

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKARAND VASANT MAHADEOKAR,
ACCOUNTANT MEMBER**

**ITA No.9024/Mum/2025
(Assessment Year :2009-10)**

Pravin Vasant Mehta 1002, A Wing Rajyog Residency H.N. Compound M.G. Road, Goregaon West Mumbai	Vs.	Dy. Commissioner of Income Tax Circle 41(4)(1), Mumbai
PAN/GIR No.AAHPM1166E		
(Appellant)	..	(Respondent)

Assessee by	Shri Veetrag Chhajer
Revenue by	Shri Virabhadra S. Mahajan (Sr. DR)
Date of Hearing	16/03/2026
Date of Pronouncement	26/03/2026

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal has been preferred by the assessee against the order dated 17.10.2025 passed by the learned National Faceless Appeal Centre (NFAC), Delhi, arising out of penalty proceedings initiated under section 271(1)(c) of the Income Tax Act, 1961 for the assessment year 2009-10.

2. The sole grievance of the assessee is against the sustenance of penalty of Rs. 3,49,144/-, which has its genesis in the quantum addition made on account of alleged bogus purchases. The Assessing Officer, in the assessment framed under section 143(3) read with section 147 vide order dated 14.11.2014, had treated purchases aggregating to Rs. 11,29,914/- from certain parties as non-genuine and proceeded to make addition of the entire amount. However, in the appellate proceedings in quantum, the Tribunal, taking a pragmatic and settled view in such matters, restricted the disallowance to 12.5% of the alleged purchases, thereby sustaining an addition of Rs. 1,41,240/-. Despite such restriction, the Assessing Officer levied penalty on the entire amount of Rs. 11,29,914/-, which was later modified by the learned CIT(A), who directed that the penalty be confined to the addition as finally sustained.

3. We have heard the rival submissions and carefully perused the material available on record. It is an undisputed position that the assessee had furnished complete details of purchases, including bills and ledger accounts, and the payments have been made through account payee cheques. The purchases were duly recorded in the books of account and were not found to be fictitious per se; rather, the disallowance arose on account of doubt cast upon the genuineness of the parties, leading to an estimation of profit

element embedded in such purchases. The Tribunal, in the quantum proceedings, has also not affirmed the entire addition but has resorted to estimation by applying a gross profit rate of 12.5%, which is a well-accepted judicial approach in cases of suspected accommodation entries.

4. In such a scenario, the foundation of the addition itself rests on estimation and not on any concrete finding of concealment or furnishing of inaccurate particulars. The law is well settled that where income is determined on an estimated basis, particularly by applying a profit rate on purchases duly recorded in the books, the element of concealment becomes inherently nebulous and incapable of precise attribution. The assessee's explanation, supported by documentary evidences and banking channels, has not been found to be false; rather, the addition has been sustained only to account for possible inflation of purchase price or profit suppression.

5. Thus, in our considered view, the very edifice of penalty under section 271(1)(c) collapses in the absence of any cogent material demonstrating either concealment of income or furnishing of inaccurate particulars. The estimation of gross profit, howsoever justified for quantum purposes, cannot ipso facto lead to penalty, as it remains within the realm of

approximation and probability rather than definitive determination.

6. Accordingly, we hold that the penalty sustained by the learned CIT(A) is unsustainable in law and deserves to be deleted.

7. In the result, the appeal of the assessee stands allowed.

Order pronounced on 26th March, 2026.

**Sd/-
(MAKARAND VASANT
MAHADEOKAR)**

ACCOUNTANT MEMBER

Mumbai; Dated 26/03/2026
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

**Sd/-
(AMIT SHUKLA)**

JUDICIAL MEMBER

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai