

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 3755/MUM/2025  
Assessment Year: 2017-18**

Balaji Bullions And  
Commodities India  
Private Limited, 118/120,  
3<sup>rd</sup> Floor, Ashok House  
Zaveri Bazar, Mumbai –  
400002.

**Vs.**

DCIT, Central Circle 7(1),  
Mumbai, Aayakar  
Bhawan, Mumbai,  
Maharashtra.

**PAN NO. AADCB 0236 F  
Appellant**

**Respondent**

**ITA No. 3915/MUM/2025  
Assessment Year: 2017-18**

DCIT, Central Circle 7(1),  
Room No. 653, 6<sup>th</sup> Floor,  
Mumbai, Aayakar  
Bhawan,  
Mumbai-400020.

**Vs.**

Balaji Bullions And  
Commodities India Private  
Limited, 118/120, 3<sup>rd</sup>  
Floor, Ashok House Zaveri  
Bazar, Mumbai – 400002.

**Appellant**

**PAN NO. AADCB 0236 F  
Respondent**

Assessee by : Shri Sharwan Kumar Jha, Adv.  
(Virtually Appeared)  
Department by : Ms. Shabana Praveen, CIT. DR and  
Shri Leyaqt Ali Aafaqui, Sr. AR.



Date of Hearing : 15/12/2025  
Date of pronouncement : 23/02/2026

## **ORDER**

### **PER OM PRAKASH KANT, AM**

These cross appeals by the assessee and Revenue are directed against order dated 28.03.2025, passed by the Learned Commissioner of Income Tax (Appeals) – 49, Mumbai, [in short ‘the Ld. CIT(A)’] for Assessment Year (in short A.Y) 2017-18.

2. The material facts, in brief, are that the assessee filed its return of income on 22.10.2017 declaring loss of Rs. 1,53,42,913/-. The return was processed under section 143(1) of the Income Tax Act, 1961 (in short the ‘Act’) on 02.03.2018, accepting the returned loss. Subsequently, the Assessing Officer received specific information from the Deputy Director of Income Tax (Investigation), Unit-7(4), Mumbai, indicating that certain entities, alleged to be engaged in providing accommodation entries, were found to have deposited substantial cash during the demonetisation period and were suspected to be non-genuine concerns.

2.1 The information revealed that post-demonetisation, substantial cash deposits were noticed in the bank accounts of M/s Trikesk Tradelink Private Limited. As no satisfactory compliance was forthcoming in response to departmental enquiries, survey



proceedings under section 133A were conducted at the premises of the said concern. Similar survey action was undertaken in the case of M/s Pihu Gold, where significant cash deposits during the demonetisation period were also observed.

2.2 The survey proceedings revealed that the premises of M/s Trikesh Tradelink Private Limited at Kalbadevi were found locked, and local enquiries suggested absence of any regular business activity. Further enquiries at the Ahmadabad office of the said concern likewise did not yield any credible evidence of genuine business operations. In the case of M/s Pihu Gold, it was noticed that the concern had reported purchases from M/s Rishabh Jewellers; however, upon verification, the said supplier denied having conducted any transactions with M/s Pihu Gold.

2.3 The Investigation Wing further observed that the directors associated with these entities were linked to multiple concerns of similar nature. Surveys conducted at the premises of one such concern, M/s Access Diamond Private Limited, also resulted in findings indicative of non-functional business operations. The individual shown as director, Shri Hanvanth Singh, was not found at the recorded address. Subsequent enquiries revealed that he was employed as a cook at another establishment. In his statement recorded under section 131 of the Act, Shri Hanvanth Singh admitted that he acted merely as a name-lender or dummy director and had no



knowledge of the business affairs of M/s Access Diamond Private Limited.

2.4 On the basis of the survey findings, post-survey enquiries, and statements recorded, the Investigation Wing opined that the entities in question were merely paper concerns created for facilitating accommodation entries. It was further noticed that the assessee had reported purchase transactions with certain entities associated with the group, including M/s Access Diamond Private Limited, M/s Royal India Corporation Limited, M/s Shalibhadra Exports Private Limited, M/s Worldwide Online Services Private Limited, and M/s Royal Refinery Private Limited.

2.5 Acting upon the said information, the Assessing Officer examined the assessee's information on record. Upon such examination, and in light of the investigation inputs, the Assessing Officer formed a prima facie belief that income chargeable to tax had escaped assessment. Consequently, reasons were recorded under section 147 of the Act, and notice under section 148 was issued on 30.03.2021. The notice was duly served, and in response, the assessee filed its return of income on 29.04.2021, reiterating the loss originally declared.

3. During the course of the reassessment proceedings, the Assessing Officer called for and examined the details of the assessee's purchases and sales as reflected in the books of account. Upon such



examination, the Assessing Officer issued a show-cause notice requiring the assessee to explain why the purchases aggregating to Rs. 417,87,20,218/- should not be treated as unexplained expenditure. The assessee, however, failed to furnish any satisfactory explanation or supporting evidence in response thereto. The Assessing Officer thereafter proceeded to analyse the material gathered by the Investigation Wing, particularly the enquiries and survey actions conducted in the case of M/s Balaji Bullions & Commodities (I) Private Limited. The record reveals that summons under section 131 of the Act were issued to the said concern, pursuant to which only partial details such as copies of the purchase and sale registers, stock statements, and bank statements were furnished. Despite repeated opportunities and further notices, the said entities did not produce the remaining information or documents sought by the Department. Upon perusal of the bank statements and other material available on record, the Assessing Officer observed substantial fund movements between M/s Balaji Bullions & Commodities (I) Private Limited i.e. the assessee and various entities allegedly controlled or managed by 'Shri Manoj Babulal Punamiya', including M/s Trikesht Tradelink Private Limited and other concerns. The enquiries conducted during survey proceedings indicated that those entities were either non-functional or lacked any credible evidence of genuine business activity. Physical verification of premises, statements recorded under oath, and post-survey



investigations were relied upon by the Assessing Officer to infer that such concerns were merely paper entities. The Assessing Officer further noted that the directors associated with those concerns were persons of negligible financial means and, in certain cases, were found to be acting only as name-lenders or dummy directors. Statements recorded under section 131 of the Act were considered, wherein it was admitted that the entities had no substantive business operations and were used primarily for routing funds. On the basis of these findings, the Assessing Officer concluded that the purchase transactions reflected in the books of M/s Balaji Bullions & Commodities (I) Private Limited i.e. the assessee were not genuine and represented accommodation entries. Correspondingly, the purchases recorded by the assessee from the said entities were held to lack authenticity. The Assessing Officer observed that neither the identity nor creditworthiness of the parties nor the genuineness of the transactions had been established by the assessee. No confirmations were produced, nor were the concerned parties made available for verification. In view of the cumulative material, including the investigation results, survey findings, banking patterns, and the failure of the assessee to discharge the onus cast upon it, the Assessing Officer held that the purchases amounting to Rs. 417,87,20,218/- constituted unexplained expenditure within the meaning of section 69C of the Act. The said amount was accordingly



added to the total income of the assessee. The relevant finding of the Assessing officer is reproduced as under:

**“Findings in the case of the assessee i.e. M/s. Balaji Bullions & Commodities (I) Private Limited**

*In view of the above, to verify the genuinity of purchases shown by M/s. Trikesk Tradelink Private Limited following summon was issued to M/s. Balaji Bullions & Commodities (I) Private Limited u/s 131 of the Act:-*

| <b>Sr. No</b> | <b>Name and address of Vendor</b>  | <b>Date of Summons</b> | <b>Remarks</b>     |
|---------------|--|------------------------|--------------------|
| 1             | <b>M/s. Balaji Bullions &amp; Commodities (I) Private Limited</b><br><br>118/120 Ashoka House Zaveri Bazar<br>Mumbai-400 002 | 26.04.2017             | Partial submission |

*In response to the summons issued u/s 131 of the act dated 26.04.2017 M/s. Balaji Bullions & Commodities (I) Private Limited made following partial submission on 11.05.2017-*

1. A Copy of Purchase & Sale Register for F.Y 2016-17
2. A Copy of Stock Statement showing the quantity and value for F.Y 2016-17
3. A Copy of bank statement of FY 2016-17

*In view of partial submission by M/s. Balaji Bullions & Commodities (I) Private Limited a letter was issued and served to M/s. Balaj Bullions & Commodities (I) Private Limited on 29.05.2017 requesting to make remaining submission. In response to letter dated 29.05.2017 M/s. Balaji Bullions & Commodities (I) Private Limited again made **partial submission** on 05/06/2017. Thereafter a show cause notice dated 13.06.2016 was issued and served to M/s. Balaji Bullions & Commodities (I) Private Limited to furnish the remaining documents/information. In response to show cause notice dated 13.06.2017 M/s. Balaji Bullions & Commodities (I) Private Limited furnished its reply vide letter dated 21.06.2017 (received on 23.06.2017) stating that:-*

*“We M/s. Balaji Bullions & Commodities (I) Private Limited are in receipt of letter dated 13.06.2017 Necessary details under completion therefore we required sometime to submit the document. Inconvenience cause to your honour is deeply regretted We assure our co-operation to your good self in the matter”*



**However M/s. Balaji Bullions & Commodities (I) Private Limited did not furnish any other documents.**

On perusal of the bank statement submitted by M/s. Balaji Bullions & Commodities (I) Private Limited it is seen that M/s. Balaji Bullions & Commodities (I) Private Limited has rotated its huge funds through bogus entities controlled managed and operated by Shri Manoj Babulal Punamiya (such as M/s. Trikesh Tradelink Private Limited M/s. Shalibhadra Exports Private Limited M/s. Worldwide Online Services Private Limited M/s. Access Diamonds Private Limited etc). As discussed in para 8 of this report that a search action was conducted in the case of Shri Manoj B Punamiya by Director of Income Tax (Inv.) Mumbai on 31.10.2009 and the search action was also carried out on M/s. Trikesh Trade Link Private Limited as part of the search and seizure action carried out in Madhukoda Group of cases and it was found that M/s. Trikesh Trade Link Private Limited is a bogus entity managed and handle by Shri Manoj B Punamiya. (Mentioned in para-1 of the assessment order dated 14.03.2014 of M/s. Trikesh Trade Link Private Limited of A.Y 2010-11).

On perusal of the return of income of M/s. Balaji Bullions & Commodities (I) Private Limited it is seen that M/s. Balaji Bullions & Commodities (I) Private Limited has filed its return of income since A.Y 2009 -10 as per the details given below:-

| Sr. No | A.Y     | Amount         |
|--------|---------|----------------|
| 1      | 2009-10 | 5595863/-      |
| 2      | 2010-11 | (-) 12740527/- |
| 3      | 2011-12 | 664686/-       |
| 4      | 2012-13 | (-)20971519/-  |
| 5      | 2013-14 | 55150649/-     |
| 6      | 2014-15 | (-) 37205020/- |
| 7      | 2015-16 | (-) 1392770/-  |
| 8      | 2016-17 | (-) 18832311/- |
| 9      | 2017-18 | (-) 14342913/- |

The details of 'return of income of Directors of M/s. Balaji Bullions & Commodities (I) Private Limited are as under-



| Assessment Year | Manoj Baulal Punamiya | Hastimal Nathmal Khandelwal |
|-----------------|-----------------------|-----------------------------|
| 2009-10         | NO ITR                | NO ITR                      |
| 2010-11         | 435000/-              | NO ITR                      |
| 2011-12         | 504713/-              | 581327/-                    |
| 2012-13         | 100555/-              | 481379/-                    |
| 2013-14         | 28766/-               | 252685/-                    |
| 2014-15         | 251143/-              | 278067/-                    |
| 2015-16         | 1177440/-             | 303904/-                    |
| 2016-17         | 1811257/-             | 488085/-                    |
| 2017-18         | 2410204/-             | 468091/-                    |

On perusal of the above 'return of income of income of directors of M/s. Balaji Bullions & Commodities (1) Private Limited it is seen that these directors are of no means.

**Here it is also relevant to mention that a survey action was conducted in the case of M/s. Baiju Trading and Investment Private Limited u/s 133A of the act on 21.06.2017 at 3rd Floor Plot No. 118-120 Ashok Building S.M Street Zaveri Bazar Mumbai 400002**

(The address of M/s. Baiju Trading and Investment Private Limited and M/s. Balaji Bullions & Commodities (I) Private Limited are same). On this premise the sign board of Mis. Balaji Bullions & Commodities (I) Private Limited was found.

During the survey proceedings in the case of M/s. Baiju Trading and Investment Private Limited it is found that the entire survey premise was vacant. (This premise also belongs to M/s. Balaji Bullions & Commodities (I) Private Limited) There was no stock kept at the premise. It is found that the premise is being used for address purpose only. Two persons were found at the premise. Their statements were recorded u/s 131 of the act. At that premise one Shri Hanvant Singh was found working as cook. His statement was recorded u/s 131 of the act. In the statement recorded under oath Shri Hanvant Singh confirmed that he is working as cook at this premise. **He also confirmed that he has been appointed as dummy director in M/s. Access Diamonds Private Limited by Shri Manoj Babulal Punamiya.**



As discussed above a search action was conducted in the case of Shri Manoj Babulal Punamiya by Director of Income Tax (Inv.) Mumbai on 31.10.2009 in connection with Madhukoda Group of cases and in the search action M/s. Trikesh Trade Link Private Limited was also covered u/s 132 of the Act. **It is also relevant to submit that the directors of M/s. Trikesh Tardelink Private Limited, M/s. Baiju Trading and Investment Private Limited, M/s. Access Diamonds Private Limited and M/s. Balaji Bullions & Commodities (I) Private Limited are common directors. All these entities are bogus entities. All these entities are controlled managed and operated by Shri Manoj Babulal Punamiya for providing bogus accommodation entries.**

**In view of above facts & discussions it emerges that M/s. Balaji Bullions & Commodities (I) Private Limited is a bogus entity controlled managed and operated by Shri Manoj Babulal Punamiya for providing bogus accommodation entries and is not involved in any business activity.**

On perusal of the bank account statement of M/s. Balaji Bullions & Commodities (I) Private Limited it is seen that M/s. Balaji Bullions & Commodities (I) Private Limited has transferred /rotated huge funds in F.Y 2016-17 through its following bank accounts among its group entities and also transferred huge fund to outside entities -

(i) Kotak Mahindra Bank Narima Point Brach Mumbai (A/c No. 6511642623)

(ii) ICICI Bank Account Landmark Race Course Circle Vadodara - 390007 (Account no. 642605050662)

The assessee M/s. Balaji Bullions & Commodities (1) Private Limited has made the following sales during FY 2016-17:

| Sr. No. | Name of the party               | Amount (Rs.)   |
|---------|---------------------------------|----------------|
| 1       | Kalash Sales Agencies Pvt. Ltd. | 6900000        |
| 2       | Royal India Corporation Ltd.    | 41212688       |
| 3       | Shalibhadra Exports Pvt. Ltd.   | 77022680       |
| 4       | Trikesh Tradelink Pvt. Ltd.     | 470711504      |
|         | Total                           | 59.58,46.872/- |

The sales made by M/s Balaji Bullions & Commodities (I) Private Limited are not genuine transactions and the same are used as colorable device to provide accommodation entries



of bogus purchase to the sales parties of M/s Balaji Bullions & Commodities (I) Private Limited.

The assessee has made the following purchases during the FY 2016-17:

| <b>Sr. No</b> | <b>Name of the party</b>            | <b>Amount (Rs.)</b>    |
|---------------|-------------------------------------|------------------------|
| 1             | Access Diamond Pvt. Ltd.            | 681718036              |
| 2             | Royal India Corporation Ltd.        | 71559930               |
| 3             | Royal Refinery Pvt. Ltd.            | 1809985238             |
| 4             | Shalibhadra Exports Pvt. Ltd.       | 684184864              |
| 5             | Worldwide Online Services Pvt. Ltd. | 931272150              |
|               | <b>Total</b>                        | <b>417,87,20,218/-</b> |

In view of the above discussion, the purchases and other expenses booked by the assessee are bogus as the assessee is not engaged in any genuine business activity and the entity is being used merely for routing of funds. The findings of facts from the enquiries conducted, survey action and the submission of the assessee, it is amply clear that the transactions pertaining to sale and purchases made by M/s Balaji Bullions & Commodities (I) Private Limited are bogus transactions used as a colourable device.

The entity M/s Balaji Bullions & Commodities (I) Private Limited is not engaged in genuine business activity and has no creditworthiness at all. Hence, the parties to whom the funds have been transferred are the beneficiaries of unexplained credits to their accounts.

Above set of events and their corresponding findings reveal the bogus nature of the assessee, and further it reveals that the assessee is involved in proving accommodation entries in the nature of bogus transactions among themselves and with the related parties to create artificial turn over, to accommodate non-genuine transactions, to launder the unaccounted cash amounts, to suppress profits, and to earn commissions.

#### **Addition on Ground of Bogus Purchases**



On perusal of the **purchase register** of M/s. Balaji Bullions & Commodities (I) Private Limited, it is seen that M/s. Balaji Bullions & Commodities (I) Private Limited has made following purchases during **01.04.2016 to 31.12.2016**:-

| <b>Sr. No.</b> | <b>Name of the party</b>            | <b>Amount (Rs.)</b>    |
|----------------|-------------------------------------|------------------------|
| 1              | Access Diamond Pvt. Ltd.            | 681718036              |
| 2              | Royal India Corporation Ltd.        | 71559930               |
| 3              | Royal Refinery Pvt. Ltd.            | 1809985238             |
| 4              | Shalibhadra Exports Pvt. Ltd.       | 684184864              |
| 5              | Worldwide Online Services Pvt. Ltd. | 931272150              |
|                | <b>Total</b>                        | <b>417,87,20,218/-</b> |

During the course of survey action, it was found that the assessee company has been indulging in large scale booking of bogus entries running into crores of rupees by way of bogus sales & purchases through various paper entities. On physical verification of the business premises of these companies, it was found that these entities have not been doing any genuine activities.

It is pertinent to mentioned that the statement given by a person is the evidence to proceed with the ongoing assessments. It is submitted that the statement of (i) Shri Hanvant Singh (ii) Shri Rakesh Champaklal Shah (iii) Shri Dinesh Jani (iv) Ms. BhoomiMomaya & (v) Shri Manoj B. Punamia confirmed that all the entities as mentioned above are bogus as these entities were not engaged in any genuine business activity and these were being used merely for routing of funds. The findings of facts from the enquiries conducted, survey action and the submission (or non-compliance) of the assessee, it is amply clear that the transactions pertaining to sale and purchase made by the assessee are bogus transactions used as a colourable device. As from the above, it is crystal clear that no actual business activity is being done by the assessee and this party is actively involved in routing the unaccounted money through banking channel.

Despite the final notice issued to the assessee, the assessee has failed to reply to the show-cause notice dated 27.03.2022, and has failed to explain to the undersigned the nature and source of the amounts debited in its books of account in the name of bogus purchases. Assessee has grossly failed to establish identity of party, the genuineness of transactions and creditworthiness of the party. Neither the assessee entity posses means



to purchases such huge amounts of Gold nor the supplying party has ability to provide such huge amounts of Gold as established through the findings that these are bogus entities. Further, the assessee was not able to provide any confirmations from the purchase parties nor it was able to produce the purchase parties before the assessing officer. In absence of the details, the undersigned is not able to verify the genuineness of the purchase parties.

Further the circumstantial evidence in the case of the assessee lead the undersigned to believe that the purchases were bogus and were merely booked as colorable device to accommodate unaccounted cash deposited during the demonetization period and to further facilitate artificial creation of the bogus turnover. Some of the circumstantial evidences are as follows:

- The entities are bogus in nature. There is no substantial office/shop/store space. The directors are either dummy directors or bogus. These entities have meager to non-existent employees.
- There are back to back transactions which don't adduce the picture of genuine business transactions.
- The cash deposited during demonetization are immediately transferred to other parties through banking channels to the ultimate beneficiaries (i.e person whose cash was deposited) through a complex chain of bogus transactions.
- The transactions are entered between potentially related parties. The web of bogus entities is involved in proving accommodation entries as per convenience.
- The entity suddenly got inactive after demonetization period. A genuine business entity can't have such a huge fluctuation in the business activity that in certain periods it becomes highly active and in other periods it becomes dormant.

Therefore, the entire amount of **Rs.417,87,20,218/-** debited in the books of accounts of the assessee remains unexplained expenditure, and added to the total income of the assessee u/s 69C of the Act on being unexplained expenditure. Further, in the light of the provisions of section 115BBE, the bogus purchase of **Rs.417,87,20,218/-** which has been held to be taxable u/s 69C will be chargeable to tax at the rate of 60% u/s 115BBE.

I am satisfied that this is a fit case for initiating penalty proceedings 271AAC r.w.s 274 of the Act for under reporting of income in consequence of misreporting of the income. Hence, Penalty u/s 271AAC r.w.s. 274 is being initiated separately.

In view of the above, the total income of the assessee is determined as under:

| Sr No. | Particulars   | Amount (In Rs)  |
|--------|---|-----------------|
| 1      | Total loss as per order u/s 143(1) dated 29.04.2021 | (1,53,42,913/-) |



|  |   |                      |                        |
|--|---|----------------------|------------------------|
|  | <i>Addition made u/s 69C in view of the above discussion;</i> | <b>417,87,20,218</b> | <b>417,87,20,218/-</b> |
|  | <b>Total assessed Income</b>                                  |                      | <b>417,87,20,220/-</b> |

15. With effect from 01.04.2017, sub-section (2) of section 115BBE of the Income-tax Act, 1961 provides that where total income of an assessee includes any income referred to in section (s) 68/69/69A/698/69C/69D of the Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provisions of the Act in computing the income referred to in section 115BBE(1) of the Act.

4. On appeal, the learned CIT(A), while examining both the jurisdictional challenge to the reopening and the merits of the addition, recorded detailed findings. The learned CIT(A) first addressed the validity of the reassessment proceedings. Upon consideration of the reasons recorded and the material forming the basis of the belief, the learned CIT(A) held that the reopening could not be characterised as being founded on mere suspicion or conjecture. It was observed that the Assessing Officer had acted upon specific information received from the Investigation Wing regarding transactions with entities belonging to the 'Punamiya' group. The learned CIT(A) emphasised that, for the purposes of section 147 of the Act, what is required is the existence of a "reason to believe" based on *prima-facie* material, and not conclusive proof of escapement of income at the stage of issuance of notice. Reliance was placed on settled principles governing reassessment, noting that the sufficiency or correctness of the material cannot be scrutinised at the threshold stage. Accordingly, the challenge to the reopening was rejected.



4.1 Proceeding to the merits, the learned CIT(A) undertook an extensive analysis of the investigation findings. The 1<sup>st</sup> first appellate authority concurred with the Assessing Officer's conclusion that the concerns associated with the Punamiya group, including those from whom the assessee had shown purchases, were merely paper entities lacking genuine business operations. The learned CIT(A) referred to survey actions, field enquiries, and statements recorded under oath, which indicated absence of regular business activity, non-functional premises, and the role of certain individuals acting as dummy directors. The pattern of transactions, fund movements, and surrounding circumstances were considered sufficient to uphold the inference that the entities were engaged in providing accommodation entries.

4.2 However, having accepted the non-genuine nature of the entities, the learned CIT(A) proceeded to examine whether the addition made by the Assessing Officer under section 69C of the Act could be sustained in law. In this context, the learned CIT(A) analysed the scope and legislative intent of section 69C, observing that the provision is attracted where an assessee is found to have incurred expenditure and fails to offer a satisfactory explanation regarding the source of such expenditure. The learned CIT(A) reasoned that the underlying premise of section 69C is the existence of unexplained outgoings representing application of unaccounted funds.



4.3 Applying the statutory provision to the facts of the present case, the learned CIT(A) noted that the purchases and corresponding sales were duly recorded in the books of account, and the related payments were effected through banking channels. It was further observed that the transactions were reflected in the regular financial records, and there was no allegation of unrecorded expenditure or cash outflow outside the books. In such circumstances, the learned CIT(A) concluded that the purchases, though tainted by the character of accommodation entries, could not be treated as “unexplained expenditure” within the meaning of section 69C.

4.4 The learned CIT(A) thus held that the essential conditions for invoking section 69C were not satisfied. Consequently, the addition of Rs. 417,87,20,218/- made by the Assessing Officer under section 69C of the Act was directed to be deleted.

4.5 The learned CIT(A), having concluded that the assessee was not engaged in any genuine trading activity and that the purchases and sales reflected in the books were merely accommodation entries, proceeded to determine the tax implications of such finding.

4.6 The learned CIT(A) observed that in cases involving accommodation entry providers, the real income does not arise from the gross value of transactions recorded in the books, but from the commission earned for facilitating such entries. In support of this approach, reference was made to appellate orders passed in the cases



of group concerns, wherein additions made under section 68 of the Act were deleted and income was instead estimated by applying a commission rate to the total turnover represented by sales and purchases.

4.7 Applying the same reasoning, the learned CIT(A) afforded an opportunity to the assessee to explain why its income should not be similarly estimated. The objections raised by the assessee, primarily asserting the genuineness of transactions on the ground that payments were routed through banking channels, were found to be devoid of merit. The learned CIT(A) reiterated that accommodation entry operations are typically supported by complete documentation and banking trails, which by themselves do not establish the authenticity of the underlying transactions.

4.8 Upon evaluation of the material on record, including the investigation findings and surrounding circumstances, the learned CIT(A) held that the books of account of the assessee did not present a true and reliable picture of its business affairs. Consequently, the books were rejected in exercise of powers under section 145(3) of the Act, and the loss declared by the assessee was disregarded.

4.9 Thereafter, the learned CIT(A) proceeded to estimate the income attributable to the assessee's activities by applying a commission rate of 0.5% to the aggregate value of purchases and sales for the relevant year. On this basis, commission income was computed on the



purchases as well as the sales disclosed by the assessee. The total commission income was thus quantified at Rs. 3,14,93,489/-, which was directed to be assessed as the income of the assessee.

5. Aggrieved, with the above finding both Revenue and the assessee are before us by way of raising following grounds:

**“Grounds of Appeal of Revenue**

*“1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in law and on facts in deleting the addition of Rs.417,87,20,218/- made u/s 69C of the Income Tax Act, 1961, on account of unexplained expenditure in the form of bogus purchases/operative expenses.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in holding that the provisions of 2 Section 69C are not applicable despite clear findings that the purchases were non-genuine and made through shell entities merely for providing accommodation entries*

*3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that the assessee could not establish the identity and creditworthiness of the 3 purchase parties or produce any confirmations, thereby rendering the purchases as unexplained expenditure liable for addition u/s 69C.*

*4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in placing reliance on the fact that the transactions were routed through banking channels, whereas the surrounding facts and evidence clearly establish that the transactions were sham in nature.*

*5. Whether on the facts and in the circumstances of the case and in law, the order of the Ld. CIT(A) is against the weight of evidence gathered during the course of survey proceedings, including statements from third parties confirming the modus operandi of routing unaccounted money through bogus transactions.*

*6. Whether on the facts and in the circumstances of the case and in law, the order of the Ld. CIT(A) is against the weight of evidence gathered during the course of survey proceedings, including statements from third parties confirming the modus operandi of routing unaccounted money through bogus transactions.”*

**“Grounds of Appeal of Assessee.**



“1. That the Ld. CIT(A) has erred in law and on facts of the case by making addition estimated @ 0.5% on sales/purchase enhancing above the reasons recorded with order is not sustainable and liable to quashed.

2. The Ld. CIT(A) erred in enhancing the addition without having jurisdiction on a new issue not dealt in the body of the assessment order or raised in the appellate proceeding by the assessee.

3. The Ld. CIT(A) erred in enhancing the addition without issuing specific notice u/s 251 of the Act. The power of enhancement u/s 251 (2) of the Act restricted the subject matter shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement. But in our case addition is enhanced without following the said settled provision, hence passed order is impugned.

4. All of the above grounds of appeal are without prejudice and notwithstanding each other.

5. The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.

6. Any consequential relief, to which the Appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal, or otherwise, thus may be granted

**The Appellant as per rule 11 of ITAT take additional ground for instant appeal ITAT rule 11 the assessee take Addition Ground:-**

**Additional Grounds of appeal being raised by the assessee before the Ld. CIT (A):**

At this juncture, the assessee craves to raise some additional grounds of appeal which were not raised while filing the appeals before the Ld. CIT (A). The Hon'ble Supreme Court in the case of **National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 383(SC)** has held that it is open to the assessee to raise the points of law even before the tribunal which was not raised earlier. A Tribunal has jurisdiction to examine a question of law which arises from the facts as found by the authorities below and having a bearing on the tax liability of the assessee and where the tribunal is only required to consider a question of law arising from the facts, it should allow it to be raised when it is necessary to consider that question in order to correctly assessee the tax liability of the assessee.

The inability of the learned A to take into consideration this important piece of legal proposition was also not called for and the assessee at this juncture also craves to raise this legal objection as an additional ground of appeal for all the assessment years.



*GROUND-1 The CIT (A) has erred in law and on facts in not holding that the reopening of the assessment by issuing of notice u/s 148 of the Act was illegal and bad in law.*

*GROUND-2 The CIT (A) ought to have held that the AO has erred in law and on facts in making fishing and roving and in passing the order impugned, which is not permitted in reassessment proceedings.*

*GROUND-3 That the Ld. A.O. erred in law and on the facts of the case by not appreciating facts of the case in order to reopening of the assessment fairly and judiciously which is incorrect and unjustified.*

*GROUND-4 Whether the transaction amount not pertaining the relevant assessment years on basis the recoded region not valid addition with vevged recorded region total proceeding liable to be quashed.*

*GROUND-5 Without specific defect in the F.Y. rejected book of accounts u/s 145(3) of the Act estimated income unjustified and the appellatant order liable to be quashed.”*

6. We have considered rival submissions of the parties and perused relevant material on record including paper book filed by the assessee containing pages 1-269. The genesis of the present dispute lies in the findings of the Investigation Wing during survey actions conducted on various entities to verify cash deposits during the demonetization period. The trail of these deposits led to the discovery of a sophisticated network of paper concerns managed by Shri Manoj Punamiya. It is the case of the Revenue that the assessee recorded substantial purchases from those concerns in its books of account without actual delivery of goods from them and facilitate accommodation entries. Given the assessee's failure to substantiate the genuineness of those transactions during the assessment, the Assessing Officer (AO) was constrained to treat the same as unexplained expenditure.



6.1 While the learned CIT(A) concurred with the finding that the purchases were not verifiable in view of absence of physical business activity at the suppliers' premises and the use of dummy directors, but he nevertheless deleted the addition under Section 69C, holding the provision to be inapplicable where transactions are recorded in the books. We find ourselves unable to subscribe to this narrow interpretation. In our considered view, once a purchase is found to be non-genuine, the primary onus shifts to the assessee to demonstrate how the corresponding sales were effected without the actual receipt of goods from the declared sources.

6.2 The inescapable inference in such "accommodation entry" scenarios is that the assessee likely procured goods from the "grey market" in cash. Since the source of such unaccounted cash remains unexplained, the expenditure constitutes a classic case of unexplained outgoings. Therefore, the invocation of Section 69C is not only permissible but justified. Consequently, the action of the learned CIT(A) in discarding the substantive addition in favor of a mere estimation of commission income lacks a sound legal and factual foundation.

6.3 Regarding the assessee's grievance that the Ld. CIT(A)'s estimation of commission income amounted to an unauthorized "enhancement" of income, we find this argument to be misplaced. The Ld. CIT(A) did not discover a "new source" of income; rather, he



merely modified the quantification of the addition arising from the same source, namely, the bogus purchase transactions. However, as we have upheld the principle that the onus to prove the genuineness of the underlying expenditure remains with the assessee, a burden the assessee has miserably failed to discharge, the question of the validity of invoking of section 145(3) and commission estimation becomes academic.

6.4 In view of the foregoing, prima facie the purchases of the assessee does not appear to be genuine but before the AO the assessee failed in submitting documentary evidences and also failed to produced those parties , therefore in the interest of substantial justice, we deem it appropriate to provide one more opportunity to the assessee to substantiate its claim by way of documentary evidence and if required so by the ld AO, shall produce those parties before the AO for cross examination by the ld Assessing officer in order to verification of their identity, creditworthiness, and the genuineness of the transactions. Accordingly, we set aside the order of ld CIT(A) and restore the issue in dispute to the file of the Assessing Officer for fresh adjudication in accordance with the law, after affording the assessee a reasonable opportunity to be heard, without influencing with our observation above. The AO is directed to examine the matter in the light of the principles enunciated by the Hon'ble jurisdictional High Court of Bombay in decision dated March 3, 2025, in the case of **Kanak Impex Pvt. Ltd** in ITA No. 791/2021. The Hon'ble court in



said case ruled that when the assessee fails to prove the source and genuineness, the entire expenditure must be disallowed (Section 69C) rather than just estimating a profit rate. The Special Leave Petition (SLP) filed by the assessee before Hon'ble Supreme court against this judgment has also been dismissed.

7. The assessee has assailed the validity of the reassessment proceedings initiated under sections 147/148 of the Act. We have carefully considered the rival submissions and examined the reasons recorded by the Assessing Officer.

7.1 The reopening of the assessment is founded upon specific information received from the Investigation Wing indicating that the assessee had entered into transactions with certain entities belonging to the 'Punamiya' group, which were allegedly engaged in providing accommodation entries. The reasons recorded demonstrate that the Assessing Officer took cognizance of the investigation inputs, examined the nature of the transactions, and formed a prima facie belief that income chargeable to tax had escaped assessment.

7.2 The expression "reason to believe" postulates the existence of tangible material having a rational connection with the formation of belief regarding escapement of income. The belief must be that of a reasonable person based on relevant material; it cannot be arbitrary, mechanical, or based on mere suspicion.



7.3 In the present case, the original return of income was processed under section 143(1) of the Act. It is trite law that intimation under section 143(1) does not amount to an assessment in the strict sense, and therefore, the doctrine of “change of opinion” has limited application in such circumstances. In any event, even otherwise, there is nothing on record to suggest that the issue forming the basis of reopening had been previously examined or consciously adjudicated. The reassessment proceedings, therefore, cannot be invalidated on the ground of change of opinion.

7.4 The material referred to in the recorded reasons cannot be characterised as vague or non-specific or roving or fishing enquiry. The information emanating from the Investigation Wing constitutes fresh, external, and tangible material. The link between such material and the formation of belief is clearly discernible from the reasons recorded. The law does not mandate that the escapement of income be conclusively established at the stage of reopening; a prima facie nexus suffices. We are satisfied that the requirement of a live and rational nexus between the material and the belief stands fulfilled.

7.5 The contention that the reopening is vitiated by “borrowed satisfaction” also merits rejection. While the initial trigger for reopening originated from the Investigation Wing, the reasons recorded reveal that the Assessing Officer did not act mechanically upon such information. The Assessing Officer independently applied



his mind to the material, examined the transactional details, and recorded his reason to believe.

7.6 It is equally well-settled that at the stage of testing the validity of reassessment, the sufficiency or adequacy of the material is not to be scrutinised. The enquiry is confined to examining whether there existed relevant material on the basis of which a reasonable belief could have been formed. In the facts before us, the existence of such material is beyond dispute.

7.7 Before us, the learned counsel for the assessee has reiterated substantially the same objections which were urged before the learned CIT(A). Upon independent consideration, we find no infirmity in the conclusion of the learned CIT(A) that the reassessment proceedings were validly initiated.

7.8 Accordingly, we hold that the assumption of jurisdiction under section 147 of the Act is legally sustainable. The grounds raised by the assessee challenging the validity of reassessment are dismissed.

8. In result, the appeal of the assessee is dismissed whereas the appeal of the Revenue is allowed for statistical purposes.

**Order pronounced in the open Court on 23/02/2026.**

**Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**



Mumbai;  
Dated: 23/02/2026  
M. RanganathVittal , Sr. P.S.

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**