

IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER

ITA No. 7970/Mum./2025

(Assessment Year : 2011-12)

Income Tax Officer, Ward – 14(3)(1)

Aayakar Bhavan, 5TH Floor, Room No.554,
M.K.Road, Mumbai – 400020, Maharashtra.

..... Appellant

v/s

VINIPUL INORGANICS PRIVATE LIMITED,

1/5, KANDHARI COLONY, 2ND ROAD, CHEMBUR,
Mumbai – 400071, Maharashtra.

..... Respondent

Assessee by : Shri Rahul Hakani

Revenue by : Shri Anurag Tripathi, SR. DR

Date of Hearing – 08/04/2026

Date of Order – 10/04/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The Revenue has filed the present appeal against the impugned order dated 03.09.2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], which in turn arose from the penalty order passed under section 271(1)(c) of the Act, for the assessment year 2011-12.

2. The only grievance of the Revenue, in the present appeal, is against the deletion of the penalty levied under section 271(1)(c) of the Act.

3. We have considered the submissions and perused the material available on record. The brief facts of the case are that the assessee is a private limited company engaged in the business of manufacturing and refining chemicals, and importing and exporting chemicals. For the year under consideration, the assessee filed its return of income on 30.09.2011, declaring a total income of Rs. 11,73,980. Pursuant to information received from the DGIT (Investigation) Wing, Mumbai, that the assessee is a beneficiary of accommodation entry transactions of bogus purchases, notices under section 148 of the Act were issued, and proceedings under section 147 of the Act were initiated. Vide assessment order passed under section 143(3) read with section 147 of the Act, the Assessing Officer ("AO") made an addition of Rs. 15,65,241. In further appeal, the learned CIT(A) restricted the addition to 12.5% of the total non-genuine purchases. The Coordinate Bench of the Tribunal, in appeal by the assessee in quantum proceedings, restored the matter to the file of the AO for *de novo* adjudication after making enquiries from the alleged parties and also after grant of opportunity to the assessee to cross-examine the said parties.

4. In the second round of proceedings, the AO vide order dated 07.12.2019 passed under section 143(3) read with section 254 of the Act, once again added the entire purchases from the alleged bogus parties under section 69C of the Act. The learned CIT(A), in the quantum appeal, found no merit in the assessee's submissions and upheld the addition made by the AO. The Coordinate Bench of the Tribunal, in a further appeal by the assessee in quantum proceedings, vide order dated 18.01.2024, passed in

ITA No. 2402/Mum/2023, following the judicial precedents, restricted the disallowance to 12.5% of the bogus purchases.

5. In the meanwhile, penalty proceedings under section 271(1)(c) of the Act were initiated separately by the AO for the year under consideration in the second round of proceedings. After considering the submissions of the assessee, the AO vide order dated 27.06.2024 passed under section 271(1)(c) of the Act, levied a penalty of Rs.8,46,419/- being 100% of the amount of tax sought to be evaded by the assessee for the year under consideration. The learned CIT(A), vide impugned order, allowed the appeal filed by the assessee and deleted the penalty levied under section 271(1)(c) of the Act, inter alia, on the basis that where addition on account of bogus purchases was made on estimate basis, the penalty levied under section 271(1)(c) of the Act cannot be sustained.

6. Thus, it is evident from the record that the AO made an addition, in quantum proceedings, on account of bogus purchases by bringing to tax the entire amount of the bogus purchases. However, in further appeal, the Tribunal reduced the addition to 12.5% of the bogus purchases. Therefore, the entire addition for the year under consideration has been made solely on the basis of estimates.

7. We find that the Hon'ble Rajasthan High Court in CIT v/s Krishi Tyre Retreading and Rubber Industries, reported in [2014] 360 ITR 580 (Raj.), held that where an addition is made purely on an estimate basis, no penalty under section 271(1)(c) of the Act is leviable. Similar view has been

expressed by the Hon'ble Punjab & Haryana High Court in CIT v/s Sangrur Vanaspati Mills Ltd., reported in [2008] 303 ITR 53 (P&H), wherein the Hon'ble High Court held that when the addition has been made on the basis of estimate and not on any concrete evidence of concealment, penalty under section 271(1)(c) of the Act is not leviable. Further, the Hon'ble Gujarat High Court in CIT v/s Subhash Trading Co. Ltd., reported in [1996] 221 ITR 110 (Guj.) has taken a similar view in respect of the levy of penalty under section 271(1)(c) of the Act on estimated additions. Therefore, it is evident that the issue about the justification for the imposition of a penalty where the addition is made on the basis of an estimate is no longer *res integra*.

8. Thus, respectfully following the aforesaid decisions, we are of the considered view that a penalty under section 271(1)(c) of the Act cannot be levied merely on the basis of an estimated addition. Accordingly, we do not find any infirmity in the findings of the learned CIT(A) in deleting the penalty levied under section 271(1)(c) of the Act for the assessment year in appeal before us.

9. In the result, the appeal by the Revenue is dismissed.

Order pronounced in the open Court on 10/04/2026

Sd/-
BIJAYANANDA PRUSETH
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 10/04/2026

M. Ranganath Vithal
Sr. Private Secretary

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai