

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI  
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)  
AND  
SHRI JAGADISH (ACCOUNTANT MEMBER)**

**I.T.A. No. 5803/Mum/2025**

**Assessment Year: 2009-10**

**&**

**I.T.A. No. 5804/Mum/2025**

**Assessment Year: 2010-11**

<b>Income Tax Officer, 19(3)(1) 405, 4<sup>th</sup> Floor Income Tax Office Piramal Chambers Lal Baug, Parel Mumbai - 400012</b>	<b>Vs.</b>	<b>Sourabh Navalkishor Garg Office No., Shreeji Arcade Tata Road No. Two Mumbai - 400002 [PAN: ALNPG6600J]</b>
(Appellant)		(Respondent)

<b>Appellant by</b>	Shri Himanshu Gandhi, A/R
<b>Respondent by</b>	Shri Suni Mathews, Sr. A/R

<b>Date of Hearing</b>	06.04.2026
<b>Date of Pronouncement</b>	21.04.2026

**ORDER**

**Per Smt. Beena Pillai, JM:**

Present appeals have been filed by the Revenue against the orders dated 12/06/2025 passed by the National Faceless Appeal Centre [hereinafter referred to as “Ld.CIT(A)”], for Assessment Years 2009-10 & 2010-11 on following grounds of appeal:

**Assessment Year: 2009-10**

“1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that notice issued u/s. 148 and order under appeal passed by ACIT, Circle 2, Ajmer is without jurisdiction, without appreciating the facts that assessee has claimed bogus purchases of Rs.5,04,94,046/- from M/s. Kotsons Impex Pvt Ltd., M/s. Shree Jalaram Enterprises and M/s. Excellent Diamonds Pvt Ltd., a Hawala Bogus Entry Providers as per the Maharashtra VAT Department, that these groups, were involved in providing bogus bills without any actual supply of materials to assessee firm and has not appreciated the fact that PAN of the assessee lying at Ajmer and assessee has not objected to the reassessment proceedings and filed details for completion of the assessment, which has been done in the system using the assessee’s

PAN. Thereafter, the PAN of the assessee had been transferred on 30.01.2015 to Mumbai charge for subsequent actions on system.”

“2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition on account of bogus purchases of Rs.5,04,94,046/- made from M/s. Kotsons Impex Pvt Ltd., M/s. Shree Jalaram Enterprises and M/s. Excellent Diamonds Pvt Ltd., a Hawala Bogus Entry Providers as per the Maharashtra VAT Department received through DGIT(Inv), Mumbai that these groups, were involved in providing bogus bills without any actual supply of materials to assessee firm and has not appreciated the fact that AO has given detailed reasoning for quantifying the additions made”

“3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has not appreciated the fact action of the AO was based on information/report received from the Maharashtra VAT Department through DGIT (Investigation Wing), Mumbai that these groups, all are hawala traders who were indulged in the practice of providing accommodation entries of issuing bogus Sales/Purchase bill without supplying any goods and the assessee was found to be one of the beneficiaries of such practices, who have obtained accommodation entries of Rs.5,04,94,046/- from M/s. Kotsons Impex Pvt Ltd., M/s. Shree Jalaram Enterprises and M/s. Excellent Diamonds Pvt Ltd., a paper concerns without actual delivery or supply of materials to suppress the true profit.”

“4. Whether on the facts and circumstances of the case and in law, the ld. CIT(A) has erred in deleting the addition of Rs.5,04,94,046/-, without appreciating that during the re-assessment proceedings despite of providing various opportunities, the assessee has failed to prove that he was not a beneficiary of alleged transactions, nor has provided any explanation or evidences which proves that such transactions are genuine?”

“5. Whether on the facts and circumstances of the case and in law, the Ld CIT(A) was justified in deleting the additions made from bogus purchase transactions, although there was no dispute that the bogus purchases were made and so act of infraction of law was committed by the assessee on provision of section 74(1A) of the Maharashtra Value Added Tax Act 2002 and such purchases are not allowable as per express provisions u/s. 37 of the Act ?”

“6. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the disallowance of Rs.5,04,94,046/-, without appreciating the decision of the Hon’ble Supreme Court in the case of M/s. N. K. Proteins Ltd. Vs. Dy. CIT (2016) 292 CTR (Guj) 354, Dated. 16.01.2017, wherein the Hon’ble Court has held that once a findings of act has been given that entire purchases shown on the basis of fictitious invoices and debited in the P & L account are established as bogus, then restricting the addition to a curtailed percentage goes against the principles of section 68 and 69C of the Income Tax Act, 1961 ?”

“7. Whether on the facts and circumstances of the case and in law, the order of the Ld. CIT(A) perverse in not considering the order of Hon’ble Supreme 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 purchases, was already the law of the land when the Ld. CIT(A) has pronounced it’s order on 12.06.2025?”

“8. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the addition without appreciating the fact that in the case of M/s. Swatamber Steels Ltd. (Supra), the Hon’ble ITAT, Ahmedabad had confirmed 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 Gujarat High Court and also by the Hon’ble Supreme Court ?”

“9. Whether on the facts and circumstances of the case and in law, the decision of the Ld. CIT(A), is right in view of 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 @3% on bogus purchases and thereby impliedly grant 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 offered no explanation of the sources of expenditure incurred on account of such purchases ?”

“10. The tax effect involved in this case is Rs. 3,16,20,740/- which is above the prescribed limit mentioned in the CBDT's Circular F.No. 279/Misc.142/2007-ITJ(Pt) amended vide No. 09/2024 dated 17.09.2024. Further, the appeal is being filed before the Hon'ble ITAT as this case also falls under one of the exceptions specified in paragraph 3.1(h) of the of the CBDT's Circular No. 05/2024 Dated. 15.03.2024, wherein it is stated that in cases involving “Organized Tax Evasion”, in such cases the decision to file appeal/SLP shall be taken on merit without regard to the tax effect and the monetary limit.”

“11. The date for filing 2nd appeal before Hon'ble ITAT in this case was 31st of August, 2025 however, due to technical problem the appeal could not be filed before the due date and after resolving the technical issue, the said appeal order is being filed with delay by 22 days. The appellant prays that the delay in filing of appeal due to technical glitch, may kindly be condoned.”

“12. The appellant craves, leave to amend or alter any grounds or add a new ground which may be necessary.”

### **Assessment Year: 2010-11**

“1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that notice issued u/s. 148 and order under appeal passed by ACIT, Circle 2, Ajmer is without jurisdiction, without appreciating the facts that assessee has claimed bogus purchases of Rs.9,76,80,105/- from M/s. Navpad Exports Pvt Ltd., M/s. Shree Jalaram Enterprises, M/s. Saileela Trading Pvt Ltd., and M/s. Trichipuram Trading Pvt Ltd., a Hawala Bogus Entry Providers as per the Maharashtra VAT Department, that these groups, were involved in providing bogus bills without any actual supply of materials to assessee firm and has not appreciated the fact that PAN of the assessee is lying at Ajmer and assessee has not objected to the reassessment proceedings and filed details for completion of the assessment, which has been done in the system using the assessee's PAN. Thereafter, the PAN of the assessee had been transferred on 30.04.2015 to Mumbai charge for subsequent actions on system”.

“2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition on account of bogus purchases of Rs.9,76,80,105/- made from M/s. Navpad Exports Pvt Ltd., M/s. Shree Jalaram Enterprises, M/s. Saileela Trading Pvt Ltd. and M/s. Trichipuram Trading Pvt Ltd., a Hawala Bogus Entry Providers as per the Maharashtra VAT Department received through the DGIT(Inv), Mumbai that these groups, were involved in providing bogus bills without any actual supply of materials to assessee firm and has not appreciated the fact that AO has given detailed reasoning for quantifying the additions made”.

“3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has not appreciated the fact action of the AO was based on information/report received from the Maharashtra VAT Department through DGIT (Investigation Wing), Mumbai that these groups, all are hawala traders who were indulged in the practice of providing accommodation entries of issuing bogus Sales/Purchase bill without supplying any goods and the assessee was found to be one of the beneficiaries of such practices, who have obtained accommodation entries of Rs.5,04,94,046/- from M/s. Navpad Exports Pvt Ltd., M/s. Shree Jalaram Enterprises, M/s. Saileela Trading Pvt Ltd., and M/s. Trichipuram Trading Pvt Ltd., a paper concerns without actual delivery or supply of materials to suppress the true profit.”

“4. Whether on the facts and circumstances of the case and in law, the ld. CIT(A) has erred in deleting the addition of Rs.9,76,80,105/-, without appreciating that during the re-assessment proceedings despite of providing various opportunities, the assessee has failed to prove that he was not a beneficiary of alleged transactions, nor has provided any explanation or evidences which proves that such transactions are genuine?”

“5. Whether on the facts and circumstances of the case and in law, the Ld CIT(A) was justified in deleting the additions made from bogus purchase transactions, although there was no dispute that the bogus purchases were made and so act of infraction of law was committed by the assessee on provision of section 74(1A) of the Maharashtra Value Added Tax Act 2002 and such purchases are not allowable as per express provisions u/s. 37 of the Act ?”

“6. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the disallowance of Rs.9,76,80,105/-, without appreciating the decision of the Hon’ble Supreme Court in the case of M/s. N. K. Proteins Ltd. Vs. Dy. CIT (2016) 292 CTR (Guj) 354, Dated. 16.01.2017, wherein the Hon’ble Court has held that once a findings of act has been given that entire purchases shown on the basis of fictitious invoices and debited in the P & L account are established as bogus, then restricting the addition to a curtailed percentage goes against the principles of section 68 and 69C of the Income Tax Act, 1961 ?”

“7. Whether on the facts and circumstances of the case and in law, the order of the Ld. CIT(A) perverse in not considering the order of Hon’ble Supreme 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 purchases, was already the law of the land when the Ld. CIT(A) has pronounced it’s order on 12.06.2025?”

“8. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the addition without appreciating the fact that in the case of M/s. Swatamber Steels Ltd. (Supra), the Hon’ble ITAT, Ahmadabad had confirmed 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 Gujarat High Court and also by the Hon’ble Supreme Court ?”

“9. Whether on the facts and circumstances of the case and in law, the decision of the Ld. CIT(A), is right in view of 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 @3% on bogus purchases and thereby impliedly grant 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 offered no explanation of the sources of expenditure incurred on account of such purchases ?”

“10. The tax effect involved in this case is Rs. 4,82,66,860/-, which is above the prescribed limit mentioned in the CBDT’s Circular F.No. 279/Misc.142/2007-ITJ(Pt) amended vide No. 09/2024 dated 17.09.2024. Further, the appeal is being filed before the Hon’ble ITAT as this case also falls under one of the exceptions specified in paragraph 3.1(h) of the of the CBDT’s Circular No. 05/2024 Dated. 15.03.2024, wherein it is stated that in cases involving “Organized Tax Evasion”, in such cases the decision to file appeal/SLP shall be taken on merit without regard to the tax effect and the monetary limit.

“11. The date for filing 2nd appeal before Hon’ble ITAT in this case was 31st of August, 2025 however, due to technical problem the appeal could not be filed before the due date and after resolving the technical issue, the said appeal order is being filed with delay by 22 days. The appellant prays that the delay in filing of appeal due to technical glitch, may kindly be condoned.”

“12. The appellant craves, leave to amend or alter any grounds or add a new ground which may be necessary.”

## **2. Brief Facts of the case are as under:**

The assessee is an individual. On the basis of information with department, the assessee's name reflected in the list of beneficiaries who were involved in bogus purchases. Accordingly, the Ld.AO issued notice u/s 148 of the I.T. Act, on 28.03.2014 to the assessee, but the assessee did not comply with the Notice u/s 148 within the stipulated time.

**2.1.** In response, the assessee furnished copy of return which was filed on 29.09.2009 declaring total income of Rs.9,26,480/- . The Ld.AO thereafter issued notices u/s 142(1) & show cause to the assessee on various dates. In compliance to the notices, the assessee filed the details/explanations/ documents and the same are examined by the Ld.AO.

**2.2.** After considering the submissions of the assessee, the Ld.AO completed assessment u/s 143(3) r.w.s 147 on 27.03.2015 by making addition of Rs.5,04,94,046/- on account of bogus purchase made during the year by the assessee and arrived at a total income of Rs.5,14,20,530/-.

Aggrieved by the order of Ld.AO the assessee preferred appeal before the Ld.CIT(A).

**3.** During the course of hearing the assessee made following submissions:

- Order passed by ACIT, Circle 2, Ajmer u/s 143(3) rws 147 dt 27-03-2015 for the year under consideration is invalid as the jurisdiction over the case was transferred to DCIT, Mumbai

vide 127 order dated 20-10-2010 as per remand report submitted by him during appeal proceedings in assessee's case for assessment year 2010-11.

- Order passed by AO without issuing notice u/s 143(2) is invalid.
- The assessee was already treated as accommodation entry provider wrt transactions under consideration for the year while completing assessment u/s 143(3) rws 147 and commission income on account of providing accommodation entries was offered to tax.

**3.1.** The Ld.CIT(A), after considering the submissions of the assessee observed and held as under:

*“8.3.3 I have examined contentions of appellant. It is noticed that DCIT, Central circle 7(3), Mumbai has submitted remand report on 7-03-2018 to CIT(A) for assessment year 2010-11 in which comments regarding jurisdiction over case of appellant has been made. DCIT, Central circle 7(3), Mumbai has stated that the case of appellant has been transferred from ACIT, Circle 2, Ajmer to DCIT, Central Circle 7(3), Mumbai by way of centralization order u/s 127 dt 20-10-2010. Further it is noticed that DCIT, Central Circle 7(3), Mumbai has reopened the case for the year by issuing notice u/s 148 on 28-03-2016. Reasons recorded for reopening the case is same that of ACIT, Circle 2, Ajmer. It is noticed from assessment order dt 20-12-2016 passed by the DCIT, Central Circle 7(3), Mumbai for assessment year 2009-10 that he in fact discussed the fact that the case of appellant has been reopened by ACIT, Circle 2, Ajmer for the year and assessment was completed on 27-03-2015 by taxing entire amount of Rs 5,14,20,230/- of bogus purchases to tax. Para 2 of assessment order of DCIT, Central Circle 7(3), Mumbai for the year in case of appellant is reproduced as under for sake of ready reference:-*

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*8.3.4 Further, while rebutting objections to reopening the case, Central Circle 7(3), Mumbai vide para 3 of assessment order has opined that order passed by ACIT, Circle 2, Ajmer is without jurisdiction. Para 3 of assessment order of DCIT, Central Circle 7(3), Mumbai for the year in case of appellant is reproduced as under for sake of ready reference:-*

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8.3.5 It is noticed that DCIT, Central Circle 7(3), Mumbai has observed that while completing original assessment u/s 143(3) on 30-12-2011, AO has treated both sales as bogus, computed commission income on sales turnover of Rs 80,09,66,181/- for the year at Rs 40,54,116/-. The AO opined that commission should be charged for bogus entries in case of purchases also at Rs 100 per lakh on total purchase turnover of Rs 80,26,85,888/-, taxed commission income on purchases at Rs 8,02,686/- while finalizing assessment u/s 143(3) rws 147 on 20-12-2016. On appeal, CIT(A) upheld charging of commission on purchases but restricted it @ 2% of imported purchases, deleting addition on domestic purchases. On further appeal, Hon'ble Mumbai ITAT Vide order ITA 3263/Mum/2019 dt 8-12-2020 held that the same turnover has been subjected to tax thrice i.e first time while completing assessment u/s 143(3), the AO treated entire purchase and sales as bogus, estimated commission, the AO, Ajmeer while completing assessment u/s 143(3) rws 147 has disallowed entire purchases Rs 5.4 Crores and third time AO, Mumbai has again estimated commission on again same purchases which was fully disallowed in first round. Hon'ble ITAT held that there was no escapement of income since commission can only be estimated on bogus sales has held reopening of the case by DCIT, Central Circle 7(3), Mumbai as invalid. Relevant extract of ITAT order is reproduced as under:-

"7. I have carefully considered the rival submissions in the light of decisions relied upon and perused the material on record. The factual matrix clearly reveal that pursuant to a survey under section 133A of the Act carried out in case of the assessee certain information came to the notice of the Department indicating that the assessee was actually not carrying out any purchase or sales transactions and was merely providing accommodation entries. In the statement record during the survey operation, the assessee also admitted the aforesaid factual position. Thus, while completing the assessment originally the Assessing Officer treated the entire purchase and sales transaction by the assessee as bogus and estimated commission income on the sales turnover shown by the assessee. As could be seen, after completion of the original assessment, the Department received information from the Sales Tax Department, through the DGIT (Inv.), Mumbai, revealing that purchases worth ` 5.04.00.000, claimed to have been made from three parties are non-genuine. On the basis of such information, two parallel proceedings under section 147 of the Act were initiated at Ajmer as well as in Mumbai. The Assessing Officer, Ajmer, while completing the assessment under section 143(3) r/w section 147 of the Act had disallowed the entire purchase of 5.4 crore by treating it as bogus and added back to the income of the assessee. Whereas, the Assessing Officer at Mumbai while completing the assessment has estimated commission income on purchase turnover. Thus, as could be seen, the assessee has been subjected to tax on the very same turnover three times. In the original assessment, the Assessing Officer had

*treated the entire purchase and sales transaction as bogus and has concluded that the assessee is merely providing accommodation entries, he has estimated commission income on the sales turnover. In the assessment order passed by the Assessing Officer at Ajmer, the entire purchase of 5.04 crore made from three parties have been disallowed and added back to the income of the assessee relying upon the information received from the Sales Tax Department. In the impugned assessment order, the Assessing Officer has again estimated commission income on the very same purchase turnover which was fully disallowed in the earlier assessment order. Thus, in real sense there is no income which has escaped assessment. Moreover, in my opinion, the contention of the learned Counsel for the assessee that the commission income has to be estimated only on the sales turnover is acceptable. Thus, I am of the considered opinion, there is no escapement of income to enable the Assessing Officer to invoke the provisions of section 147 of the Act to re-open the assessment. Therefore, I have no hesitation in holding that the re-opening of assessment under section 147 of the Act being invalid the impugned assessment order deserves to be quashed. Accordingly, I do so. Consequently, the impugned order of learned Commissioner (Appeals) is set aside. In view of my decision above grounds no.4 and additional grounds raised by the assessee have become academic, hence do not require adjudication.”*

*8.3.6 It is noticed that appellant has not raised any objection during assessment proceedings regarding jurisdiction of ACIT, Circle 2, Ajmeer to complete assessment u/s 143(3) rws 147 for the year. But that can't be a ground for upholding jurisdiction of ACIT, Circle 2, Ajmeer over the case of appellant for the year under consideration when 127 order was passed on 20-10-2010 much prior to issue of notice u/s 148 on 28-03-2014 centralizing the case with DCIT, Central Circle 7(3), Mumbai. There can't be two assessment orders in respect of same assessee for the same assessment year by two different AOs. Hon'ble Bombay high court in CIT vs. Lalitkumar Bardia 404 ITR 63 Dated 11th July, 2017 held that just because assessee participated in assessment proceedings does not confer jurisdiction of the case to AO if the case is already transferred u/s 127. Therefore, it is to be held that notice issued u/s 148 and order under appeal passed by ACIT, Circle 2, Ajmeer is without jurisdiction. Therefore, order passed by AO is held to be not legally valid. Consequently, Ground of appeal 2 of appellant is Allowed.”*

Aggrieved by the order of the Ld.CIT(A), the revenue is in appeal before this Tribunal.

### **Assessment year 2009-10**

**4.** The Ld.DR submitted that nothing on merits have been decided by the Ld.CIT(A) and therefore revenue agitated all issues before this *Tribunal*.

**4.1.** On the contrary, the Ld.AR relied on the view taken by the Ld.CIT(A) and submitted that the present appeal filed by the revenue is infructuous and deserves to be dismissed.

**4.2.** He reiterated the submissions as under:

Date	Event
20.10.2010	Order passed u/s 127 by Hon'ble CIT, Ajmer for change of jurisdiction of Respondent from ACIT, Circle-2 Ajmer to DCIT, Central Circle-42, Mumbai (Now Central Circle 7(3)). (Reference given in PARA 3 of Order disposing objection by DCIT, Central Circle-42, Mumbai (correct jurisdiction) in subsequent reassessment proceeding for AY 2009-10. (Page No. 25 of FPB))
30.12.2011	Assessment order passed u/s 143(3) at assessed income of Rs. 40,54,164/- (Page No. 1-6 of FPB)

*Reopening by ACIT, Circle-2, Ajmer (Without jurisdiction) for AY 2009-10*

Date	Event
28.03.2014	Notice issued u/s 148 for reopening of assessment without jurisdiction. Case is reopened on grounds that information received from DGIT(Inv.), Mumbai that during the investigation conducted by MVAT department its identified three bogus entry providers namely Kotisons Impex Pvt Ltd., Shree Jalaram Enterprise and Excellent Diamonds Pvt Ltd. Accordingly, since Respondent had purchases of Rs. 5,04,94,046/- from these three alleged parties hence case of Respondent reopened.
19.02.2015	Return of income furnished in response to notice issued u/s 148 declaring total income at Rs. 9,26,480/-
10.02.2015	Notice issued u/s 142(1) calling for voluminous details. (Page No. 7 of FPB)
03.03.2015	Reply alongwith below documents were submitted (Page No. 8 of FPB): a) List of sundry creditors b) Purchase register c) Sales register d) Bank statements for all bank accounts held by Respondent Ledger account of brokerage paid and assortment charges
11.03.2015	Show cause notice issued proposing addition of Rs. 5,04,94,046/- as the purchases from the alleged entry providers are unverifiable. (Page No. 9 of FPB)
16.03.2015	Reply submitted by Respondent and brought to knowledge of Ld. AO that: a) Purchase is genuine and entered in stock register. b) Parties had defaulted in depositing VAT. But that cannot be basis for assuming them as bogus entry provider. c) Payment for the purchases have been made by account payee cheque through recognized banking channels. d) In support of genuine purchases, Respondent submitted purchase invoices, ledger account, purchase register, bank account highlighting payment made and VAT Audit report, parties PAN, VAT Number and ROC status. (Page No. 10-12 of FPB)
27.03.2015	Assessment order passed u/s 143(3) r.u.s 147 disallowing purchases of Rs. 5,04,94,046/- for the purchase of Respondent from alleged entry providers namely M/s Kotisons Impex Pvt Ltd., M/s Shree Jalaram Enterprise and M/s Excellent Diamonds Pvt Ltd. (Page No. 13-21 of FPB). The disallowance made by Ld. ACIT, Circle-2, Ajmer without having jurisdiction as Respondent jurisdiction already transferred to DCIT, Central Circle-42, Mumbai vide order dated 20.10.2010 hence ACIT, Circle-2, Ajmer was having no jurisdiction after 20.10.2010 to reopen assessment and pass assessment order.

**4.3.** The Ld.AR thus submitted that the jurisdiction over the assessee was validly transferred from ACIT, Circle-2, Ajmer to DCIT, Central Circle-42, Mumbai by order dated 20.10.2010 passed under section 127. Once such transfer takes effect, the original Assessing Officer at Ajmer becomes *functus officio* and ceases to have any authority over the case. He thus submitted that The entire reassessment proceedings are *void ab initio* for want of jurisdiction.

We have perused the submissions advanced by both sides in light of records placed before us.

**5.** We have carefully considered the rival submissions and perused the material available on record. The undisputed position emerging from the record is that jurisdiction over the assessee stood validly transferred from ACIT, Circle-2, Ajmer to DCIT, Central Circle-42, Mumbai by an order passed under section 127 dated 20.10.2010. Once such transfer is effected, the erstwhile Assessing Officer is divested of all authority and becomes *functus officio* in respect of the said assessee. In the present case, despite the clear transfer of jurisdiction, the ACIT, Circle-2, Ajmer proceeded to issue notice under section 148 on 28.03.2014 and completed the reassessment under section 143(3) r.w.s. 147 on 27.03.2015. These actions, having been undertaken by an officer lacking inherent jurisdiction, are without authority of law and cannot be sustained. It is trite law that assumption of jurisdiction is a condition precedent and not a mere procedural formality. Any defect therein renders the entire proceedings *void ab initio*.

**5.1.** In view of the above legal position, we find no infirmity in the view taken by the Ld.CIT(A) in holding that the reassessment proceedings initiated by ACIT, Circle-2, Ajmer to be invalid for want of jurisdiction.

**5.2.** In view of the foregoing discussion, wherein the reassessment proceedings have been held to be *void ab initio* for want of jurisdiction, the very foundation of the additions made by the Ld.AO does not survive. Once the assessment itself is quashed, all issues arising therefrom, including the additions on merits, become purely academic and do not call for adjudication.

**Accordingly, the appeal filed by the Revenue, being devoid of any surviving grievance, is dismissed as infructuous.**

### **Assessment Year 2010-11**

**6.** The facts and issue involved in the present appeal are *mutatis mutandis* identical to those considered by us in the preceding assessment year 2009–10. The jurisdiction over the assessee having already been transferred under section 127, the initiation of reassessment proceedings by the erstwhile Assessing Officer suffers from the same inherent lack of jurisdiction. Accordingly, following our findings and reasoning for A.Y. 2009–10, we hold that the reassessment proceedings for A.Y. 2010–11 are also *void ab initio*. Consequently, the assessment order passed under section 143(3) r.w.s. 147 is liable to be quashed in toto.

**Accordingly, grounds raised by the Revenue do not survive for consideration and the appeal of the Revenue is dismissed as infructuous.**

**In the result the appeals filed by the revenue for both years under consideration stands dismissed.**

**Order pronounced in the open court on 21/04/2026**

**Sd/-**

**(JAGADHISH)  
Accountant Member**

**Sd/-**

**(BEENA PILLAI)  
Judicial Member**

**Mumbai**

**Dated: 21/04/2026**

**SC Sr. P.S.**

**Copy of the order forwarded to:**

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

**True Copy  
By order**

**(Asstt. Registrar)  
ITAT, Mumbai**