

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
HON’BLE SHRI PRABASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 8731/Mum/2025  
(Assessment Year: 2011-12)**

Income Tax Officer-19(1)(5), Room No. 502, 5 <sup>th</sup> Floor, Piramal Chambers , Lalbaug, Parel, Mumbai - 400012	Vs.	Hitesh Khimchand Jain 123 East, 1 <sup>st</sup> FLR, Shanti Bhawan, V.P. Road Mumbai - 400004
PAN/GIR No. AFXPB7780C		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Shri Brajendra Kumar (SR. DR.)

Date of Hearing	12.02.2026
Date of Pronouncement	09.03.2026

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the Revenue challenging the impugned order 06.10.2025 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2011-12. The following grounds are reproduced below:

*“1. Whether on the facts and circumstances of the case and in law, the CITIA arred in restricting addition on the alleged bogus purchases without appreciating the fact that AO made addition on the basis information was received from the Sales Department Tax that the assesses was beneficiary of hawala bilis or accommodation entries*

*either to inflate the purchases or expenses thereby reducing the tax liabilities.*

*2. "Whether on the facts and circumstances of the case and in law the CIT(A) erred in restricting the addition made the AO of the alleged purchases of Re 8,15,196/- being 15% to Rs. 2,71,732/- 5% of the total purchases of Rs. 54,34,638/, without appreciating the fact that no actual goods were supplied by the parties to the assessed."*

*3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A), erred in restricting the GP rate to the extent of 5%, by estimating the income of bogus Purchases on the basis of comparing of bogus purchases with the purchases in the regular books of accounts ignoring that the fort of procuring bogus invoices leads to the un-verified inflation of purchase price by the assessee which cannot be compared with the regular GP of the books of accounts."*

*4. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the element of reasons for procuring of bogus, invoices when it was observed that GP on these bogus invoices were almost matching with the GP, as per genuine invoices and therefore, such estimation of income out of bogus purchases with GP, as per regular books of accounts is not justified".*

*5. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the addition was based on mere suspicion, surmises, and conjectures, ignoring the fact that the addition was founded on credible investigation inputs and corroborative evidence of bogus accommodation entries"*

*6. "Whether on the facts and in the circumstances of the case and in law, the order of the Ld. CIT(A) is perverse in not considering that the order of Hon'ble Supremis Court in the case of M/s. N. K. Proteins Ltd. Vs. Dy. CIT (2016) 292 CTR (Guj.) 354, Dated. 16.01.2017, which is on the similar issue of bogus purchasen, was already the law of the land when the Ld. CIT(A) has pronounced it's order on 06.10.2025."*

7. *"Whether on the facts and in the circumstances of the case and in law, the Id. CITIA) has erred in restricting the addition without appreciating the fact that in the case of Mis. Swetamber Steels Ltd. (Supra), the Hon'ble ITAT, Ahmadabad had conformed the disallowance of the bogus purchase, by stating that the purchases shown from respective parties were found non genuine and the decision of the ITAT was upheld by Hon'ble Gujrat High Court and also by the Hon'ble Supreme Court".*

8. *"Whether on the facts and in the circumstances of the case and in law, the Ld. CITA) is erred in not considering the view expressed in the decision of the Hon'ble High Court Mumbai, in the case of Pr. Commissioner of Income-Tax-5, Mumbai Vs. Kanak Impex (India) Ltd(2025)172 Taxmann.com 283 (Bombay) Dated. 03.03.2025, wherein the decision of 100% addition made by AO has been allowed, by rejecting the ITAT's decision of estimating the profit rate @12.5% on bogus purchases and thereby impliedly granting deduction of such unexplained expenditure incurred u/s. 69C of the Act, even though the assessee failed to discharge its onus to prove the genuineness of alleged purchases and has not explained the sources of expenditure incurred on account of such purchase"*

9. *The Revenue craves leave to add, alter, amend, or withdraw any of the above grounds of appeal at the time of hearing or thereafter."*

2. None appeared on behalf of the assessee/respondent when the case was called repeatedly. From the case records, we noticed that summons in this case were sent by the Registry through speed post. More than one month has passed since the summons were issued at the address provided by the assessee/respondent, and thus drawing inference under the General Clauses Act, it is presumed that service of summons/notice has been duly effected.

3. On the other hand, Ld. DR present in the court is ready with the arguments, therefore we have decided to proceed with the hearing of the appeal ex parte.

4. We have heard Ld. DR and perused the material placed on record. From the records we noticed that the AO made additions in the present case on account of the fact that the assessee was found to be a beneficiary of accommodation entries in the shape of bogus bills, either to inflate purchases or expenses, thereby reducing the tax liability. After analysing the facts of the case, the AO rejected the books of account and estimated the income as per best judgment under Section 144 of the Act. Considering the facts, the AO held that the profit element embedded in such purchases should be treated as profit earned from such purchases and, accordingly, 15% of the bogus/non-genuine purchases was added to the income of the assessee on account of profit earned from such purchases.

5. We find that Ld. CIT(A), without any basis or foundations, reduced the disallowance rate to 5% of the total purchases without mentioning any cogent reasons. It is worth mentioning here that the Ld. CIT(A) relied upon the documents filed by the assessee without permitting the AO to verify additional evidence or without calling for a remand report.

6. Considering these facts, we set aside the order passed by the Ld. CIT(A) and restore the order passed by the Assessing Officer. Accordingly, all the grounds raised by the Revenue are allowed.

7. In the result, appeal filed by the Revenue is allowed.

Order pronounced in the open court on 09.03.2026

Sd/-

**(PRABASH SHANKAR)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 09/03/2026

**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.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

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