

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.2541/Mum/2025
(Assessment Year :2011-12)**

Income Tax Officer Mumbai	Vs.	Sha Tarachand Fojmal And Company 17/19, Laxmi Dayal Building, Saqlania Tower, Khadak Street Mumbai-400 009
PAN/GIR No.AANFS1045C		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shiri Leyaqt Ali Aafaqui
Date of Hearing	13/10/2025
Date of Pronouncement	27/10/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal by the Revenue is directed against the order dated 14.02.2025 passed by the Learned Commissioner of Income Tax (Appeals) [hereinafter "Ld. CIT(A)"] for the Assessment Year 2011-12, arising from the reassessment framed under section 143(3) read with section 147 of the Income-tax Act, 1961 ("the Act").

2. Briefly stated, the assessee is a partnership firm engaged in the business of trading in aluminium sheets, coils and allied materials. The return of income was filed declaring total income of ₹39,38,703/-. The case of the assessee was reopened under section 147 of the Act based on specific information received from the Maharashtra Sales Tax Department identifying the assessee as one of the beneficiaries of purchases from certain entities declared as hawala dealers, who had allegedly issued accommodation bills without effecting any actual supply of goods.

3. In the reassessment proceedings, the learned Assessing Officer ("ld. AO") observed that the assessee had shown purchases aggregating to ₹11,88,65,874/- from such alleged non-genuine parties. Holding that these purchases were not fully verifiable and may have resulted in inflation of expenses or suppression of true profits, the ld. AO applied a gross profit rate of 5.54% on the value of the impugned purchases, thereby making an addition on account of alleged inflated or unverifiable expenditure.

4. In appeal, the ld. CIT(A), after considering the factual matrix and the past trading results of the assessee, observed that the assessee's disclosed gross profit rate during the relevant period stood at 3.41%, which had been accepted by the Department in earlier assessments. The ld. CIT(A) held that no material had been brought on record by the Assessing

Officer to justify any higher estimation of profit. Consequently, the ld. CIT(A) restricted the addition by directing that the gross profit rate of 3.41%, as shown by the assessee, should be applied even in respect of the alleged purchases.

5. The Revenue is now in appeal before us, contending that the ld. CIT(A) erred in reducing the gross profit rate applied by the Assessing Officer from 5.54% to 3.41%. The learned Departmental Representative placed reliance on the decisions of the Hon'ble High Court in PCIT vs. Kanak Impex (India) Ltd. (474 ITR 175) and PCIT vs. Drisha Impex Pvt. Ltd., wherein the Hon'ble Court had upheld additions of 100% of the purchases held to be bogus.

6. We have considered the submissions advanced on behalf of the Revenue and perused the orders of the lower authorities. At the outset, we find that both the judicial precedents relied upon by the ld. DR are distinguishable on facts. In those cases, the entire purchases were found to be bogus and no real transactions had taken place, thereby warranting 100% disallowance. In the present case, however, the ld. AO himself has not treated the purchases as entirely fictitious; instead, he has merely applied a higher rate of profit of 5.54% to the impugned purchases, thereby acknowledging that the assessee had, in fact, effected sales corresponding to such purchases.

7. It is well settled through a catena of judicial pronouncements, including CIT vs. Simit P. Sheth [(2013) 356 ITR 451 (Guj.)], that in cases of purchases found to be non-genuine but corresponding sales having been accepted, only the profit element embedded in such purchases can be brought to tax, and not the entire amount. The rationale is that the assessee might have procured goods from the grey market at discounted rates, resulting in savings of VAT and other incidental costs, but the sales being duly recorded, the entire purchase value cannot be disallowed.

8. The ld. CIT(A), in our considered view, has adopted a rational and judicious approach in restricting the addition by applying the assessee's own declared GP rate of 3.41%. The Assessing Officer had not demonstrated any cogent reason or empirical basis to apply a higher GP rate of 5.54%. In the absence of any incriminating evidence suggesting suppression of sales or inflation of expenditure beyond what was declared, there is no justification to disturb the trading results accepted in preceding years.

9. We, therefore, find no infirmity in the findings of the ld. CIT(A). The estimation made by the ld. CIT(A) aligns with settled principles of law and the factual backdrop of the case. Accordingly, the grounds raised by the Revenue fail.

10. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on 27th October, 2025.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 27/10/2025
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai