales of alleged purchases are not in dispute which is quite evident from the quantitative tally filed before the

AO. We also found that during the year under consideration, assessee has declared GP rate which commensurate with the G.P. rate of traders engaged in trading of ferrous and non-ferrous metals. Making further addition of 3.24% would be excessive. Therefore, considering the totality of facts and circumstances of the case, we direct the AO to restrict the addition to the extent of 1% of the alleged purchases to cover loss of Revenue if any.”

5. The Ld. AR contended that the assessee should not be subjected to double taxation on both sales and purchases. It was submitted that the assessee has already conceded to having provided accommodation entries and that the commission earned thereon was charged over and above the gross profit, thereby resulting in double taxation. Accordingly, it was argued that the addition, if any, ought to be restricted only to the purchase side. In support of this contention, strong reliance was placed on the order of the Ld. CIT(A).

6. We have heard the rival submissions and perused the material available on record. On an examination of the factual matrix, we find that the assessee has unequivocally admitted to providing accommodation entries during the impugned assessment year. It was further stated that the assessee had charged commission at the rate of 0.5% to 1% on such accommodation entries. The Ld. AO, in fact, accepted the commission rate of 1% as declared by the assessee himself. The entire accommodation entry business constitutes a bogus transaction executed without actual delivery of goods. Accordingly, the Ld. AO rightly computed the commission income on both the purchase and sale sides of the accommodation entry transactions. The assessee has relied upon the order of the Coordinate Bench of the ITAT in its own case; however, in that case, the assessee had furnished confirmations from the parties, the purchases were not disputed, and

the same was corroborated by a quantitative tally filed before the Ld. AO. Moreover, in the earlier year, the assessee had not admitted to having carried out any such bogus transactions. We, therefore, find that the said order of the ITAT, Mumbai Bench, is factually distinguishable. In our considered view, the Ld. CIT(A) erred in mechanically applying the order of the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case, without appreciating the distinct facts of the present year. Consequently, we uphold the order of the Ld. AO and set aside the order of the Ld. CIT(A). Accordingly, the grounds raised by the revenue are allowed.

7. In the result the appeal of the revenue bearing **ITA No.6284/Mum/2024** is allowed.

Order pronounced in the open court on 13th day of January, 2026.

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 13/01/2026
Saumya

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,
(Asstt. Registrar), ITAT, MUMBAI