

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "C" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 3775/Mum/2025
Assessment Year : 2010-11

Income Tax Officer, Ward-41(3)(3), 853, Kautilya Bhavan, BKC, Mumbai-400051.	vs.	Pravinchandra B Dedhia, 2 nd Floor, A Wing, Panvai Nagar, Nalasopara (West), Mumbai-400104. PAN : AAQPD3140A
(Appellant)		(Respondent)

For Assessee :	NONE
For Revenue :	Shri Virabhadra Mahajan, Sr.DR

Date of Hearing :	03-02-2026
Date of Pronouncement :	13-02-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 14-03-2025, pertaining to Assessment Year (AY) 2010-11.

2. None appeared on behalf of the assessee nor was any adjournment application filed. The appeal was filed way back in the month of May, 2025 and thereafter notices have been issued from time to time and duly served on the assessee through e-mail and speed post. However, there is no compliance to the said notices. It was accordingly decided that no useful

purpose would be served in adjourning the matter any further and to decide the matter based on material available on record.

3. Briefly, the facts of the case are that the assessment in this case was completed u/s. 144 r.w.s. 147 of the Income Tax Act, 1961 ('the Act'), vide order dt. 27-03-2015, wherein the AO brought to tax a sum of Rs. 48,32,803/- towards bogus purchases, invoking the provisions of section 69C of the Act. Thereafter, the assessee carried the matter in appeal before the Ld.CIT(A). The Ld.CIT(A) has directed the AO to restrict the disallowance to the extent of 12.5% of bogus purchases in place of 100% disallowed in the assessment order and against the said order and the findings of the Ld.CIT(A), the Revenue is in appeal before us.

4. During the course of hearing, the Ld.DR submitted that the case of the assessee was reopened basis information received from the Investigation Wing that the assessee has inflated its purchases by obtaining bogus purchase bills from various Hawala dealers, namely, Omkar Trading Company, Darshan Trade Corporation and Suyash Sales Corporation, totaling to Rs. 48,32,803/-. Subsequently, notices u/s. 148 of the Act was issued and duly served upon the assessee in person and thereafter, further notices were issued u/s. 143(2) and 142(1) of the Act and thereafter, a show cause was also issued on 27-01-2015. However, there has been complete non-compliance on the part of the assessee and, therefore, the AO passed the best judgment assessment, wherein the basis information available on record in terms of information received from the Investigation Wing as well as considering the fact that there is no response to the notices issued u/s. 133(6) of the Act by the respective parties, the AO brought to tax the purchases amounting to Rs. 48,32,803/- as bogus purchases, invoking the provisions of section 69C of the Act. It was

further submitted that the Ld.CIT(A) has erred in restricting the addition to 12.5% as against 100% done by the AO. It was submitted that the Ld.CIT(A) in para No. 6.9 has stated that the assessee has filed necessary documentation in the form of purchase bills, sales invoices, bank statement highlighting the payment made through banking channels. It was submitted that the same is a factually incorrect finding recorded by the Ld.CIT(A) and in this regard, it was submitted that the assessee has merely stated that he has made payments through account payee cheques and the assessee did not submit any documentation. Further, our reference was drawn to the findings of the Ld.CIT(A) at para No. 6.10, wherein the Ld.CIT(A) has stated that the assessee has failed to discharge the primary onus cast on him to prove the genuineness of the transactions by producing the parties concerned in person and also submitted that the assessee failed to adduce any other credible evidence to demonstrate the genuineness of the transactions, except harping upon the fabricated documentary evidence such as banking transactions, purchase bills, sales invoices etc., and thereafter at para No. 6.11, wherein the Ld.CIT(A) has taken note of the fact that the notices issued u/s. 133(6) of the Act have remain non-complied with and thereafter in para No. 6.12, wherein the Ld.CIT(A) has held that even during the course of appellate proceedings, the assessee has not led any evidence in support of its claims nor volunteered to produce the parties for examination, except harping upon the payments made through account payee cheque to the bogus purchase parties. It was accordingly submitted that firstly, the assessee has not produced any documentary evidence and secondly, the Ld.CIT(A) himself has recorded a finding that whatever documentary evidence are available are fabricated and has recorded a finding that he does not find any fault with the AO in treating the purchases made from three parties as bogus purchases, based on information received from Sales Tax Department,

Mumbai. It was accordingly submitted that once the Ld.CIT(A) has affirmed the finding of the AO in holding purchases as bogus purchases, there is no basis to restrict the addition to 12.5% as against 100% done by the AO. It was further submitted that the Ld.CIT(A) has relied on the decision of the Hon'ble Bombay High Court in the case of PCIT vs. S.V. Jiwani [2022] 145 taxmann.com 230 (Bombay) and following the same, has restricted the disallowance to 12.5%. It was submitted that the said decision is factually distinguishable. It was further submitted that there is a later decision of the Hon'ble Bombay High Court in the case of PCIT vs. Kanak Impex (India) Ltd., which has not been considered by the Ld.CIT(A). It was accordingly submitted that the order of the ld CIT(A) be set-aside and that of the AO be affirmed.

5. We have heard the Ld.DR and perused the material available on record. The limited issue under consideration is whether the addition so made by the AO towards bogus purchases has been rightly restricted to 12.5% by the Ld.CIT(A) or the same should be 100% of bogus purchases as so done by the AO. The AO has recorded a finding basis investigation wing report and lack of response from the assessee and documentation in support of the purchases and the fact that the notices u/s 133(6) have remain uncomplied with. The Ld.CIT(A) has however recorded a finding that the assessee has filed the necessary documentation and has restricted the addition to the extent of 12.5% which has been contested by the Ld.DR that no documentation has been submitted by the assessee either during the assessment or appellate stage. Further, we find that there is no finding recorded by the Ld.CIT(A) in terms of availability of stock and corresponding sales and whether it is a case whether the purchase party has been doubted or the whole of the purchase is under question. Further, each of the decisions so relied upon by the Ld.CIT(A) and by the

Ld.DR turn on respective facts and in absence of relevant facts, it would be difficult to decide the matter one way or the other. In view of the same, we deem it appropriate to remand the matter to the file of the Ld.CIT(A) to bring out the relevant facts as emanating from the records and thereafter decide the matter a fresh as per law, after providing reasonable opportunity to the assessee.

6. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 13-02-2026.

Sd/-
[SANDEEP SINGH KARHAIL]
JUDICIAL MEMBER

Mumbai,
Dated: 13-02-2026

TNMM

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai