

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 827/Ahd/2025
(Assessment Year: 2018-19)

Ramjibhai Kesaraji Patel, Shop No. 2, Amrut Complex, Nr. Shivaji Chowk, Chopdar Faliya Baranpura, Vadodara-390001, Gujarat [PAN : CPNPP 5302 N]	Vs.	Income Tax Officer, Ward 1(2)(2), Vadodara
(Appellant)	..	(Respondent)
Appellant by :	Shri Prashant Upadhyay, AR	
Respondent by:	Shri Kamal Deep Singh, Sr DR	
Date of Hearing	08.07.2025	
Date of Pronouncement	17.07.2025	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

Delay Condoned.

This appeal has been filed by the assessee against the order dated 24.12.2024 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)" for short), passed u/s 250 of the Income-tax Act, 1961, (hereinafter referred to as "the Act" for short) for the Assessment Year (AY) 2018-19.

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

"1. The learned Assessing Officer has erred in making an addition of Rs. 16,28,644/ u/s 69C of the Income Tax Act, 1961, alleging bogus purchases without proper appreciation of the documents and evidence submitted by the appellant.

2. The learned CIT(A) erred in holding that there was no sufficient cause for delay in filing the appeal without making a proper inquiry into the facts and circumstances of the case.

3. The appellant prays that the delay in filing the appeal before the CIT(A) be condoned and the matter may kindly be restored back to the file of the CIT(A) for adjudication on merits, in the interest of justice and equity.

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4. Alternatively, the appellant prays to restore the matter before the learned AO considering the provisions of amended section 251 of the Act whereby the CIT(A) may set aside the assessment and refer the case back to the Assessing Officer.

5. Your Appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal."

3. In the present case, the assessee filed return of income declaring Rs.4,96,960/-. The case was reopened and reassessment completed under section 147 r.w.s. 144B of the Act on 15.03.2023, determining total income at Rs.21,25,604/-, making an addition of ₹15,28,644/- under section 69C towards alleged bogus purchases. The details of the same are as under:-

Date	Amount (Rs.)	Amount credited to the account of
23.06.2017	2,68,611	Raghav Traders
23.06.2017	3,33,715	Helly Enterprises
23.06.2017	1,38,818	Laxmiraj Enterprises
11.08.2017	3,07,500	Laxmiraj Enterprises
16.10.2017	4,80,000	Laxmiraj Enterprises
Total	15,28,644	

4. The Ld. CIT(A), however, dismissed the appeal of the assessee *in limine*, citing delay in filing the appeal and the assessee's failure to furnish any explanation for the same.

5. Before us, the Ld. AR submitted that that the purchases made in question were genuine. It was further contended that during the course of the assessment proceedings, the assessee had furnished complete details of the purchases made from Laxmiraj Enterprise and Raghav Traders. These details were submitted to the Assessing Officer through a paper book uploaded on 17.02.2023. The Ld. AR submitted that a perusal of the documents, including the bank statements submitted, clearly substantiates the genuineness of the purchases. The Ld. AR contended that the books of accounts of the assessee are duly audited by accountant, the purchases are subject to VAT regime and payments have been made by banking channel. The Ld. AR also submitted that the Assessing Officer

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has accepted sales offered by the assessee and has not questioned the purchases claimed by the assessee. The Ld. AR therefore requested that, in view of the above facts, the addition made by the Assessing Officer may be deleted.

6. In an alternative submission, the Ld. AR submitted that the addition of entire purchase amount is unjustified; at the most, an estimated disallowance of profit embedded in purchases is warranted.

7. We have heard the rival contentions and perused the material available on record.

8. From the documentary evidence submitted by the assessee, including VAT invoices, bank statements, and audited books of accounts, it is evident that the sales disclosed by the assessee have not been disputed or doubted by the Assessing Officer with complete evidences. It is also fact on record that concerns have been raised regarding the genuineness of certain suppliers, particularly in light of the history and evidences of accommodation entry providers. In this context, it is a well-settled principle of law, as consistently upheld by the Hon'ble Gujarat High Court and Hon'ble Bombay High Court in the decisions cited before us, that in cases involving suspected bogus purchases, the entire value of such purchases should not be disallowed. Instead, only the profit element embedded within such purchases, being the portion that may represent unexplained or unverifiable expenditure, is liable to be brought to tax, so as to prevent the leakage of revenue.

In support of these submissions, the Ld. AR relied upon the following judgments: -

- i. **CIT vs. Simit P. Sheth** [(2013) 356 ITR 451 (Guj.)] – Only **profit embedded in purchases** is taxable; upheld Tribunal's 12.5% estimation.
- ii. **Pr. CIT vs. Surya Impex** [(2023) 451 ITR 395 (Guj.)] – When AO himself applied 3%-5% on similar parties, **Tribunal rightly restricted addition to 6%.**

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- iii. **Pr. CIT vs. Jigisha Satishkumar Mehta** [(2023) 456 ITR 661 (Guj.)] – Without independent inquiry, **only 5% disallowance upheld.**
- iv. **Vijay Trading Co. vs. ITO** [(2016) 388 ITR 377 (Guj.)] – Only **profit element of 25%** added, not the full purchase value.
- v. **Pr. CIT vs. S.V. Jiwani** [(2022) 449 ITR 583 (Bom.)] – On accommodation entries, **only 12.5% disallowance confirmed.**
- vi. **Pr. CIT vs. Shah Virchand Govanji Jewellers Pvt. Ltd.** [(2023) 169 taxmann.com 89]
- vii. **Sanjay Oilcake Industries vs. CIT** [(2009) 316 ITR 274 (Guj.)]
- viii. **Vijay Proteins Ltd. vs. CIT** [(1996) 58 ITD 428 (Ahd.)]

In light of the above legal proposition and in the interest of justice, keeping in view the peculiar facts of the instant case, we consider it fair and reasonable to restrict the disallowance to 8% of the impugned purchase amount of Rs.15,28,644/-.

9. In the result, the appeal of the Assessee is partly allowed.

The order is pronounced in the open Court on 17.07.2025

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 17.07.2025

btk

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad