

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 4415/MUM/2025 (AY : 2009--10)
(Physical hearing)

Niraj Pravinchandra Doshi Gr. Floor, Shreeji Kripa Building, 9, Kumbhar Tukda, Bhuleshwar, Maharashtra – 400004. [PAN No. AABPD1392D]	Vs	ITO, Ward-19(2)(4), Mumbai Room No. 609, Piramal Chambers, Lalbaug, Mumbai, Maharashtra – 400012.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Devendra Jain, Advocate
Revenue by	Shri Rajesh Sakhardande, Sr. DR
Date of institution of appeal	07.07.2025
Date of hearing	20.01.2026
Date of pronouncement	20.01.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the assessment order of Id. CIT(A), ADDL/JCIT(A)-1, Noida dated 12.06.2025 for Assessment Year (AY) 2009-10. The assessee has raised the following grounds of appeal:

"1. In the facts and circumstances of the case and in law, the Learned CIT (Appeals), Addl/ JCIT(A)-1, Noida has erred in upholding the action of the Ld. Assessing Officer in initiating the reassessment proceedings under section 147 merely on the basis of borrowed satisfaction and without any tangible material.

2. In the facts and circumstances of the case and in law, the Learned CIT (Appeals), Addl/ JCIT(A)-1, Noida has erred in upholding the action of the Ld. Assessing Officer of completing the assessment u/s 143(3) read with section 147, without providing any opportunity of cross examination of the witnesses relied upon by the Assessing Officer and thus violating the law laid down by Honorable Supreme Court in the case of Kishanchand Chellaram v. CIT (1980) 125 ITR 713 and Andaman Timber Industries v. Commissioner of Central Excise (Civil Appeal No. 4228 of 2006.)

3. In the facts and circumstances of the case and in law, the Learned CIT (Appeals), Addl/JCIT(A)-1, Noida has erred in upholding the Assessment Order without considering the appellant's submissions and without giving the

opportunity of personal hearing in gross violation of the principle of Natural Justice.

4. In the facts and circumstances of the case and in law, the Learned CIT (Appeals), Addl/ JCIT(A)-1, Noida has erred in confirming addition of Rs. 39,16,983/- being 12.5% of the alleged Bogus Purchases of Rs.3,13,35,863/- merely on surmises and conjectures.

5. The appellant craves leave to add, alter, delete or modify all or any of the above grounds of appeal. All the above grounds are without prejudice to each other."

2. Rival submissions of both the parties have been heard and record perused. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that though, he has raised additional ground of appeal vide application dated 10.09.2025, however, he is not pressing such additional ground of appeal. Further, he is also not pressing ground no. 1 to 3 of appeal and pressing only the main ground of appeal which relates to estimated addition on account of bogus purchases. The Id. AR of the assessee submits that assessee is a trader of ferrous and non-ferrous metals. The case of assessee is reopened on the basis of information received from DGIT (Inv.) that assessee is one of the beneficiary of bogus purchases from six parties which were allegedly indulging in providing bogus entry of purchases without actual delivery of goods. It was also informed that some survey action was carried out by ITO, Mumbai – 1 dated 17.11.2012. On the basis of such information, the purchases of assessee from six parties aggregating to Rs. 313 crores were treated as bogus. The 80.00% of purchases of assessee are from such six parties. During the assessment, the assessee furnished confirmation of Tej Corporation and Hari Om Traders, copy of which is already placed on record at page no. 3 to 7 of paper book. The assessee also

furnished ledger account, purchase invoices and delivery challans, bills and payments were made through banking channel. The material purchased by assessee was sold to the subsequent buyer. The sale of assessee was not disputed. It is settled position in income tax proceeding that unless sale is not disputed purchase cannot be treated as bogus. The assessee has furnished in the details of material supply which is at the distance of a kilometres from the go downs of assessee which is mainly in the area of Gulalbari, CP Tank and nearby area. The assessing officer instead of giving any finding on various evidences furnished by assessee; solely relied upon the information with the assessing officer and made 12.5% of such purchases. The assessing officer accordingly added Rs. 39,16,983/- on account of bogus purchases. The Id. CIT(A) confirmed the action of assessing officer in a cryptic order by holding that notice under section 133(6) to such parties remain unserved. The Id. AR of the assessee submits that books of assessee was not rejected. The addition made by assessing officer is without any basis moreover, the estimation of addition has no basis. The assessee has also shown good gross profit. The profit in the trade of assessee is not more than 3.00-4.00%. the Id. AR of the assessee submits that addition is not liable to be sustained as the assessee has discharged his primary onus in proving the purchases. In alternative submission, the Id. AR of the assessee submits that in a recent decision, SMC Bench of Mumbai Tribunal on similar disallowances restricted the addition to the extent of 5.00% of similar purchases in ITO vs Khimchand Okchand Bhansali in ITA No. 6546, 6549 & 6779/M/2024. So in the worst

position the disallowances may not be exceeds to 5.00% of the impugned purchases

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the Revenue submits that assessee is beneficiary of bogus purchases. The Income Tax Department as well as said Sales Tax Department made full-fledged investigation about the entry provider who are issuing bogus bill without actual delivery of goods. The assessee is one of the beneficiary of such entries. The assessee failed to prove the actual delivery of goods. The lower authorities have made from reasonable disallowances. Therefore, appeal of the assessee may be dismissed.
4. I have considered the rival submission of both the parties and gone through the orders of lower authorities. I find that assessing officer made addition of 12.5% of purchases shown from six parties. The assessee has shown aggregating purchases of Rs. 3.13 crores from such six parties. I find that the stand of assessee throughout the proceeding is that the purchases are genuine and payments are made through banking channel. I find that assessing officer has not examined the facts if there is circular transaction in the bank of the assessee. Similarly, the sale of assessee is not disputed. The book profit of assessee were also not disputed. Mere return of notice under section 133(6) is not sufficient to treat the entire purchases as non-genuine. I find that assessee has also filed confirmation of two parties. The assessing officer has not taken cognisance of such confirmation.
5. Before me, the Id. AR of the assessee relied upon the decision of Mumbai Tribunal in ITO vs Khimchand Okchand Bhansali (supra). In the said case, the

assessing officer made addition of Rs. 12.5% of similar purchases. However, on appeal before Id. CIT(A), the additions were restricted to 4.00% disputed / the alleged bogus purchases. However, on appeal by Revenue before Tribunal, the estimation of profit was increased to 5.00% in place of 4.00%. Thus, considering the nature of purchases and the fact that sales of assessee was not disputed, I find that estimation @ 12.5% is on higher side, therefore, following the decision of co-ordinate bench in ITO vs Khimchand Okchand Bhansali (supra), the addition is restricted to 5.00% of total impugned purchases of Rs. 3,13,35,863/-. To be more specific, the disallowance of impugned purchases is restricted to Rs. 15,66,800/- (round figure).

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

Order pronounced in the open Court on 20 /01/2026.

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 20/01/2026

Biswajit

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