IN THE INCOME TAX APPELLATE TRIBUNAL
B, BENCH MUMBAI

BEFORESHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 450/Mum/2026
(Assessment Year: 2020-21)

Bhagwana Ram Bishnoi, Shop No.01, Ground Floor Radhakrishna Co-Op HSG Soc., 4th Khetwadi Lane, Mumbai – 400004.	Vs.	**DCIT, Circle 19(1)**, Piramal Chambers, Dr. SS Rao Marg, Parel, Mumbai - 400012
PAN/GIR No. ACOPB3309B		
(Applicant)		(Respondent)

Assessee by	Shri Bharat Kumar
Revenue by	Shree Kumar C. Sr. AR

Date of Hearing	24.06.2026
Date of Pronouncement	28.07.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 12.01.2026 passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi, [hereinafter referred to as "the CIT(A)"]under section 250 of the

Income-tax Act, 1961[hereinafter referred to as "the Act"], for the assessment year 2020-21.The assessment in the present case was completed by the Assessing Officer under section 147 read with sections 144 and 144B of the Act vide order dated 20.08.2024.

2. At the outset, we notice that the appellate order passed by the learned CIT(A) describes the order appealed against as an assessment order dated 20.08.2024 passed under section 147 read with section 144 of the Act. However, the assessment order placed before us is dated 13.03.2025 and has been passed under section 147 read with sections 144 and 144B of the Act. We have proceeded on the basis of the assessment order dated 13.03.2025 forming part of the appeal records.

Facts of the Case

3. The assessee is an individual and is stated to be engaged in the business of ferrous and non-ferrous metals, including casting of metals and job work. For the assessment year under consideration, the assessee filed his original return of income on 12.02.2021 declaring total income of Rs. 44,89,350/-.

4. The case was reopened on the basis of information received through the Insight Portal that the assessee had obtained accommodation entries in the guise of purchases amounting to Rs. 3,02,21,433/- from M/s Bristal Tube Industries, which was alleged to be engaged in issuing bogus invoices without actual

supply of goods. Notice under section 148A(b) was issued and, thereafter, an order under section 148A(d) was passed on 23.03.2024. Notice under section 148 was also issued.

5. During the reassessment proceedings, the assessee furnished invoices, delivery challans, bank statements, stock records and the ledger account of M/s Bristal Tube Industries. The Assessing Officer, however, observed that the supplier had not filed returns of income after the assessment year 2016-17, its GST registration had been cancelled with effect from 01.07.2017, and the Departmental Verification Unit could not trace the concern at its registered address. The assessee also failed to furnish corresponding e-way bills for the purchases and could not produce the supplier for verification.

6. The Assessing Officer accepted that the purchases under consideration amounted to Rs. 3,02,21,433/- and also accepted the assessee's contention that a separate addition of the outstanding creditor would result in double addition. Since the corresponding sales and stock records were not rejected, the Assessing Officer restricted the addition to 12.5 per cent of the alleged purchases and added Rs. 37,77,679/- to the business income. The total income was accordingly assessed at Rs. 82,67,029/-.

7. The learned CIT(A) upheld the validity of the reopening and rejected the contentions regarding non-supply of material and

denial of cross-examination. On merits, the learned CIT(A) held that the assessee had failed to establish the genuineness of the supplier and the actual movement of goods from the said concern. The addition of Rs. 37,77,679/- was therefore confirmed and the appeal of the assessee was dismissed.

8. Aggrieved by the order of the learned CIT(A), the assessee is in appeal before us and has raised the following grounds:

> ***1.*** *On the facts and circumstances of the case in law the Ld CIT(A) has erred in confirming the re-opening of the case which is bad in law.*
>
> ***2.*** *On the facts and circumstances of the case in law, Ld. CIT(A) erred in not providing statement and materials used by him against the appellant.*
>
> ***3.*** *On the facts and circumstances of the case in law, Ld. CIT(A) erred in not providing opportunity of cross examination of the person whose statements were used against the appellant.*
>
> ***4.*** *On the facts and circumstances of the case in law, Ld CIT(A) has erred in confirming addition of Rs. 37,77,679/- on account of bogus purchases.*
>
> ***5.*** *The Appellant keeps his right reserve to add/modify/delete any ground of appeal during the appellant proceedings.*

9. The learned Authorised Representative (AR) reiterated the facts on record and submitted that the assessee is engaged in the business of trading in ferrous and non-ferrous metals. The assessment had been reopened on the basis of information alleging that the assessee had made purchases amounting to Rs. 3,02,21,433/- from M/s Bristal Tube Industries, which was

alleged to be a non-genuine concern. It was submitted that during the course of the assessment proceedings, the assessee had duly discharged the onus cast upon him by furnishing complete documentary evidence in support of the impugned purchases, including copies of purchase invoices and delivery challans, ledger confirmation from the supplier, affidavit of the supplier confirming the transactions, bank statements evidencing payment through banking channels, corresponding sales reflecting consumption of the goods, stock register evidencing inward and outward movement of goods and GST details of both the assessee and the supplier.

10. The learned AR further submitted that the Assessing Officer had accepted the sales effected by the assessee and had not rejected the books of account or the quantitative records maintained by the assessee. It was contended that no material had been brought on record to establish that the purchases were fictitious or that the goods had not been received by the assessee. The assessee had maintained complete quantitative records and the purchases stood fully corroborated by the corresponding sales.

11. Referring to the financial results of the assessee, the learned AR submitted that the net profit margin disclosed by the assessee, as reflected in the tax audit report (Paper Book page No. 19), was only 2.80% during the year under consideration, whereas in the immediately preceding year the net profit margin

was only 1.55%. It was therefore contended that the estimation of profit at 12.5% of the alleged purchases was wholly arbitrary, excessive and divorced from the realities of the assessee's line of business. It was submitted that where the sales have been accepted and complete quantitative records are maintained, no addition on account of alleged bogus purchases is warranted. Alternatively, even if any addition were to be sustained, the profit estimated at 12.5% deserves to be substantially reduced having regard to the nature of the assessee's business and the actual gross profit and net profit disclosed in the books of account.

12. The learned Authorised Representative further submitted that the assessee is engaged in trading in ferrous and non-ferrous metals, where the normal profit margin is comparatively low. It was submitted that, in cases involving assessees carrying on an identical or similar line of business, the Co-ordinate Bencheshave restricted the addition on account of alleged non-genuine purchases to 2 per cent of such purchases.

13. In this regard, the learned AR relied upon the decision of the Co-ordinate Bench in ***M/s Sterling Steel Industries v. ITO, ITA No. 7096/Mum/2018***, order dated 20.04.2020. In that case, the assessee was engaged in the business of ferrous and non-ferrous metals. While restricting the disallowance to 2 per cent of the disputed purchases, the Co-ordinate Bench observed as under:

> *"I find that in this case the sales have not been doubted it is settled law that when sales are not doubted, hundred percent disallowance for*

bogus purchase cannot be done. The rationale being no sales is possible without actual purchases."

14. The Co-ordinate Bench thereafter concluded:

"However, in the absence of any enquiry by the AO from the alleged bogus supplies in my considered opinion on the facts and circumstances of the case the 2% disallowance out of the bogus purchases meets the end of justice. Accordingly, I direct that disallowance be restricted @ 2% of the bogus purchase."

15. The learned AR also relied upon the decision in ***Kishorkumar M. Vyas v. ITO, ITA Nos. 2683 to 2686/Mum/2019***, order dated 06.07.2021, wherein the assessees were traders in iron and steel and allied products. In that case, the Co-ordinate Bench took note of the low profit margin prevalent in the ferrous-metal trade and followed the decision in *Sterling Steel Industries*. The relevant findings read as under:

"As regards the merits of the issue, it is borne out from record that the doubt, if any, is only with regard to the source of purchases and not the purchases."

16. The Co-ordinate Bench further held:

"Considering the nature of business of both the assessee's and keeping in view the decision of co-ordinate bench in case of M/s Sterling Steel Industries (supra), I am of the view that disallowance @2% on the alleged non genuine purchases would be fair and reasonable. Accordingly, I direct the assessing officer to compute the disallowance at 2% on the alleged non genuine purchases in all the assessment years under dispute."

17. The learned AR submitted that the facts of the present case stand on a stronger footing, since the assessee had furnished purchase invoices, delivery challans, ledger confirmation, the supplier's affidavit, bank statements evidencing payments through banking channels, quantitative stock records and evidence of corresponding sales. The sales declared by the assessee and the quantitative movement of goods had not been rejected by the Assessing Officer. Therefore, the dispute, at the highest, could relate only to the source from which the goods were procured and not to the actual purchases or consumption of the goods.

18. The learned AR contended that estimation of an additional profit of 12.5 per cent on the disputed purchases was wholly excessive and contrary to the commercial realities of the assessee's business. The learned AR accordingly submitted that the addition deserves to be deleted in its entirety. Without prejudice, following the decisions in *Sterling Steel Industries* and *Kishorkumar M. Vyas*, the addition may, at the highest, be restricted to 2 per cent of the alleged non-genuine purchases.

19. The learned Departmental Representative, on the other hand, relied upon the order passed by the learned CIT(A) and supported the confirmation of the addition at 12.5 per cent of the alleged non-genuine purchases. The learned DR invited our attention to paragraph 5.2.2 of the impugned order, wherein the learned CIT(A) observed as under:

"5.2.2. On the contrary, Revenue is supported by several authoritative decisions. The Hon'ble Supreme Court in CIT v. N.K. Proteins Ltd. (2017) 292 CTR 273 (SC) upheld 100% disallowance of bogus purchases and reversed the Gujarat High Court for granting partial relief. Similarly, the Hon'ble Gujarat High Court in CIT v. Simit P. Sheth (2013) 356 ITR 451 (Guj) held that where purchases are from bogus parties, addition is justified because accommodation entries suppress true profits. The Hon'ble Bombay High Court in Pr. CIT v. Mohommad Haji Adam & Co. (2019) 110 taxmann.com 84 (Bom) held that where the supplier is non-genuine, addition of profit element is warranted to bring to tax the suppressed profits. Thus, the AO's approach of applying 12.5% profit element is in consonance with judicial principles. Even in the assessee's own case for A.Y. 2012-13, the Ld. CIT(A) adopted the same method and the assessee has accepted the finding. The principle of consistency therefore applies."

20. The learned DR accordingly submitted that the estimation of profit at 12.5 per cent was fair and reasonable and was also consistent with the approach stated to have been adopted in the assessee's own case for the assessment year 2012-13. He therefore prayed that the order of the learned CIT(A) be upheld and the grounds raised by the assessee be dismissed.

21. We have considered the rival submissions and perused the material placed on record. The limited controversy requiring adjudication is the appropriate rate of profit to be estimated in respect of the purchases of Rs. 3,02,21,433/- made from M/s Bristal Tube Industries. The Assessing Officer estimated the profit element at 12.5 per cent and made an addition of Rs. 37,77,679/-, which was confirmed by the learned CIT(A).

22. It is not in dispute that the assessee had furnished purchase invoices, delivery challans, ledger confirmation, an

affidavit of the supplier, bank statements evidencing payments through banking channels, stock records and details of the corresponding sales. The Assessing Officer has neither rejected the sales declared by the assessee nor disputed the quantitative details and the corresponding outward movement of goods. Indeed, while completing the assessment, the Assessing Officer himself accepted that the assessee had furnished details of the stock and the corresponding sales, supported by invoices and e-way bills. The Assessing Officer, therefore, did not disallow the entire purchases and proceeded only to estimate the profit element embedded therein.

23. At the same time, the assessee could not conclusively establish that the goods were purchased from the very party named in the invoices. The supplier was not found at the stated address, its GST registration had been cancelled, and it was not produced before the Assessing Officer despite the opportunities granted. In these circumstances, the possibility that the assessee procured the goods from sources other than the stated supplier cannot be ruled out. Therefore, the entire addition cannot be deleted. What can be brought to tax is the profit or saving embedded in the purchases made from an unverified source.

24. The learned CIT(A), while sustaining the rate of 12.5 per cent, placed reliance upon the decisions in *CIT v. N.K. Proteins Ltd.*, *CIT v. Simit P. Sheth* and *Pr. CIT v. Mohommad Haji Adam & Co.,* as referred inthe reproduced para. The learned CIT(A) further

referred to the order passed in the assessee's own case for the assessment year 2012-13.

25. In our considered view, none of these decisions lays down that a uniform rate of 12.5 per cent must invariably be applied in every case involving purchases from an unverified supplier. The rate of profit to be estimated is necessarily dependent upon the nature of the business, the profit normally disclosed in that line of trade, the evidence furnished by the assessee and the peculiar facts of the relevant assessment year.

26. The decision in *N.K. Proteins Ltd.* was rendered on its own facts, where the factual findings justified the disallowance sustained therein. In the present case, the Assessing Officer himself has accepted the corresponding sales and stock movement and has not treated the entire purchases as fictitious. The said decision, therefore, does not justify the application of a fixed rate of 12.5 per cent in the assessee's case.

27. The decision in *Simit P. Sheth* also does not prescribe 12.5 per cent as an inflexible rate. It recognises the principle that, where purchases are made from unverified sources but corresponding sales are accepted, only the profit element embedded in such purchases is liable to be brought to tax. The precise rate remains a matter of estimation based upon the facts of each case.

28. Similarly, the decision of the Hon'ble jurisdictional High Court in *Mohommad Haji Adam & Co.* supports the proposition that the addition should be confined to the profit element attributable to the disputed purchases. The said decision does not support the proposition that the rate must necessarily be fixed at 12.5 per cent regardless of the assessee's line of business and disclosed profit margins.

29. As regards the appellate order in the assessee's own case for the assessment year 2012-13, the learned CIT(A) observed that a rate of 12.5 per cent had been adopted in that year and had been accepted by the assessee. However, the mere acceptance of an addition in an earlier year does not result in a binding rule that the same rate must be mechanically applied in every succeeding year. The principle of consistency applies where the material facts and circumstances remain identical. In the present case, the learned CIT(A) has not demonstrated that the turnover, gross profit rate, net profit rate, nature of purchases, evidentiary position and surrounding facts for the assessment year 2012-13 were identical to those obtaining in the year under consideration. The rate adopted in the earlier appellate order was itself an estimate and cannot operate as a precedent fixing the rate permanently for all subsequent years.

30. The assessee is engaged in trading in ferrous and non-ferrous metals, where the margins are admittedly low. The learned AR has pointed out that the net profit rate disclosed by

the assessee, as per the tax audit report placed at Paper Book page No. 19, was 2.80 per cent during the year under consideration, as against 1.55 per cent in the immediately preceding year. The Revenue has not brought any material on record to demonstrate that the assessee earned an additional profit as high as 12.5 per cent from the disputed purchases.

31. We also find that the Co-ordinate Bench in *M/s Sterling Steel Industries v. ITO*, ITA No. 7096/Mum/2018, order dated 20.04.2020, dealt with an assessee engaged in the business of ferrous and non-ferrous metals. In that case, the corresponding sales were not doubted and the Tribunal restricted the disallowance to 2 per cent of the alleged non-genuine purchases. The said decision was subsequently followed by the Co-ordinate Bench in *Kishorkumar M. Vyas v. ITO*, ITA Nos. 2683 to 2686/Mum/2019, order dated 06.07.2021. The assessees therein were traders in iron and steel and allied products.

32. The assessee before us is engaged in an identical line of business. The corresponding sales and stock records have been accepted, payments were made through banking channels, and the dispute is essentially confined to the source from which the goods were procured. Having regard to the low-margin nature of the trade, the net profit rate disclosed by the assessee and the decisions of the Co-ordinate Benches in similarly situated cases, we are of the considered view that estimation of the profit element

at 2 per cent of the disputed purchases would be fair and reasonable.

33. We accordingly direct the Assessing Officer to restrict the addition to 2 per cent of the purchases of Rs. 3,02,21,433/-, which works out to Rs. 6,04,429/- as against the addition of Rs. 37,77,679/- sustained by the learned CIT(A). The balance addition is directed to be deleted.

34. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 28.07.2026.

Sd/-	**Sd/-**
(SAKTIJIT DEY)	**(MAKARAND VASANT MAHADEOKAR)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Mumbai, Dated 28/07/2026
Dhananjay, Sr. PS.

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to</u> :

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

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai