

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 1568/MUM/2026
(Assessment Year : 2011-12)

Hemantkumar Sumermal Bhansali,

Prop. of Pushpak Steel & Engineering,

6/B/ 52/54, 1st Floor, C.P. Tank,

Mumbai – 400004

PAN: AABPB6379C

..... Appellant

v/s

**Deputy Commissioner of Income Tax –
19(1),**

Room No.506, Piramal Chambers, Lalbaug,

Mumbai- 400012

..... Respondent

Assessee by : Shri Vimal Punmiya

Revenue by : Shri Hemanshu Joshi, Sr.DR

Date of Hearing – 30/04/2026

Date of Order - 07/05/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 09/01/2026, 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)"*], for the assessment year 2011-12.

2. In this appeal, the assessee has raised the following grounds: -

"1. On the facts and circumstances of the case and in law, The Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs.1,28,144/- on account of purchase made by the assessee from DDIT Investigation, Bhavnagar treating them as bogus non-genuine expenditure under section 69C of Income Tax Act.

2. *On the facts and circumstances of the case and in law, The Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs. 1,28,144/- being 87.5 percent of alleged bogus purchases, ignoring the fact that the appellant had already declared 12.5 percent of the transaction while filing the return under section 148 to avoid litigation as similar addition was also made in appellants own case by the Ld. CIT(A) at the rate of 12.5 percent and by the Honorable ITAT order at the rate of 6.41 percent.*

3. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the additions made by the Ld. AO solely relying on the information received from investigation conducted by DDIT, Bhavnagar and without conducting any independent inquires and application of his mind.*

4. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the additions made by the Ld. AO without providing cross examination of the information relied upon by the Ld. AO which has been the primary base for making the said additions.*

5. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in passing the assessment order without considering the documents and submissions submitted during the assessment procedure.*

6. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the rejection of the books of accounts made by the Ld. AO under section 145(3) of the IT Act, 1961.*

7. *On the facts and in the circumstances of the case and in law, The Ld. CIT(A) erred in confirming the order passed by the Ld. AO under section 143(3) r.w.s. 147 of income tax Act which is passed against the principal of natural justice.*

a. No reassessment can be made just to make an enquiry or verification.

b. Reassessment proceeding cannot be initiate merely on the information received from investigation wing.

c. Reassessment proceeding cannot be initiated when the Ld. AO have reason to suspect and not reason to believe.

8. *On the facts and in the circumstances of the case and in law, The Ld. CIT(A) erred in confirming the charging of Penalty proceeding under 271(1)(c) of the Income Tax Act 1961."*

3. Grounds No. 1-6, raised in assessee's appeal, pertain to the addition made by treating the purchases as bogus and non-genuine.

4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is an individual and is running a proprietorship

concern in the name and style "*Pushpak Steel and Engineering Co*", which is engaged in the business of dealing in ferrous and non-ferrous metals, iron and steel products in Mumbai. For the year under consideration, the assessee filed its return of income on 27/09/2011, declaring a total income of INR 40,42,980. The return filed by the assessee was selected for scrutiny, and vide order dated 25/03/2014, passed under section 143(3) of the Act, the scrutiny assessment proceedings were concluded, assessing the total income of the assessee at INR 1,35,79,600. Subsequently, on the basis of the information received from DGIT (Investigation), Bhavnagar, that the assessee is a beneficiary of an accommodation entry transaction of bogus purchases from an entity, namely M/s Shiv Sales, notice under section 148 was issued on 27/03/2018 and proceedings under section 147 of the Act were initiated. In response to a notice issued under section 148 of the Act, the assessee filed a return of income on 22/08/2018 declaring a total income of INR 40,61,280 by voluntarily adding INR 18,306, being 12.5% of the alleged bogus purchases of INR 1,46,450 from M/s Shiv Sales during the year. During the reassessment proceedings, the assessee clarified that the relevant amount of the transaction for the year under consideration is only INR 1,46,450, and the remaining amount pertains to the assessment year 2012-13.

5. The Assessing Officer ("AO"), vide order dated 30/11/2018 passed under section 143(3) read with section 147 of the Act, held that the assessee did not try to substantiate the genuineness of the purchases in question from M/s Shiv Sales and no plausible explanation regarding the transaction was provided. The AO held that merely disclosing an additional income at the rate

of 12.5% on the purchases found to be bogus doesn't prove the genuineness of the transaction. Accordingly, the AO treated the books of accounts maintained by the assessee to be unreliable and accordingly rejected the same. Further, the entire amount of the purchase transaction, i.e. INR 1,46,450, from M/s Shiv Sales, was treated as bogus, and the differential amount of INR 1,28,144, over and above the amount already declared by the assessee, was added to the total income of the assessee under section 69C of the Act.

6. The learned CIT(A), vide impugned order, upheld the initiation of reassessment proceedings on the basis that the information received from the Investigation Wing is tangible information for the formation of the belief that income chargeable to tax has escaped assessment. On merits, the learned CIT(A) held that the purchases by the assessee from M/s Shiv Sales are entirely bogus transactions as no proof has been placed on record that the goods were actually delivered to the assessee. The learned CIT(A) further held that the assessee's own voluntary addition of 12.5% of the alleged bogus purchases is an admission that the purchases were not genuine. Accordingly, the learned CIT(A) upheld the findings of the AO of treating the books of accounts as unreliable and upheld the rejection of the same as per the provisions of section 145(3) of the Act. Accordingly, the learned CIT(A) upheld the addition made by the AO. Being aggrieved, the assessee is in appeal before us.

7. During the hearing, the learned Authorised Representative ("*learned AR*") submitted that the entire goods purchased by the assessee from M/s

Shiv Sales on 20/09/2010 were sold to M/s Tata Chemicals Ltd on 21/10/2010. In this regard, the learned AR referred to the tax invoices issued to M/s Tata Chemicals Ltd, which form part of the paper book on pages 41 and 44. To substantiate the delivery of goods to M/s Tata Chemicals, the learned AR referred to the delivery challans at pages 42 and 45 of the paper book. The learned AR further submitted that the assessee has already voluntarily added 12.5% of the alleged bogus purchases from M/s Shiv Sales, despite the fact that its gross profit from the other purchases was only 6.41%.

8. On the other hand, the learned Departmental Representative ("*learned DR*"), by vehemently relying upon the order passed by the lower authorities, submitted that there is no documentary evidence of transfer of goods by M/s Shiv Sales to the assessee. Thus, the learned DR submitted that the entire purchase transaction from M/s Shiv Sales is bogus.

9. We have considered the submissions of both sides and perused the material available on record. In the present case, based on information received from the DDIT (Investigation), Bhavnagar, that the assessee is the beneficiary of bogus purchases, reassessment proceedings were initiated against the assessee. In response to a notice issued under section 148 of the Act, the assessee voluntarily made an addition of 12.5% of the alleged bogus purchases from M/s Shiv Sales. As per the assessee, all payments made to M/s Shiv Sales were made by way of account payee cheques. In this regard, the assessee has placed on record the bank statement of the assessee. However, we find that before the lower authorities, the assessee was not able to furnish the documents as directed by the AO, and there is no evidence of

the delivery of goods by M/s Shiv Sales to the assessee. Even before us, no such details are available on record. Therefore, from the material available on record, it is evident that the assessee has failed to prove the genuineness of the purchases made from the supplier. However, at the same time, it is evident from the record that the assessee has also sold the goods, i.e. ferrous and non-ferrous, to M/s Tata Chemicals Ltd and in this regard has placed on record the tax invoices and delivery challans, which have not been doubted by the Revenue. As per the learned AR, the goods purchased from M/s Shiv Sales were sold by the assessee to M/s Tata Chemicals. Therefore, it appears to be a case of bogus bills issued by M/s Shiv Sales and goods purchased elsewhere at a lower cost, which have been sold by the assessee. Thus, we are of the considered view that a reasonable disallowance of the purchases would mitigate the possibility of revenue leakage. We find that the assessee has *suo motu* made an addition of 12.5% of the alleged bogus purchases from M/s Shiv Sales while filing its return in response to the notice issued under section 148 of the Act. We further find that in an earlier round of proceedings before the Tribunal for the year under consideration, the Coordinate Bench in the assessee's own case vide order dated 31/05/2022, passed in ITA No. 2034/Mum/2021, directed the AO to compute the gross profit of the assessee at 6.41% of the alleged bogus purchases from some other entities. Therefore, we are of the considered view that even though the assessee has failed to prove the genuineness of the purchase transaction from M/s Shiv Sales, only the profit margin from the said transaction can be added in the hands of the assessee. We find that this conclusion is also in line with the judgment of the Hon'ble Jurisdictional High Court in PCIT vs Paramshakti Distributors Ltd. in

ITA No. 413 of 2017, decided on 15/07/2019. As the assessee has already voluntarily made an addition of 12.5% of the alleged bogus purchases from M/s Shiv Sales, we are of the considered view that no further addition is warranted in the facts and circumstances of the present case. Accordingly, the addition made by the AO and upheld by the learned CIT(A) is deleted, and Grounds No. 1-6 raised in the assessee's appeal are allowed.

10. Ground No. 7, challenging the reopening of the assessment under section 147 of the Act, was not pressed during the hearing. Accordingly, the said ground is kept open.

11. Ground no.8, raised in assessee's appeal, pertains to the initiation of penalty proceedings under section 271(1)(c) of the Act, which is premature in nature. Therefore, the said ground is dismissed.

12. In the result, the appeal by the assessee is partly allowed.

Order pronounced in the open Court on 07/05/2026

Sd/-
VIKRAM SINGH YADAV
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 07/05/2026

Prabhat

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.