

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

ITA No. 3483/Mum/2025
Assessment Year : 2011-12

D.G. Exports, DC-7221, 7222, 7223, 7230 & 7240, 7 th Floor, Central Wing, Bharat Diamond Bourse, Bandra Kurla Complex, Bandra (East), Mumbai-400051. PAN : AAAFD4694B	vs.	Deputy Commissioner of Income Tax-23(1), 511, 5 th Floor, Piramal Chamber, Lalbaug, Parel, Mumbai-400012.
(Appellant)		(Respondent)

For Assessee :	Shri Devendra Jain
For Revenue :	Shri Annavaran Kosuri, Sr.DR

Date of Hearing :	27-11-2025
Date of Pronouncement :	27-01-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 28-03-2025, pertaining to Assessment Year (AY) 2011-12.

2. Briefly stated facts of the case are that the assessee filed its original return of income on 16-08-2011, which was processed u/s. 143(1) of the Income Tax Act, 1961 ('the Act'), thereafter, the case of the assessee was reopened u/s. 147 of the Act, basis information received from DGIT (Inv.), Mumbai that the assessee has taken certain accommodation entry from Bhanwarlal Jain Group amounting to Rs. 4,06,38,798/-. In response to notice u/s. 148 of the Act, the assessee filed its return of income and thereafter, notices were issued calling for the necessary information and documentation, but the same were not found acceptable, the AO brought to tax an amount of Rs. 4,06,38,798/-, treating the purchases claimed by the assessee as bogus in its entirety and assessed the income at Rs. 4,35,31,620/- vide order passed u/s 147 r/w 143(3) dated 06/12/2018.

3. The assessee carried the matter in appeal before the Ld.CIT(A), who has since sustained the said order and findings of the AO, stating that the Investigation Wing, Mumbai has brought up facts to claim that the said companies from which the assessee has made the purchases are only shell entities i.e., entity created only for collateral purposes involving element of accommodation entries and tax evasion and insofar as the material brought by the Investigation Wing, Mumbai is not in doubt and insofar as its relevancy in the present case is also not in doubt, no interference of fact may be drawn at this stage as to the ultimate result of the proceedings and the Ld.CIT(A) accordingly recorded his finding, stating that he is of the considered opinion that in the given factual matrix, the findings/observations of the AO are upheld and addition made by the AO was sustained. Against the said order and findings of the Ld.CIT(A), the assessee is in appeal before us.

4. In Ground No.7 of its appeal, the assessee has challenged the action of the Ld.CIT(A) in sustaining the entire purchases without appreciating the fact that the corresponding sales have been accepted by the AO and it was contended that any disallowance in such cases should be limited to the Gross Profit rate, as adding the full purchase amount is illogical and disproportionate. In Ground No. 8, the assessee has challenged the action of the Ld. CIT(A), stating that he has failed to appreciate the fact that in assessee's own case in the earlier assessment year, the AO has restricted the disallowance of purchases to the Gross Profit rate at 3% and it has been contended that the disallowance for the year under appeal should therefore align with this established precedent to ensure consistency and fairness.

5. In this regard, during the course of hearing, the Ld.AR drawn our reference to the Trading and Profit & Loss Account of the assessee-firm, wherein the assessee has disclosed sales amounting to Rs. 6,81,72,931/- as against the purchase of Rs. 6,15,89,009/- which includes the subject purchases amounting to Rs. 4,06,38,798/-. Further, our reference was drawn to the copy of the stock register for cut and polished diamonds for the period 1st April, 2010 to 31st March, 2011, wherein the assessee has recorded total purchases and sale in terms of cut and polished diamonds, which was purchased and subsequently sold during the year under consideration. Further, our reference was drawn to the copy of the sales register for the period 1st April, 2010 to 31st March, 2011 and it was submitted that no adverse finding has been recorded by the AO disputing the availability of stock and the sales so made by the assessee. Further our reference was drawn to the assessment order for AY. 2010-11 passed u/s. 143(3) of the Act r.w.s. 147 of the Act, dt. 25-10-2016 wherein the case of the assessee was again reopened, basis information that the

assessee has taken accommodation entries of bogus purchases from Bhanwarlal Jain Group concern, namely, M/s. Mayur Exports amounting to Rs. 84,82,042/-. It was submitted that in the said case, the AO has recorded the finding that as the assessee has demonstrated corresponding sales against the purchases from Bhanwarlal Jain Group concern and wherein on one hand genuineness of above purchase party is doubted, but the genuineness of purchase on a whole cannot be doubted and in such cases, the Courts have taken a view that only the profit margin embedded in such a transaction could be taxed and thereafter the AO has determined the profit margin of 3% i.e., the value of the purchases and which was brought to tax in the hands of the assessee. Further, our reference was drawn to the assessment order passed u/s. 143(3) of the Act, dt. 13-03-2016 pertaining to AY. 2013-14, wherein again, in terms of notice issued u/s. 143(2) of the Act, the AO has referred to the search action conducted on Bhanwarlal Jain Group and the accommodation entries of bogus purchases taken by the assessee from Prime Star, Mohit Enterprises, Mayur Exports and Millenium Stars and it was submitted that following the order for AY. 2010-11, the AO has again recorded a similar finding and has brought to tax 3% of the purchase transaction and not the whole of the purchase amount to tax. It was submitted that in the instant case as evident from the assessment order, the assessee has made purchases from Mohit Enterprises and Mayur Exports which are the same parties as in A.Y 2010-11 and A.Y 2013-14. It was accordingly submitted that where there are no change in the facts and circumstances of the case and in the other assessment years where in respect of purchases made from the same parties, the AO has brought to tax the gross profit rate of only 3%, the said percentage should therefore be applied to the impugned assessment year as well, the balance addition so made by the AO and sustained by the Ld.CIT(A) be directed to be deleted.

6. The Ld.DR has been heard, who has relied on the order and the findings of the Ld.CIT(A) and at the same time, in terms of assessment order passed u/s. 143(3) r.w.s. 147 of the Act for the AY. 2010-11 and assessment order u/s. 143(3) of the Act passed for the AY. 2013-14, the Ld.DR could not controvert the factual position that in respect of the same parties, the AO has brought to tax only 3% of the purchase transactions being the profit element embedded in the said purchases.

7. We have heard the rival contentions and perused the material available on record. Given the undisputed position that the facts and circumstances of the present case are *pari-materia* with the facts and circumstances of other two assessment years, namely A.Y 2010-11 and A.Y 2013-14, where pursuant to search action in case of Bhanwar Lal Jain Group, the bogus purchase transactions from its group concerns were subject matter of examination by the AO and the AO has brought to tax only the profit element embedded in such purchases, we find no justifiable reason in the findings of the AO which force him to deviate from his own position in other assessment years (in respect of which the assessment orders were available at the time of passing of assessment order for the impugned assessment year) more so where in terms of the availability of stock and corresponding sales, no adverse finding has been recorded by him. In view of the same, following the principle of consistency, the AO is directed to tax 3% of the value of the purchase transactions, being the profit margin embedded in the purchases and not the whole of the purchase amount to tax and the remaining addition is directed to be deleted.

8. In view of the above, other grounds of appeal have become academic and are thus dismissed as infructuous.

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

Order pronounced in the open court on 27-01-2026

Sd/-

[AMIT SHUKLA]
JUDICIAL MEMBER

Mumbai,
Dated: 27-01-2026

TNMM

Sd/-

[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai