

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.8118/Mum/2025 to 8120/Mum/2025  
(Assessment Year :2011-12, 2013-14& 2014-15)**

Dy. Commissioner of Income Tax 2(1)(1), Mumbai	Vs.	Kimiya Engineers Private Limited 4 <sup>th</sup> Floor, A Wing 32, Corporate Avenue Off Mahakali Caves Road Andheri (E) Mumbai- 400 093
<b>PAN/GIR No.AACCK4977B</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri Ritesh Misra, CIT DR
<b>Date of Hearing</b>	<b>17/02/2026</b>
<b>Date of Pronouncement</b>	<b>19/02/2026</b>

**आदेश / O R D E R**

**PER BENCH:**

These appeals have been preferred by the Revenue against the consolidated impugned orders dated 29.09.2025 passed by the learned Commissioner of Income Tax (Appeals)-49, Mumbai, arising out of assessments framed under section 153A read with section 143(3) of the Income Tax Act, 1961 for Assessment

Years 2011-12, 2013-14 and 2014-15. Since the controversy involved in all the appeals arises out of identical factual circumstances, involves common issues of law and fact, and emanates from a consolidated order passed by the learned first appellate authority, these appeals were heard together and are being disposed of by way of this common order in order to maintain judicial consistency, avoid repetition of reasoning, and ensure uniformity of adjudication. For the sake of convenience and clarity of exposition, ITA No. 8118/Mum/2025 pertaining to Assessment Year 2011-12 is treated as the lead case, and the conclusions drawn therein shall apply mutatis mutandis to the remaining assessment years as well.

2. The sole grievance raised by the Revenue in these appeals is directed against the action of the learned CIT(A) in restricting the addition made by the Assessing Officer on account of alleged non-genuine or bogus purchases by estimating the profit element embedded therein at 15%, instead of sustaining the disallowance of the entire purchases amounting to 100% as had been done by the Assessing Officer. The Revenue's contention is predicated on the premise that once the suppliers were found to be accommodation entry providers and the genuineness of purchases remained unsubstantiated, the entire amount claimed as expenditure ought to have been brought to tax.

3. Despite due service of notice, none appeared on behalf of the assessee. However, since the entire material necessary for

adjudication was available on record, and considering that the issues involved are capable of adjudication based on documentary evidence and findings already recorded by the authorities below, these appeals were heard ex parte qua the assessee and decided on merits after hearing the learned CIT-DR and perusing the entire evidentiary record.

4. The factual background giving rise to the present controversy originates from proceedings conducted consequent to the interception of Shri Anurag Verma, Managing Director of the assessee company, by the Air Intelligence Unit, Lucknow, while he was carrying cash amounting to Rs.57,00,000/- during transit from Lucknow to Mumbai. In his statement recorded under section 131, he acknowledged his association with the assessee company and explained the circumstances relating to the possession and intended utilization of such cash. Consequent thereto, survey proceedings under section 133A were conducted at the business premises of the assessee company to examine the authenticity of its financial transactions and business records.

5. The assessee company is engaged in execution of construction contracts involving erection of structural frameworks and execution of infrastructure projects across multiple locations including Mumbai, Bangalore, Goa, Vadodara and other cities. Pursuant to the search and survey proceedings, notice under section 153A was issued and the assessee filed its return of income declaring total income of

Rs.1,71,46,750/-. During the course of assessment proceedings, the Assessing Officer observed that the assessee had claimed purchases from certain entities alleged to be accommodation entry providers, namely M/s Alfa Steel Building Solutions, Bhagwati Trading Company, Sai Jan Trading Pvt Ltd, Choksi Brothers, Banjara Enterprises, Vats Corporation and Adinath Enterprises.

6. The Assessing Officer observed that the assessee failed to substantiate the genuineness of these purchases by producing primary evidences such as delivery challans, transport records, stock registers and confirmations from suppliers. The Assessing Officer also relied upon findings of the Sales Tax Department and statements of alleged hawala operators, as well as returned postal notices indicating non-existence or untraceability of such suppliers.

7. Based on these observations, the Assessing Officer concluded that the purchases claimed by the assessee were non-genuine and treated the entire amount aggregating to Rs.1,37,98,066/- as unexplained expenditure liable to be added to the income of the assessee.

