

**IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI**

**BEFORE SHRI VIKRAM SINGH YADAV, JM  
AND  
MS. KAVITHA RAJAGOPAL, AM**

ITA No.3988/Mum/2025  
(Assessment Year: 2021-22)

|   |     |  |
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| ACIT, CC-3(1),<br>R.No.402, Kautilya Bhawan,<br>G Block, BKC, Bandra East,<br>Mumbai – 400051 | Vs. | <b>M/s. Everest Food Products Pvt. Ltd.,</b><br>Krushal Commercial Complex,<br>G.M. Road, Tilak Nagar S.O.,<br>Chembur<br>Mumbai – 400 089<br><b>PAN: AAFCE8947A</b> |
| <b>(Appellant)</b>  | :   | <b>(Respondent)</b>  |

|                      |   |                           |
|----------------------|---|---------------------------|
| <b>Assessee by</b>   | : | Shri Paresh Shaparia, CA  |
| <b>Respondent by</b> | : | Shri Ritesh Misra, CIT DR |

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|------------------------------|---|------------|
| <b>Date of Hearing</b>       | : | 30.10.2025 |
| <b>Date of Pronouncement</b> | : | 05.01.2026 |

**ORDER**

**Per Kavitha Rajagopal, JM:**

This appeal has been filed by the Revenue, challenging the order of the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’ for short], passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2021-22.

2. The Revenue has raised the following grounds of appeal:

*“1. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in directing the A.O to delete the addition of Rs.25,55,69,713/ made by the A.O. on account of non-genuine purchases made by the assessee company without properly appreciating the facts of the case.*

*2. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in ignoring the decision of Hon'ble Bombay High Court in the case of Pr.CIT Vs M/s Mohammad Haji Adam & Co. in ITA No. 1004 of 2016 vide its order dated 11/02/2019 wherein it was held that G.P in the case of doubtful purchases is to be taken at the same rate of other purchases made by the assessee.*

*3. On the facts and in the circumstances of the case, the Ld.CIT(A) erred in ignoring the recent decision of Hon'ble Bombay High Court in the case of Pr.CIT Vs Kanak Impex Pvt. Ltd. wherein the Hon'ble High Court set-aside the decision of Hon'ble Tribunal and confirmed the AO decision to add back 100% of the alleged bogus purchase to the assessee's income for the corresponding assessment years.*

*The appellant craves to leave, to add, to amend and / or to alter any of the ground of appeal, if need be.*

*The appellant, therefore, prays that on the ground stated above, the order of the Ld. CIT (A)-51, Mumbai, may be set aside and that of the Assessing Officer restored.”*

3. Brief facts of the case are that the assessee was an erstwhile partnership firm is in the name and style of M/s. S Narendra Kumar and Co. (SNC) which was later converted into a private limited company M/s. Everest Product Pvt. Ltd, the assessee in the present case, w.e.f. 12.05.2020, which is engaged in the business of manufacturing, trading and selling of various types of masala and spices in the brand name “Everest”. The assessee filed its return of income u/s 139(1) of the Act dated 18.01.2022 declaring total income at Rs.513,06,61,331/- and had also filed a revised return of income dated 29.03.2022 declaring total income at Rs.517,71,99,790/- thereby withdrawing the claim of educational cess u/s 40(a)(ii) of the Act amounting to Rs.4,65,38,462/-. The assessee’s case was selected for scrutiny under CASS for the reason “assessee has made substantial purchases from suppliers who are either non filers or have filed non business ITR or reflected a substantially lower turnover in ITR”. Notices u/s 143(2) & 142(1) of the Act were duly issued and served upon the assessee. The Learned Assessing Officer (“Ld. AO” for short)

passed the assessment order dated 31.12.2022 u/s.143(3) of the Act determining the total income at Rs.543,27,69,500/- after an addition of Rs.25,55,69,713/- being 45.73% as gross profit on the alleged transaction of Rs.55,55,83,331/- towards the alleged bogus purchases from four parties which is said to have been not substantiated with relevant documentary evidences by the assessee.

4. Aggrieved, the assessee was in appeal before the first appellate authority, who vide order dated 01.04.2025 had allowed the grounds of appeal challenging the addition made by the Ld. AO on the ground that the assessee has duly substantiated its purchases by sufficient documentary evidences both before the Ld. AO as well as before the Ld. CIT(A).

5. Aggrieved, by the said order, the Revenue is in appeal before us, challenging the order of the Ld. CIT(A) on the abovementioned grounds.

6. The Learned Departmental Representative ("Ld. DR" for short) for the Revenue contended that the assessee had not furnished complete details before the Ld. AO for substantiating that these are genuine purchase transactions made by the assessee company. Further, the Ld. DR stated that some of the companies, though having a huge turnover, have not audited its financials and have also not filed their returns of income. Further, it is also contended that mere submission of ledger confirmation would not be held to be genuine transaction. The Ld. DR relied on the decision of the Hon'ble Bombay High Court in the case of *Pr. CIT vs. M/s. Mohommad Haji Adam & Co. (2019) 103*

***taxmann.com 459 (Bombay)*** where GP addition on non genuine purchases was justified.

The Ld. DR relied on the order of the Ld. AO.

7. The Authorized Representative (“Ld. AR” for short) for the assessee, on the other hand, controverted the said fact and stated that the assessee has substantiated its claim by sufficient documentary evidences along with the fact that it was evident from the income tax portal screenshot that out of four parties which were identified by the Ld. AO to be non-tax filers three have filed their returns of income. The Ld. AR further contended that the assessee has duly audited its financials which were also not disputed by the Ld. AO and also stated that most of the parties have also responded to the 133(6) notice and in spite of the same the Ld. AO has failed to make any independent inquiry on these alleged companies. The Ld. AR relied on the order of the Ld. CIT(A).

8. We have heard the rival submissions and perused the materials available on record. The only issue that requires adjudication is ***“whether the Ld. CIT(A) has erred in deleting the addition of Rs.25,55,69,713/- made by the Ld. AO towards alleged non genuine purchases made by the assessee company with four parties?”*** It is observed that the Ld. AO has alleged that the assessee had entered into purchase transaction with the following parties who according to the Ld. AO has not filed the ITR for the impugned year A.Y. 2021-22, the details of which are tabulated hereunder:

| <b>Sr No.</b> | <b>Name</b>                | <b>PAN</b> |
|---------------|----------------------------|------------|
| 1             | Jayapaul Rajesh            | AEZPR2846A |
| 2             | M R Gulmi                  | AALFM2187K |
| 3             | Madhukar Gorakhnath Devkar | AVUPD2403M |

|   |                                  |            |
|---|----------------------------------|------------|
| 4 | MRG Enterprises                  | ABNFM3466E |
| 5 | Varmora Plastech Private Limited | AAECV4247P |

9. The Ld. AO has sought for the details pertaining to the ledger account, invoices, proof of transportation, delivery challans, proof of payments from the assessee with regard to the above mentioned parties and had also issued notices u/s 133(6) of the Act to the said parties. With regard to the first party namely Jayapaul Rajesh, the Ld. AO made an addition on the impugned purchases amounting to Rs.2,62,73,000/- on the ground that the assessee has not submitted the ledger confirmation of the party and with regard to second party namely Mr. Gulmi the Ld. AO observed that though GST return has been filed by this party regularly no audit financials and return of income has been filed inspite of huge turnover made by the said party. With regard to the third party namely Madhukar Gorakhnath Devkar and MRG Enterprises though the ledger confirmation was filed, the Ld. AO held the same to be bogus for the reason that even these said parties have not filed their returns of income though GST return was filed regularly by the said entities. The Ld. AO proceeded to make an addition/disallowance of Rs.25,55,69,713/- which is the GP @ 46% on the total alleged transaction of Rs.55,55,83,331/-. Per contra, the Ld. CIT(A) deleted the impugned addition/disallowance on the following observations which are cited herein under for ease of reference:

*5.4.2 The appellant is a leading manufacture of masala and spices. The thrust of the addition done by the AO is the non-filing of income tax returns by the 4 suppliers. The submissions of the appellant with respect to each of the party is as under:*

*(i) Jayapaul Rajesh - It has been submitted that the total purchases taken by the AO at Rs.2,50,01,21,905/- is incorrect as the actual purchase amount debited in the books of accounts is Rs.1,60,23,000/-. Further supporting documents in the form of Parties Ledger*

*Account, Invoice copies with Goods Receipt Notes, E-way Bills, Transportation Receipts and Bank Statements highlighting payments have been submitted. Further the supplier has been regular in tax compliance and has filed its ITR for AY 2018-19, AY 2019-20 & AY 2020-21. It has also been submitted that input tax credit in respect of these purchases have already been allowed which proves that the supplier is regular in filing its GST returns. Copy of GST-R 2A showing the same has also been filed by the appellant.*

*(ii) M R Gulmi - It has been submitted that the AO has taken incorrect purchase amount of Rs.46,97,31,180/- as against actual purchase of Rs.40,18,72,196/-. Further supporting documents in the form of Ledger Account, Invoice copies & Goods Receipt Notes, E-way Bills & Transportation Receipts, Quality Testing Reports, Cold Storage, Weighment Bridge Proof and Bank Statements highlighting payments have been filed. The appellant has also submitted Income Tax Portal screenshot confirming that M R Gulmi is not a "Specified Person" under Sections 206AB & 206CCA implying that the supplier has duly filed the return of income for the AY 2021-22 and hence the very pretext on which the disallowance has been made is not correct. The appellant has also submitted that the input tax credit claimed against these purchases already stand allowed proving that the supplier is regularly filing its GST returns. It has also been pointed out that the supplier has duly responded to the verification notice issued by the AO on 29.12.2022 via email.*

*(iii) Madhukar Gorakhnath Devkar - It has been submitted that the AO has taken incorrect purchase amount of Rs.30,73,524/- as against actual purchase of Rs.32,27,200 /-. Further supporting documents in the form of Ledger Account, Invoice copies & Goods Receipt Notes, E-way Bills & Transportation Receipts, weigh bridge receipt and Bank Statements highlighting payments have been filed. The appellant has also submitted Income Tax Portal screenshot confirming that Madhukar Gorakhnath Devkar is not a "Specified Person" under Sections 206AB & 206CCA implying that the supplier has duly filed the return of income for the AY 2021-22 and hence the very pretext on which the disallowance has been made is not correct. The appellant has also submitted that the input tax credit claimed against these purchases already stand allowed proving that the supplier is regularly filing its GST returns.*

*(iv) MRG Enterprises - It has been submitted that the AO has taken incorrect purchase amount of Rs.5,77,59,722/- as against actual purchase of Rs.5,98,41,579/-. Further supporting documents in the form of Ledger Account, Invoice copies & Goods Receipt Notes, E-way Bills & Transportation Receipts and Bank Statements highlighting payments have been filed. The appellant has also submitted Income Tax Portal screenshot confirming that MRG Enterprises is not a "Specified Person" under Sections 206AB & 206CCA implying that the supplier has duly filed the return of income for the AY 2021-22 and hence the very pretext on which the disallowance has been made is not correct. The appellant has also submitted that the input tax credit claimed against these purchases already stand allowed proving that the supplier is regularly filing its GST returns.*

*5.4.3 While non filing of income tax return by a supplier is a reason to further investigate the transaction, this reason alone is not sufficient to disallow the expenses and treat the*

*same as non genuine. The appellant in the instant case has filed ample documentary evidence to not only support the purchase but also to justify its transportation and delivery. The factual matrix is that the expenses being disallowed are purchase of raw material which is quintessential and proportionate to the manufacturing output being shown by the appellant, wherein it is not correct to accept the manufacture and corresponding sale of the finished product but doubt the input raw material. The AO has proceeded to examine the tax behaviour of the persons from whom these purchases have been made and has made this addition since they have not been regular in filing of return of income. In my view, with respect to expenses debited in the profit & loss account that are routine business expenses such as purchase and otherwise satisfy the conditions laid down in Section 37(1) of the Act, the onus of the appellant is limited and does not extend to ensuring that the parties to whom the appellant is making these payments are tax compliant. It is also to be noted that none of these parties are admitted or identified accommodation entry providers. Further the appellant has demonstrated by way of income tax portal screen shot that out of the 4 parties identified by the AO as non-filer, 3 have actually filed their return of income. In view of the above reasons and also in view of the fact that the books of accounts of the appellant are duly audited and the auditor has not identified any specific case of misuse and violation of the conditions prescribed in Section 37(1) of the Act, the addition made by the AO cannot be sustained. Thus, the addition of Rs.25,5569,713/- made by the AO by attributing 46% profit to unverifiable purchases of Rs.55,55,86,331/- is deleted and the ground of appeal is allowed.”*

**10.** From the above observation, it is evident that the assessee has furnished various documentary evidences such as ledger account, invoice copies with goods receipt notes, E-way bills, transportation receipts and bank statement reflecting payments made regularly and also the ITR details of party No.1 for A.Y. 2018-19, 2019-20 & 2020-21. It is also an undisputed fact that these parties have been filing GST returns regularly showing substantial business transaction and also the finding of the Ld. CIT(A) that none of these parties are “specified persons” u/s 206AB & 206CCA, which substantiates that they have duly filed their return of income for the impugned year and disallowance of expenses towards purchases cannot be made merely on the ground that these parties have not filed their return of income, is not justifiable in our view. Further, it is also observed that the Ld. AO has not given a finding on the veracity of the documentary evidences furnished by the assessee nor has she stated that these parties are alleged to be accommodation entry

providers engaged in providing bogus purchase bills which is the *modus operandi* of a regular accommodation entry provider. Pertinently, we also find no observation as to whether any enquiry was conducted in these companies as to their existence or whether or not there is any business transaction carried out by these companies has not been examined by the Ld. AO. The purported bogus purchases are said to have been backed by bills and vouchers along with the books of accounts of the assessee duly audited where the said transactions have been recorded, corroborates the fact that the assessee has proved the transaction to be genuine. There is no iota of doubt that the Ld. AO has failed to establish that the parties through whom the assessee has purchased are accommodation entry providers neither by any documentary evidences nor by circumstantial evidences where the Ld. AO has not faulted with the supporting documents filed by the assessee to substantiate its case and we also reiterate the fact that no inquiry was carried out by the Revenue to justify the disallowance of 46% of the purchases by holding the same to be bogus. It is also a settled proposition of law that the Revenue while disallowing bogus purchases would necessarily have to ignore the corresponding sales recorded against the alleged parties, which has not been done so in the present case in hand. In the absence of these findings, we do not find any justification in upholding the addition/disallowance made by the Ld. AO and thereby holding that there is no infirmity in the order of the Ld. CIT(A) in deleting the addition/disallowance made in the hands of the assessee and the same warrants no interference. Hence, we dismiss the grounds of appeal raised by the Revenue on the above observation.

11. In the result, the appeal filed by the Revenue is hereby dismissed.

*Order pronounced in the open court on 05.012026*

**Sd/-**  
**(VIKRAM SINGH YADAV)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

Mumbai; Dated: 05.01.2026

\* Kishore, Sr. P.S.

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai