

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA. No.3453/MUM/2025
Assessment Year: 2011-12**

Ravindrakumar Amratlal Jain, Room No.10, 2nd Floor, 56/72, Durgadevi Street, Mumbai -400004.	Vs.	Income Tax Officer Ward - 19(3)(1), Room No.202, 2nd Floor, Matru Mandir, Tardeo Road, Mumbai - 400007.
(Appellant)	:	(Respondent)

PAN No. AJEPJ 7507 Q

Present for:

Assessee by : Mr. Dhaval Shah, Ld. AR
Revenue by : Shri Annavaram Kosuri (Sr. AR).

Date of Hearing : 02.03.2026
Date of Pronouncement : 02.03.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 15.03.2025, impugned herein, passed by National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) [in short Ld. Commissioner] u/s 250 of the Income Tax Act, 1961, [in short 'the Act'] for the A.Y. 2011-12.

2. In the instant case, the case of the Assessee was reopened u/s. 147 of the Act, by issuing notice dated 10.03.2016 u/s 148 of

the Act, on the information received from the DCIT (Investigation) Wing, Mumbai regarding issuing of Hawala bills or accommodation entries received by the Assessee from various parties to the tune of Rs.6,61,31,668/- in total, as detailed/mentioned by the Assessing Officer in Para No.2 of the Assessment Order. The reopening of the Assessment proceedings, ultimately resulted into making the addition of Rs.82,66,459/- being 12.5% of the alleged non-genuine purchases of Rs.6,61,31,668/- on some discrepancies found specifically with regard to mode of transportation, which allegedly remained to be explained properly.

3. The Assessee being aggrieved challenged the said Assessment Order, as well as the addition made by the Assessing Officer by way of such Assessment Order, by filing 1st appeal before the Ld. Commissioner, who vide impugned order affirmed the alleged non-genuine purchases/transactions to the extent of Rs.6,09,98,252/- instead of Rs.6,61,31,668/- and ultimately restricted the addition of Rs.82,66,459/- to Rs.76,24,782/-.

4. The Assessee being aggrieved preferred instant appeal challenging the impugned order and during the appellate proceedings before this Court, also raised legal grounds/issues including challenging the Assessment Order for want of notice u/s 143(2) of the Act, and claimed that the Assessing Officer has passed the Assessment Order, without issuing notice u/s 143(2) of the Act. However, the Assessee during the course of hearing, did not press this particular ground and in effect, emphasized on merits of the case.

5. On the contrary, the Ld. DR supported the orders passed by the authorities below and refuted the claim of the Assessee on merit by relying on judgment of the Jurisdictional High Court in the case of **Principal Commissioner of Income Tax-5 Vs. Kanak impex (India) Ltd., ITA No.791/2021 (Bombay High Court, 03.03.2025)**.

6. Having heard the parties and perusing the relevant material available on record and considering the rival submissions of the parties, we observed that the Assessee deals in ferrous and nonferrous steel material.

7. The Hon'ble Coordinate Bench of the Tribunal in the case of ITO Vs. Khimchand Okhchand Bhansali (174taxmann.com 148) while considering the identical facts and circumstances of that particular case, wherein, the addition @ 12.5% has been made by the Assessing Officer in the identical facts and circumstances, as involved in the instant case and the Ld. Commissioner on appeal restricted the addition to 4% by partly allowing the appeal of the Assessee and distinguishing the judgment in the case of **Kanak impex (supra)**, ultimately restricted the addition @ 5% of the alleged bogus purchases, by observing and holding as under:-

"3. The Assessee has claimed that it deals in ferrous and nonferrous metals and during the year under consideration, made the purchases of Rs. 1,12,13,732/- through banking channels and respective purchase invoices and has established the purchases made, by filing relevant purchase invoices, copy of bank statements evidencing payment made through proper banking channels, highlighting the relevant entries, chart showing the details of the purchases made from the parties and quantitative tally in respect of purchases made from the parties and the corresponding sales. The Assessee further claimed before he assessing officer that there is one to one co-relationship between purchasers, sales are fully vouched, purchases from the said parties can be corroborated, as the Assessee has made payments through account paying cheques only. The Assessee at last claimed that without purchases, no sale can be made.

4. Though the Assessing Officer considered the aforesaid claim of the Assessee, however rejected the same, mainly on the reasons that Sales Tax Department, has given information with regard to the bogus accommodation entries on account of bogus purchases/bills. Further the assessee has failed to produce the delivery challans, transport and Octroi receipts etc., The Assessing Officer also observed that mere filing of evidence qua purchases and making of payment through account cheque, cannot be conclusive in a case, where genuineness of the transactions, is in doubt. The Assessing Officer thus on the aforesaid reasons, ultimately estimated the profit element at the rate of 12.5% of the total purchase of Rs.1,12,13,732/- and consequently made the addition of Rs.14,01,716/-.

5. The Assessee being aggrieved challenged the reopening of the proceedings u/s 147 of the Act, as well as the addition on merits by filing 1st appeal before the Ld. Commissioner. The Ld. Commissioner though affirmed the reopening proceedings u/s 147 of the Act, but restricted the addition from 12.5% to 4% of the bogus purchases by taking into consideration the judgment passed by the Hon'ble Tribunal in the case of Kamlesh Bhasali v. ITO [IT Appeal No.591(MUM) 2020, dated 25.11.2021] In effect, the Ld. Commissioner deleted the addition of Rs.9,41,167/-.

6. The revenue department being aggrieved is in appeal before this court and at outset has placed reliance on the judgment passed by the Hon'ble Jurisdictional High Court in the case of Principal Commissioner of Income Tax v. Kanak Impex (India) Ltd., ITA No. 791/2021/[2025] 172 taxmann.com ITR 175 (Bombay) decided on 03.03.2025, wherein the Hon'ble High Court restored the addition made by the assessing officer @100% of the bogus purchases, which was restricted to 12.5% by the Ld. Commissioner, and subsequently got affirmed by the Hon'ble Tribunal, restricting the disallowance qua profit margin, on unproven purchases.

7. Ld. Counsel Mr. Dhaval Shah, on the contrary has demonstrated that this case is factually dissimilar to the case dealt with the Hon'ble High Court, as the Hon'ble High Court considered the case, wherein the assessing officer has made the addition @100%, but in the instant case, the Assessing Officer himself has estimated the profit 12.5%

8. This Court observe that the Hon'ble High Court, while deciding the issue, has also taken into consideration the relevant fact specific to the effects that the Assessee in that case failed to prove the purchases including source of expenditure, by not offering any explanation in the course of reassessment proceedings and therefore in the absence of any explanation qua source of expenditure, the AO had applied the provisions of section 69(c) of the Act and therefore, the Hon'ble High Court justified the action of the AO, in making the addition @100%. Whereas in the instant case, admittedly the Assessee has proved that the transactions have been carried out through banking channels and the assessing officer has not also not doubted the same and accepted specifically in the assessment order itself vide para 7(xii) for making the payment through banking channel.

9. *The Ld. Counsel also submitted four judgments qua identical issue, by the Hon'ble Jurisdictional High Court, including in the case of Principal Commissioner of Income Tax-2 v. Refrigerated Distribute Private Limited [IT Appeal No. 1840 of 2018, dated 5-3-2005], wherein the Assessing Officer estimated the gross profit @25%, which was confirmed by the then Ld. CIT(A). However, subsequently reduced by the tribunal to 10% and therefore, the Hon'ble High Court, by considering the peculiar fact that the issue involved relates to only estimation of profit, ultimately opined/decided that no substantial question of law can be said to have arisen in the instant case.*
10. *Thus this Court is in concurrence with the contention raised by Mr. Dhaval and the claim made by the Assessee that this case is factually dissimilar to the case dealt with by the Hon'ble High Court Kanak Impex (India) Ltd. (supra). Hence the addition @ 100% of the bogus purchases made by the AO and as claimed by the Ld. DR, cannot be restored*
11. *This Court further observe that Tribunal in the cases of Mr. Manish P. Lathia, HUF v. ITO in [IT' Appeal No. 2906 (Mum.) of 2024, 12-12-2024] and Mr. Vinesh Arvindkumar Shah v. ITO in [IT Appeal No. 2121 (Mum.) of 2024, dated 12-12-2024], has also dealt with identical issue as involved in this case, wherein the Assessee was also involved in the identical business such as ferrous or nonferrous metals. The Hon'ble Coordinate Bench of the Tribunal restricted the addition from 12.5% to 5%.*
12. *And therefore considering the peculiar fact and circumstances, for the just and proper decision of the case and substantial justice, this court deem it appropriate to restrict the addition @5% instead of 4% as restricted by the Ld. Commissioner.*
13. *Thus the Assessing Officer is directed to compute the profit element/margin/estimation %5% instead of 4%, as restricted by the Ld. Commissioner.*
14. *Resultantly, the appeal i.e., ITA No. 6546/M/2024 filed by the Revenue Department, stands partly allowed."*
8. Thus, by considering the peculiar facts and circumstances of this case, and respectfully following the judgment of the Hon'ble Coordinate Bench in the aforesaid case, we are inclined to restrict the addition @ 12.5% to 5% of the alleged amount of bogus purchases, which is corrected and restricted to the tune of Rs.6,09,98,252/- by the Ld. Commissioner, instead of Rs.6,61,31,668/- as considered by the Assessing Officer.

9. In the result Assessee's Appeal, is partly allowed.

Order pronounced in the open court on 02.03.2026.

**Sd/-
(Jagadish)
Accountant Member**

**Sd/-
(Narender Kumar Choudhry)
Judicial Member**

M. Ranganath Vithal
Sr. Private Secretary.

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai