

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No. 7656 & 7657/Mum/2025
A.Y:2008-09 & 2009-10**

Ferrostone Crete Room No. 6, 2 nd Floor, Gulmohar Apartment, Factory Lane, Borivali (W), Mumbai.	Vs.	ITO – 42(1)(2) Kautilya Bhavan, BKC, Bandra (E), Mumbai.
PAN/GIR No. AABFU3892P		
(Applicant)		(Respondent)

Assessee by	Shri Hitesh Shah
Revenue by	Ms. Kavitha kaushk, Sr. DR

Date of Hearing	22.01.2026
Date of Pronouncement	30.01.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeals have been preferred by the assessee against the separate orders dated 29.09.2025 passed by the National Faceless Appeal Centre / CIT(A), Mumbai for the A.Ys 2008-09 & 2009-10.

Since all the issues involved in these two appeals are common and identical, therefore, they have been clubbed, heard together and consolidated order is being passed for the sake of convenience and brevity. We shall take **ITA No.**

7656/Mum/2025, A.Y 2008-09 as lead case and facts narrated therein.

ITA No. 7656/Mum/2025, A.Y 2008-09

The assessee has raised the following grounds of appeal:

On the facts and circumstances of the case and in law the Ld. CIT (Appeals), NFAC, Delhi erred in dismissing the appeal summarily without addressing the dis-allowances on merits of the appeal. The Appellant therefore prays that the appeal may be set aside and restore back to the CIT(A) to decide on the merits.

On the facts and circumstances of the case and in law the Ld. CIT (Appeals), NFAC, Delhi erred in upholding the disallowance of Rs. 85,90,297/- alleged non genuine purchases u/s. 69. The Appellant therefore prays that the impugned disallowance of Rs. 85,90,297/- made by the AO u/s 69 of the IT Act, 1961 be deleted.

The appellant craves the leave to add, modify, amend or delete any of the grounds of appeal on OR before the final hearing and all the above grounds are without prejudice to each other.

2. **Ground No. 1** raised by the assessee is relates to challenging the order of Ld. CIT(A) in summarily dismissing the appeal without addressing the disallowance on the merits.

3. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that although assessee had filed appeal, but on the appeal module, the

relevant documents that were required for deciding an appeal such as Form No 35, order under appeal, Grounds of Appeal and Statement of facts were not found to be uploaded in the system. Therefore, the assessee was specifically asked by Ld. CIT(A) to provide copies of Form No 35, Assessment Order under appeal, Grounds of appeal and Statement of Facts. However, the assessee has not responded to the notices sent by the AO.

4. Since the relevant details / documents such as Form 35, order of assessment, grounds of appeal were neither found in the ITBA module nor in the physical form and even assessee but assessee had not responded to the notices issued by the revenue hence Ld. CIT(A) had no option except to dismissing the appeal.

5. Now before us, the assessee submitted that he is ready to furnish all the documents filed by them and requested to restore the matter back to the file of Ld. CIT(A) for decision on merits.

6. Be that as it may, without going into the merits of the issue, we are of the view that matter needs to be restored back to the file of the Ld. CIT(A) for deciding the said issue afresh once the assessee placed on record the above mentioned documents / details and after providing

adequate add sufficient opportunity of hearing to the assessee.

6. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

7. **Ground No. 2 & 3** Since we have already restored the matter back to the file of Ld. CIT(A) for deciding the matter afresh, thus the other grounds raised by the assessee becomes infructuous in view of our above finding on ground No. 1.

8. In the result the appeal filed by the assessee is allowed for statistical purposes.

ITA No. 7657/Mum/2025, A.Y 2009-10

8. As the facts and circumstances in this appeal is identical to ITA No 7656/Mum/2025 for the A.Y 2008-09 (except variance in figures) and the decision rendered in above paragraph would apply **mutatis mutandis** for this appeal also. Accordingly, the grounds of appeal of the present appeal also stands allowed for statistical purposes.

9. In the result, both the appeals filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 30.01.2026

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 30/01/2026

KRK, Sr. PS

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

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

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai