IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.107 OF 2024

Gautam Bandmal Bafna …Appellant
Versus
Income Tax Officer, Ward 16, 3 4 ...Respondent

Mr. Tanzil Padvekar for Appellant.
Mr. Mamta Omle for Respondent.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.
DATED : 12 November 2025

P.C.:-

1. Heard Mr Tanzil Padvekar, learned counsel for the Appellant and Ms Mamta Omle, learned counsel for the Respondent.

2. This is the Assessee's Appeal challenging the addition made after estimating the profits at 12.5% in the context of bogus purchases.

3. Mr. Padvekar submits that the addition was made only because the Assessee was unable to produce the parties from whom the purchases were made. He submits that such an approach on the part of the Revenue was not accepted by this Court in the case of **Ashok Kumar Rungta v. Income Tax**

Officer[1]. Accordingly, he proposes the questions set out in paragraph III of the Appeal Memo and submits that such questions are not only involved in this Appeal but further, they are substantial questions of law.

4. Ms Mamta Omle submits that the decision in the case of **Ashok Rungta** (supra) is distinguishable and has, in fact, been distinguished in the case of **Amritlal P. Shah vs. Deputy Commissioner of Income Tax & Anr.** in Income Tax Appeal No.2007 of 2018, disposed of on 12 February 2025. She submitted that, in fact, the addition of 100% by the Assessing Officer was correct.

5. The rival contentions now fall for our determination.

6. Firstly, we are satisfied that the decision in **Ashok Rungta** (supra) can be of no assistance to the Appellant. In this case, there is a clear finding of fact that the Appellant has failed to prove the purchases by any cogent evidence. This is a case in which the Appellant was found to have engaged in bogus purchases. In the case of **Amritlal Shah** (supra) in similar circumstances, the co-ordinate Bench has distinguished the decision in **Ashok Kumar Rungta** (supra).

7. In fact, we must note that this Court, in the case of **Principal Commissioner of Income Tax vs. Kanak Impex (India) Ltd.**[2] has taken the view that the addition could be to the extent of 100% where the Assessee fails to prove the

[1]. (2024) 167 taxmann.com 429 (Bom)

[2]. (2025) 172 taxmann.com 283 (Bom)

genuineness of the purchases. In that case, the Assessing Officer had made an addition of 100% but the Commissioner (Appeals) restricted the additions to only 12.5% of the bogus purchases. Such a view of the Commissioner (Appeals) was not approved by this Court.

8. Only because the Revenue in this case has not challenged the restriction of additions to only 12.5%, we are handicapped in following the view in **Kanak Impex** (supra). However, no case whatsoever is made out to interfere with the impugned orders, which, in our opinion, grant the Appellant reliefs over and above what they would otherwise be entitled to under the law.

9. In any event, whether the profit should be assessed at 12.5% of the bogus purchases or at a lesser rate is a matter of pure factual estimation. Such an issue does not give rise to any question of law, much less a substantial one.

10. For all the above reasons, we are satisfied that this Appeal involves no substantial questions of law and is therefore liable to be dismissed. We dismiss this Appeal without any order for costs.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**