

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"C" BENCH, MUMBAI**

**BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No. 8073/MUM/2025**  
**(Assessment Year : 2010-11)**

**ITA No. 8074/MUM/2025**  
**(Assessment Year : 2011-12)**

**Chandan Dhingadmal Jain**

Room No.4, 1<sup>st</sup> Floor 38,  
2<sup>nd</sup> Pathan Street, 5<sup>th</sup> Kumbharwada,  
Mumbai - 400004  
PAN: ACRPJ2592B

..... Appellant

v/s

**ITO, Ward -19(1)(1),**

Piramal chambers,  
Jijibhoy Lane, Lalbaugh, Parel,  
Mumbai- 400012

..... Respondent

Assessee by : None  
Revenue by : Shri Virabhadra Mahajan, Sr. DR

Date of Hearing – 17/02/2026

Date of Order - 19/02/2026

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeals against the separate impugned orders of even date 19.09.2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Additional / Joint Commissioner of Income Tax (Appeals)-1, Vadodara [*"learned Addl./Joint CIT(A)"*], which in turn arose from the separate penalty order passed under section 271(1)(c) of the Act, for the assessment years 2010-11 and 2011-12.

2. The only grievance of the assessee, in the present appeals, is against the levy of penalty under section 271(1)(c) of the Act.

3. We have considered the submissions and perused the material available on record. The brief facts of the case are that the assessee is an individual, and during the year under consideration, was engaged in the business of dealing in ferrous and non-ferrous metals. Pursuant to information received from the DGIT (Investigation) Wing, Mumbai, that the assessee is a beneficiary of accommodation entry transactions of bogus purchases, notices under section 148 of the Act were issued, and proceedings under section 147 of the Act were initiated. Vide assessment order passed under section 143(3) read with section 147 of the Act, the Assessing Officer ("AO") made an addition of 12.5% of the total non-genuine purchases by the assessee. In further appeal, the learned CIT(A) confirmed the addition made by the AO. The Coordinate Bench of the Tribunal, in further appeal by the assessee in quantum proceedings, vide order dated 11.09.2019 passed in ITAs No. 1308 and 1307/Mum/2018, for the assessment years 2010-11 and 2011-12, restricted the disallowance to 5% of the bogus purchases and thus granted partial relief to the assessee.

4. In the meanwhile, penalty proceedings under section 271(1)(c) of the Act were initiated separately by the AO for the years under consideration. After considering the submissions of the assessee, the AO vide order passed under section 271(1)(c) of the Act, levied a penalty being 100% of the amount of tax sought to be evaded by the assessee for the year under consideration. The learned Addl./Joint CIT(A), vide impugned order, dismissed the appeal filed by the assessee and upheld the levy of penalty under section 271(1)(c) of the Act.

5. Thus, it is evident from the record that the AO made an addition, in quantum proceedings, on account of bogus purchases by bringing to tax the estimated profit element embedded in such purchases, being 12.5% of the total non-genuine purchases by the assessee in the years under consideration, which was further reduced by the Tribunal to 5%. Therefore, the entire addition for the years under consideration has been made solely on the basis of estimates.

6. We find that the Hon'ble Rajasthan High Court in CIT v/s Krishi Tyre Retreading and Rubber Industries, reported in [2014] 360 ITR 580 (Raj.), held that where an addition is made purely on an estimate basis, no penalty under section 271(1)(c) of the Act is leviable. Similar view has been expressed by the Hon'ble Punjab & Haryana High Court in CIT v/s Sangrur Vanaspati Mills Ltd., reported in [2008] 303 ITR 53 (P&H), wherein the Hon'ble High Court held that when the addition has been made on the basis of estimate and not on any concrete evidence of concealment, penalty under section 271(1)(c) of the Act is not leviable. Further, the Hon'ble Gujarat High Court in CIT v/s Subhash Trading Co. Ltd., reported in [1996] 221 ITR 110 (Guj.) has taken a similar view in respect of the levy of penalty under section 271(1)(c) of the Act on estimated additions. Therefore, it is evident that the issue about the justification for the imposition of a penalty where the addition is made on the basis of an estimate is no longer *res integra*.

7. Thus, respectfully following the aforesaid decision, we are of the considered view that a penalty under section 271(1)(c) of the Act cannot be

levied merely on the basis of an estimated addition. Accordingly, we direct the AO to delete the penalty levied under section 271(1)(c) of the Act for the assessment years in appeal before us.

8. In the result, both the appeals by the assessee are allowed.

Order pronounced in the open Court on 19/02/2026

**Sd/-**  
**VIKRAM SINGH YADAV**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 19/02/2026**

*Prabhat*

*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.