

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No. 3485/Mum/2025
Assessment Year: 2019-20**

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| Income Tax Officer 17(1)(1), Mumbai 233, Kautalya Bhawan, Mumbai-400051 | Vs. | Ashok Amritlal Nayak 103, Old Sharda Chamber, Masjid Bunder, Mumbai-400009 PAN: AAAPN7882M |
| (Appellant) | | (Respondent) |

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**CO No.172/Mum/2025
Assessment Year: 2019-20**

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| Ashok Amritlal Nayak 103, Old Sharda Chamber, Masjid Bunder, Mumbai-400009 PAN: AAAPN7882M | Vs. | Income Tax Officer 17(1)(1), Mumbai 233, Kautalya Bhawan, Mumbai-400051 |
| (Appellant) | | (Respondent) |

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| Assessee by | Shri Rahul Hakani |
| Department by | Shri Surendra Mohan, SR. DR |

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| Date of Hearing | 24.02.2026 |
| Date of Pronouncement | 27.02.2026 |

ORDER

Per Bench:

1. This appeal by the Revenue and the Cross Objection filed by the assessee arise out of the order dated 06.03.2025 passed by the learned Commissioner of Income Tax (Appeals), NFAC, Delhi for A.Y. 2019-20.
2. Brief facts of the case are that the assessee is engaged in the business of wholesale trading and distributorship of FMCG goods. The return of income was originally processed u/s 143(1). Subsequently, the assessment was reopened u/s 147 on the basis of information received from the Investigation Wing alleging that the assessee had obtained accommodation entries aggregating to ₹55,11,843/- in the form of fictitious sales to M/s Jash Dealmark Ltd. In the reassessment proceedings, the Assessing Officer treated the entire amount of ₹55,11,843/- as unexplained cash credit u/s 68 of the Act and added the same to the total income.
3. Before the learned CIT(A), the assessee contended that the impugned amount represented sales duly recorded in the regular books of account; the same had been credited to the Profit & Loss account; GST had been discharged on such sales; payments were received through banking channels; and the books of account were duly audited and had not been rejected. The learned CIT(A), after examining the material on record, observed that the turnover declared by the assessee was not liable to be disturbed and that the sales could not be treated as entirely non-genuine. However, considering the surrounding circumstances and the information received from the Investigation Wing, the learned CIT(A) estimated profit at 4.5% of the impugned transactions. Since the assessee had already disclosed gross profit at 1.77% on such sales, the learned CIT(A) sustained addition to the extent of the differential 2.73% and deleted the balance addition. The

Revenue is aggrieved by the relief granted, whereas the assessee in its Cross Objection has challenged both the reopening and the estimation of profit.

4. The learned Departmental Representative submitted that the Assessing Officer had acted on credible information received from the Investigation Wing which revealed that the counter party was engaged in providing accommodation entries without actual delivery of goods. It was argued that the surrounding circumstances clearly demonstrated that the transactions lacked commercial substance and therefore the addition made by the Assessing Officer was justified. It was further submitted that the learned CIT(A), having accepted that the transactions were doubtful, ought to have confirmed the entire addition instead of restricting it to 2.73%. According to the learned DR, once the genuineness of the transactions is in serious doubt, no relief ought to have been granted.
5. The learned Authorised Representative, on the other hand, submitted that the impugned amount represented recorded sales forming part of the regular turnover of the assessee. It was contended that the sales were duly reflected in the books of account, GST had been paid, payments were received through banking channels and the books were audited. It was emphasized that this was not a case of bogus purchases where income is suppressed by inflating expenditure, but an allegation of bogus sales, which stand already credited to the Profit & Loss account and offered to tax. The learned AR submitted that once the sales are part of the turnover and profit has already been declared thereon, there is no question of making any further addition, and even the estimation sustained by the learned CIT(A) is legally unsustainable.

6. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed position that the impugned sum of ₹55,11,843/- forms part of the turnover declared by the assessee. The sales have been duly recorded in the books of account and credited to the trading results. The books of account have not been rejected u/s 145(3) of the Act. The profit arising from such sales has already been offered to tax in the regular course of business.
7. The addition made by the Assessing Officer was under section 68 treating the sales as unexplained credits. However, once the nature of the credit is disclosed as sales forming part of business turnover and such sales are duly reflected in the books, the same cannot again be treated as unexplained cash credit. Section 68 contemplates a situation where a sum is found credited in the books and the assessee fails to satisfactorily explain its nature and source. In the present case, the nature and source of the credit are disclosed as business receipts. Taxing the gross sales themselves as income would amount to bringing to tax the entire turnover, which is impermissible in law.
8. The allegation in the present case is of bogus sales and not bogus purchases. In cases of bogus purchases, the purchases are alleged to have been inflated to suppress profit and therefore only the profit element embedded therein is brought to tax. Here, however, the sales are alleged to be fictitious. If the sales were to be treated as non-genuine, the logical consequence would be adjustment of turnover or rejection of books leading to re-computation of trading results. It cannot result in estimation of higher profit on sales which are already recorded and accepted as part of turnover, particularly when the books of account have not been rejected and no specific defects in trading results have been pointed out.

9. The learned CIT(A) sustained addition to the extent of 2.73% by estimating profit at 4.5% and reducing the profit already declared at 1.77%. In our considered view, once the sales have been accepted as part of turnover and the assessee has already offered profit thereon, there is no legal basis to estimate further profit unless the books are rejected and suppression of income is demonstrated. There is no finding that the overall gross profit declared by the assessee is abnormal or that the trading results are unreliable.
10. In these circumstances, even the addition sustained by the learned CIT(A) at 2.73% is not justified. The assessee having already included the impugned sales in its books and offered profit thereon, there is no question of bringing to tax any further estimated profit. Accordingly, the addition sustained by the learned CIT(A) is deleted.
11. Since the entire addition stands deleted on merits, the grounds raised by the Revenue fail and are dismissed.
12. Insofar as the Cross Objection is concerned, as the addition itself has been deleted in entirety, the issues raised therein do not survive for separate adjudication and are rendered infructuous.
13. In the result, the appeal of the Revenue is dismissed and the Cross Objection of the assessee is dismissed as infructuous.

Order pronounced in the open court on 27/02/2026

Sd/-

(NARENDER KUMAR CHOUDHRY)
Judicial Member

Sd/-

(JAGADISH)
Accountant Member

Mumbai, Dated: 27/02/2026

Ashwani Rao

Sr. Private Secretary

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)
ITAT, Mumbai