8. The learned CIT(A), after examining the entire factual record, concurred with the Assessing Officer insofar as the non-verifiability of suppliers was concerned. However, after considering the nature of business operations, accepted

contract receipts, and financial profile of the assessee, the learned CIT(A) concluded that disallowance of entire purchases was neither justified nor sustainable and accordingly restricted the disallowance to 15% of such purchases, representing the estimated profit element embedded therein.

9. At this juncture, it becomes relevant and necessary to advert to the technical and factual findings which formed part of the evidentiary substratum relied upon by the Assessing Officer and examined by the learned CIT(A), insofar as these findings were considered germane for evaluating the nature, character, and verifiability of the purchases in question. These findings, emanating from contemporaneous examination of records and allied material gathered during the course of proceedings, were relied upon to fortify the inference drawn regarding the nature of transactions. The relevant extract is reproduced hereinbelow:-

**“7.4.2.** *In the present case, the Director of the appellant company, Shri Anurag Verma was intercepted by AIU Lucknow with a cash of Rs 57,00,000/-, while travelling from Lucknow to Mumbai by Jet Airways Flight 9W-360. In his statement recorded under oath, Shri Anurag Verma had stated that the cash was from the out of book sales of scrap generated in the appellant concern. In fact, the appellant had declared an additional income of Rs.2,42,370/- in the return of income filed u/s 153A of the Act for the AY 2011-12. The search action on the appellant group had led to seizure of cash, which was sourced out of the out of book scrap sales for AY 2011-12. The cash found becomes an incriminating material for the AY 2011-12. As laid down in the para `14(iii) of the Judgment of Hon’ble Supreme Court.*

*“iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the ‘total income’ taking into*

consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns;”

Since, the incriminating material is found for the AY 2011-12 in form of cash, the AO has rightly assumed jurisdiction to assessee the total income based on the other material available with him. In addition to the above, the complete absence of the supporting documents to substantiate the purchases of Rs 1,31,34,405/- and the admission of the Director of the appellant company, that the purchases were bogus is another incriminating finding based on which the addition is made.

10. Similarly for A.Y.2013-14 and 2014-15, the relevant finding is as under:-

#### 2013-14

**11.1.** Following the discussion made in the paras 7.1 to 7.3 of the order, I uphold the finding of the AO that the appellant had not made any purchases from the concerns in question. The disallowance of the purchases is restricted 15% of Rs 7,97,599/- i.e., Rs 1,19,639/- which shall cover the income generated by the appellant on inflation of purchases and the commission paid by the appellant to the suppliers for providing accommodation bills. The addition of Rs 1,19,639/- is sustained. Appeal gets relief of Rs 6,77,960/-.

#### 2014-15

**15. DECISION-** The facts of the case are identical to the facts for AY 2011-12, as discussed above. The appellant has challenged the addition made u/s 69C on account of bogus purchases from the parties which were identified by Sales Tax Department as being accommodation entry providers. The grounds of appeal and the submission made in support of grounds of appeal are identical to that for AY 2011- 12. Considering that the facts of the case are identical to facts for AY 2011-12, the decision for Ay 2011-12 is applied in the present appeal.

**15.1.** Following the discussion made in the paras 7.1 to 7.3 of the order, I uphold the finding of the AO that the appellant had not

made any purchases from the concerns in question. The disallowance of the purchases is restricted 15% of Rs 6,63,661/- i.e., Rs 99,549/- which shall cover the income generated by the appellant on inflation of purchases and the commission paid by the appellant to the suppliers for providing accommodation bills. The addition of Rs 99,549/- is sustained. Appeal gets relief of Rs 5,64,111/-.”

11. Apart from the above, the assessee had also placed on record detailed financial particulars, operational metrics, and comparative quantitative analysis demonstrating the proportional relationship between its turnover, material consumption, and the alleged non-genuine purchases. Through these disclosures, the assessee sought to demonstrate that the purchases in question constituted only a marginal component of its overall operational framework and were intrinsically linked to execution of contract work. The comparative financial details furnished by the assessee are reproduced as under:

A.Y.	Inc. from Operations	Other Income	Cost of Material	PBT	Profit %	Alleged non genuine purchases	Alleged non genuine purchases as a % to Cost of Material
11-12	27,36,73,049	1,01,869	7,42,25,294	1,58,10,881	5.78	1,31,34,405	17.70
12-13	64,07,91,479	96,69,337	23,14,14,400	2,81,70,267	4.40	-	-
13-14	62,35,90,904	79,50,689	23,66,68,269	3,26,87,406	5.24	7,97,599	0.34
14-15	51,28,82,312	97,77,136	15,33,70,137	1,83,77,105	3.58	6,63,661	0.43
15-16	67,67,15,348	89,16,769	38,75,40,922	2,44,46,080	3.61	-	-
16-17	55,02,66,818	1,00,80,697	27,10,66,955	2,49,41,670	4.53	-	-
17-18	27,53,53,161	1,83,90,628	12,92,99,226	1,18,32,940	4.30	-	-
	3,55,32,73,071	6,48,87,125	1,48,35,85,203	15,62,66,349	1,45,95,665	0.98	

12. The assessee had further explained that procurement of materials in construction business is often dictated by operational exigencies and immediate site requirements, and therefore, procedural formalities may not always follow structured formats. However, payments were made through banking channels, statutory compliances were observed, and the materials procured were fully consumed in execution of contract work, the revenues from which have been duly accepted and brought to tax.

13. We have carefully considered the submissions of the learned CIT-DR, examined the findings recorded by the authorities below, and perused the entire evidentiary record. The controversy before us lies within a narrow but significant compass, namely, whether in the peculiar factual matrix of the present case, the disallowance of the entire purchases claimed by the assessee can be sustained merely on account of non-verifiability of suppliers, or whether estimation of profit element embedded in such purchases, as adopted by the learned CIT(A), represents the correct and legally sustainable approach consistent with settled principles governing computation of income.

14. It is an undisputed and incontrovertible factual position emerging from the record that the assessee is engaged in execution of construction contracts, and the contract receipts declared by it have been accepted by the Department without

any adverse inference. Execution of such contracts necessarily presupposes procurement and consumption of construction materials, and therefore, the existence of purchases cannot be entirely disregarded merely because the identity of suppliers remains unverifiable. The acceptance of contract receipts and corresponding business operations implicitly affirms the consumption of materials which constitute the foundational input of such operations.

15. It is further evident that the Assessing Officer has neither rejected the books of account nor disturbed the trading results declared by the assessee. Once the trading results and contract receipts are accepted, the entire purchase expenditure forming part of the cost structure cannot be disallowed, as such an approach would result in computation of income divorced from commercial realities and contrary to settled principles governing determination of taxable income.

16. The settled principle of taxation law is that where purchases are found to be unverifiable but the corresponding revenue has been accepted, the logical and legally sustainable approach is to estimate the profit element embedded in such purchases rather than disallow the entire expenditure. Such estimation reflects the probable savings or margins derived through procurement from alternative channels, while recognizing that the underlying materials must have been procured and utilized in execution of business operations.

17. The learned CIT(A), after examining the financial profile, operational ratios, and proportionality of such purchases vis-à-vis turnover, estimated the profit element at 15%. This estimation represents a balanced and rational determination, ensuring that real income embedded in such transactions is brought to tax without artificially inflating taxable income by disallowing entire purchases which have contributed to generation of accepted contract receipts.

18. The estimation adopted by the learned CIT(A) is consistent with the fundamental principle that taxation must be based on real income and not hypothetical constructs. By estimating the profit element embedded in such purchases, the learned CIT(A) has ensured that possible suppression of profit is adequately addressed while maintaining fidelity to commercial realities and settled legal principles.

19. In view of the entirety of facts, evidentiary material, and commercial realities emerging from the record, we find that the approach adopted by the learned CIT(A) represents a judicious, balanced, and legally sustainable determination. The estimation made neither suffers from arbitrariness nor reflects any infirmity in reasoning. Accordingly, the findings of the learned CIT(A) are affirmed.

20. Accordingly, the grounds raised by the Revenue for all the assessment years under consideration are dismissed.

**21. In the result, the appeals filed by the Revenue are dismissed.**

Order pronounced on 19<sup>th</sup> February, 2026.

**Sd/-  
(ARUN KHODPIA)  
ACCOUNTANT MEMBER**

**Sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

Mumbai; Dated 19/02/2026  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)  
**ITAT, Mumbai**