

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

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 7256/Mum/2025
(Assessment Year: 2019-20)**

Krishna Venkappa Shetty Unique Heights B Wing, 706 Poonam Garden, Mira Bhayander Road, Mira Road, Thane -401107	Vs.	JAO Ward 2(1), Thane Thane - 400602
PAN/GIR No. BNTPS8180E		
(Applicant)		(Respondent)

Assessee by	Shri Haresh Joshi
Revenue by	Shri Harendra Verma, Sr. DR

Date of Hearing	17.02.2026
Date of Pronouncement	12.03.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 01.09.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2019-20. The following grounds are reproduced below:

"1. The Faceless Assessing Unit has erred in making addition of bogus purchase of Rs.39,37,500/- u/s 69C of the Act in gross violation of the provisions of the Income Tax Act, 1961 and rules made there under.

2. *The Jurisdictional Assessing Officer has erred in ignoring principle laid down by Judgement Of Hexaware Technologies Limited High Court order passed by The Hon'ble K.R. Shriram & Dr. Neela Gokhale J. that notice u/s 148 to be issued by Faceless Unit from the 1st notice itself.*

3. *The Assessing Officer has erred in charging interest u/s 234A amounting to Rs.2,17,474/-in gross violation of provisions of the Income Tax Act, 1961 and rules there under.*

4. *The Assessment Unit has erred in ignoring various judicial pronouncement with respect to bogus purchase wherein gross profit is estimated and is added to income instead of full amount of bogus purchase.*

5. *The Assessment Unit has ignored the judgement passed by Bombay High Court in case of M. Haji Adam & Co. additions should be limited to matching the gross profit rate of bogus purchases with that of genuine purchases. And also other orders passed by Gujarat High Court and ITAT Delhi Bench limiting addition to 25% of purchase.*

6. *The appellant craves leave to add, amend, alter and/or modify any or all of the grounds of appeal statement above on or before the date of hearing.”*

2. At the very outset we noticed that there is delay of approximately 11 days in filing the appeal before us. Considering the entire factual position as explained before us and also keeping in view the principles laid down by Hon'ble Supreme Court in the case of **Collector Land Acquisition, Anantnag & ... vs Mst. Katiji & Ors 1987 AIR 1353 (SC)** wherein it has been held that where **substantial justice** is pitted against the technicalities of non-deliberate delay then in that eventuality substantial justice is to be preferred. In our view, the principle of advancing substantial justice is of prime importance, hence,

considering the explanation put forth by the assessee by justifiably and properly explaining the delay which occurred in filing the appeal and considering the expression “**sufficient cause**” liberally we are inclined to condone the delay in filing the appeal before us. Consequently, the delay is condoned and the appeal is admitted to be heard on ground of merits.

3. From the records, we also noticed that assessee was ex-parte before Ld. CIT(A) and consequently, considering the documents placed on record, Ld. CIT(A) dismissed the appeal.

5. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that the assessee could not put effective representation before Ld. CIT(A). Therefore, considering the interest of justice, the Bench is of the view that one more opportunity be given to the assessee to represent his case before Ld. CIT(A). Therefore, considering the overall circumstances of the present case, we deem it proper to set aside the order passed by Ld. CIT(A) and restore the matter back to the file of Ld. CIT(A) for deciding the same afresh by providing adequate opportunity of hearing, subject to cost of Rs. 2,000/- imposed upon the assessee which shall be deposited in the **Prime Minister Relief Fund** and a copy of the receipt shall be placed on the file before Ld. CIT(A) within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

6. Before parting, we want to make it clear that our decision to restore the matter back to the file of CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by CIT(A) independently in accordance with law.

7. Needless to mention that the Ld. CIT(A) shall provide adequate opportunity of hearing to the assessee. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

8. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 12.03.2026

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 12/03/2026

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, Mumba