

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

**BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1202/AHD/2025  
Assessment Years: 2017-18**

Deputy Commissioner of Income Tax, Circle – 2(1)(1), Ahmedabad - 382415	Vs.	Pancham Developers, Parmeshwar Ha Veb, Nr. Suryayam Hope town, Tragad Jundal Road, New Chandkheda, Ahmedabad - 382424 <b>[PAN – AAPFP4944H]</b>
(Appellant)		(Respondent)
Assessee by	Shri Karan Shah, AR	
Revenue by	Shri Abhijit, SR-D.R	
Date of Hearing	02.02.2026	
Date of Pronouncement	06.02.2026	

**ORDER**

**PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:**

This appeal is filed by the Revenue against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as ‘CIT(A)’], dated 29.03.2025 for the Assessment Year (A.Y.) 2017-18 in the proceeding u/s 143(3) of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed its return of income for A.Y. 2017-18 on 07.10.2017 declaring income of Rs.99,03,586/-. The case was selected for scrutiny under CASS. The assessee is a partnership firm engaged in the business of real estate construction and development activity. In the course of assessment, the

AO had called for the details of purchases made by the assessee. Out of the details as submitted, the AO had selected four parties for verification to whom notice u/s 136 of the Act was sent. However, no compliance was made by any of the four parties and all the notices were returned unserved. Thereafter, the AO had required the assessee to produce those four parties, which was also not complied. Therefore, the AO had treated the total purchases of Rs. 3,50,55,146/- made from the four parties as bogus and accordingly made the addition. The assessment was completed u/s 143(3) on 27.12.2019 at total income of Rs. 4,49,58,730/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the first appellate authority which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was partly allowed. The Ld. CIT(A) while holding that the purchases made from the four parties were bogus, had directed the AO to make addition for only the gross profit element embedded in the bogus purchases.

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

1. *“Whether the Id. CIT(A) has erred in facts and law in restricting the addition to the gross profit component to Rs. 58,85,759/- (16.79% of 3,50,55,146/-), and in deleting the balance addition of Rs. 2,91,69,386/- (Rs. 3,50,55,146 (-) 58,85,759), without appreciating the facts of the case?”*
2. *“The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.”*
3. *It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored.*

5. Shri. Abhijit, Id. SR-DR submitted that in the course of assessment it was duly established that the purchases made by the assessee from the four parties were bogus. The notices sent to the four parties were all returned unserved. The assessee had also failed to produce the four parties before the AO in spite of specific requisition. It was also found that VAT registration of all the four parties were cancelled. Further no evidence for transport of materials purchased from them was brought on record. The Id. SR-DR submitted that Id. CIT(A) had categorically held that the purchases made by the assessee from those four parties were bogus. Under the circumstances, he should have confirmed the entire addition of Rs.3,50,55,146/- on account of bogus purchase made from the four parties. The Id. SR-DR contended that the direction of the Ld. CIT(A) to make addition for the profit element embedded in the bogus purchases had completely nullified the addition as the profit element of these purchase transactions was already accounted for in the books of accounts of the assessee. He, therefore, requested that the entire addition made by the AO may kindly upheld.

6. Per contra, Shri Karan Shah, Ld. AR of the assessee explained that the assessee was engaged in construction activity and the materials purchased from the four parties were khapchi, bricks, sand, cement, tiles, painting materials etc. without which the construction activity was not possible. He explained that the materials purchased from the four parties were duly utilised by the assessee for the construction activity. Further that the payment to all the parties were made through account pay cheques, which was not disputed. The Id. AR further submitted that the

assessee had brought on record all evidences for the purchase in the form of invoices and the payment details. Under the circumstances, no addition for entire purchase of Rs.3,50,55,146/- could have been made. The Id. AR supported the order of the Id. CIT(A) to restrict the addition to the extent of profit element embedded in the purchases.

7. We have considered the rival submissions. It is found that the addition of Rs. 3,50,55,146/- in respect of bogus purchase pertained to the following four parties.

Sr No	Name of supplier	Purchase made during the year	Remarks of postal authority
1	Sanketkumar Rohitbhai Patel (Prop of Umiya Trading)	1,98,83,778/-	Not known
2	Siddhi Trading	60,11,565/-	Left
3	Vishal Rohitbhai Patel (Prop of Sainath trading)	60,10,257/-	Incomplete address
4	Mahi Traders	31,49,546/-	Left
	Total	3,50,55,146/-	

8. The undisputed facts are that the notice u/s 133(6) sent by the AO to these four parties was returned unserved and the assessee had failed to produce these parties before the AO. Neither any alternate address of

the parties was brought on record nor it was explained as to how the four parties had vanished. Merely because the assessee had made the payments through cheque and produced the invoices, the purchases could not have been treated as genuine. The AO had specifically required the assessee to produce evidence for delivery of goods, which was not complied. From the copy of invoices brought on record it is found that no lorry number is appearing in any of the documents and there is no evidence for transportation of materials in respect of purchases made from these four parties. It is found that the Id. CIT(A) had given the following finding in respect of purchase made from these four parties:

- a. "All the four creditors from whom the purchases were alleged to have been made were not found at the addresses given, a detailed report of the same along with the photographs had been submitted by the Inspector which confirmed that no such parties existed at the given address
- b. None of the parties responded to the notices u/s 133(6)
- c. The appellant failed to produce the parties before the AO for confirmation despite being given the opportunity to do so
- d. The VAT registration of all four parties was found to be cancelled
- e. No Delivery Challan for Goods was submitted by the appellant to prove that actual delivery of goods was made
- f. The terms of contract stated that on delayed payment, an interest of 18% to 24% will be charged. However, none of the parties had charged any interest from the appellant, despite the payment being outstanding for more than 6 months.

In view of the above factual position/arguments, there is no doubt in my mind that the purchases shown by the appellant from the above-mentioned four parties are indeed bogus purchases. Hence, to this extent I agree with the AO.

9. After holding that the purchase of Rs.3,50,55,146/- made from the four parties was bogus, the Id. CIT(A) had directed to restrict the addition

on account of bogus purchases to the extent of gross profit element embedded in these bogus purchases. The contention of the Revenue is that the addition for entire bogus purchase should have been upheld. There is no dispute to the fact that the assessee was engaged in construction activity and the building could not have been constructed without the materials viz. kapchi, bricks, sand, cement, tiles, painting materials etc. purchased from the four parties. Against the material purchase of Rs.8,64,94,449/- during the year, the assessee had disclosed project income of Rs.9,21,05,000/- and work-in-progress of Rs.12,04,98,000/- in its P&L account. Considering the turnover and the closing stock as disclosed by the assessee, the purchases made during the year cannot be held as disproportionate. As the sales and the closing stock of the assessee has not been disputed by the Revenue, one can only conclude that the assessee had made purchases from different parties but the bills were obtained from other parties. The addition for entire bogus purchase of Rs.3,50,55,146/- from the four parties, would result in a highly disproportionate gross profit rate for the current year, which would not be justified. Taking a holistic view of the accounts of the assessee, it is held that no disallowance for the entire purchase of Rs.3,50,55,146/- made from the four non-existent parties, was called for merely because the assessee was unable to produce evidence for transportation of goods purchased from the four parties. Since the construction activity carried on by the assessee has not been disputed, it would be reasonable to conclude that the purchases were not made from these four parties but from certain other parties and the profit derived in such transactions will be certainly higher than the normal GP rate as disclosed by the assessee. Therefore, the direction of the Id. CIT(A) to

restrict the addition in respect of bogus purchase of four parties only to the extent of gross profit element embedded in such purchase cannot be held as correct.

10. In the case of *Premkumar B. Rathi (59 taxmann.com 203) (Guj.)*, Hon'ble Gujarat High Court had upheld the disallowance of 10% of bogus purchases as confirmed by the Tribunal. Similarly, in the case of *Simit P. Sheth (38 taxmann.com 385) (Guj.)*, the Hon'ble Gujarat High Court had held that only profit element embedded in purchases made from accommodation entry providers could be added and upheld the addition of 12.5% sustained by the Tribunal. In the case of *Bholanath Poly Fab P. Ltd. (40 taxmann.com 494) (Guj.)* also, the Hon'ble Gujarat High Court had reiterated that only profit margin embedded in bogus purchases could be subjected to tax and not the entire purchases. Similarly, Hon'ble Gujarat High Court in the case of *Kesari Exports, (174 taxmann.com 162)* had upheld the addition of 6% of bogus purchases made from accommodation entry provider.

11. Considering the consistent view of the Hon'ble Jurisdictional High Court that only profit margin embedded in the bogus purchases are required to be taxed, it will be reasonable to restrict the addition in respect of purchases made from the four non-existent parties @ 5% higher than the GP rate disclosed by the assessee in the current year. Accordingly, **the Assessing Officer is directed to work out the profit out of the purchase of Rs.3,50,55,146/- made from the four parties by applying GP rate of 5% more than the GP rate as disclosed by the assessee in the current year.** The ground taken by the Revenue is partly allowed.

12. In the result, the appeal of the Revenue is partly allowed.

**Order pronounced in the Court on 06/02/2026 at Ahmedabad.**

**Sd/-**  
**(TR SENTHIL KUMAR)**  
Judicial Member

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

**Dated – 06<sup>th</sup> February, 2026**

*Neelesh Kumar*

*True Copy*

**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,
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आदेशानुसार/BY ORDER,

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