

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “H (SMC)”, MUMBAI
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

ITA NO. 2561/MUM/2025 (A.Y. 2011-12)

Palmon Impex Pvt. Ltd.

9, Janata Industries Compound,
162, S. B. Marg, Lower Parel (W),
Mumbai-400013

PAN: AAECM3977F

ITO-7(3)(1),

Aayakar Bhavan, M. k. Road,
Mumbai-400 020

(Appellant)

(Respondent)

ITA No. 2939/MUM/2024 (A.Y. 2011-12)

ITO-7(3)(1),

Room No. 126J, Aayakar Bhavan, M.
k. Road, Mumbai-400 020

(Appellant)

Vs. Palmon Impex Pvt. Ltd.

9, 9 Janata Industries
Compound, 162, S. B. Marg,
Lower Parel (W), Mumbai-
400013

PAN: AAECM3977F

(Respondent)



**ITA No. 2561/Mum/2026 &
ITA No. 2939/Mum/2025
Palmon Impex Pvt. Ltd.**

Revenue Represented by	:	Shri Himanshu Gandhi, Ld. AR
Assessee Represented by	:	Shri Pravin Salunkhe, Ld. DR
Date of conclusion of Hearing	:	03.07.2025
Date of Pronouncement	:	28.07.2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. By this common order, we proceed to decide the appeals filed by the revenue and the assessee against the same order dated 27.02.2025 passed by National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “CIT(A)”] u/s 250 of the Income Tax Act (‘the Act’) for the A.Y. 2011-12.
2. Since the facts of both the appeals filed by the revenue and assessee are exactly same, parties are same, also the order of the same date and the matter involved is also similar, therefore, both the appeals are being disposed of by this common order in order to avoid the multiplicity of the decision.



3. The brief facts of the case as culled out from the orders of the authorities below are that the assessee M/s. Palmon Impex Pvt. Ltd., being a Private Limited Company, is engaged in the business of trading, export & import of garments, textiles, metal and computers. The assessee filed its Return of Income (ROI) for the impugned AY 2011-12 on 29.09.2011, declaring a total income of Rs.5,36,685/-. The ROI was processed u/s. 143(1) of the Act, accepting the returned income and the case was not selected for regular scrutiny u/s 143(3) of the Act. Subsequently, based on the information that, during the FY 2010-11, the assessee had availed accommodation entries in the form of bogus purchases from three concerns i.e. (i) M/s. Monica International Rs.18,21,402/-, (ii) M/s. Arihant Trading Co.- Rs.11,42,688/-; and (iii) M/s. Gold Star Trading Co.- Rs.1,89,69,081/-, totaling to Rs.2,19,33,171/-, the AO initiated proceedings u/s. 147 of the Act.

4. Accordingly, the AO issued a notice u/s. 148 of the Act dated 18.03.2014 requiring the assessee to file ROI for the impugned AY 2011-12 within 30 days from the date of receipt of the notice. However, the assessee did not file the ROI within the due date stipulated in the notice u/s. 148 of the Act. Later, the assessee filed a letter dated 03.07.2014 requesting the



AO to treat the original ROI filed u/s. 139(1) of the Act on 29.09.2011 as return filed in response to notice u/s. 148 of the Act. 5.3 Subsequently, the AO issued a statutory notice u/s. 142(1) of the Act, along with the questionnaire, and also provided reasons recorded for reopening the assessment.

5. In response thereto, the AR of the assessee appeared before the AO from time to time and furnished the requisite details and documentary evidence. After having considered the same, the AO estimated GP Percentage @ 18.5%, being the possible profit out of the purchases made through non-genuine parties/bogus purchase. Accordingly, the AO treated 18.5% of bogus purchases of Rs.2,19,33,171/-, which worked out to Rs.40,57,637/-, as disallowable expenses on account of bogus purchases. Thus, the AO passed the impugned assessment order u/s. 143(3) r.w.s 147 of the Act dated 19.03.2015 by making an addition of Rs.40,57,637/-.

6. Aggrieved by the order of AO, the assessee preferred the appeal before the Ld. CIT(A) who has partly allowed the appeal of the assessee by reducing the addition on estimation basis to the extent of 12.5% of the non



genuine /suspicious /bogus purchase in place of 18.5% applied in the assessment order.

7. Aggrieved by the impugned order of Ld. CIT(A), the assessee is in appeal before us and has raised the following grounds:-

- 1. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming validity of reassessment proceeding under section 147 of Income Tax Act, 1961 Ground*
- 2. On the facts and circumstances of the case and law, the Ld. CIT(A) failed to considered that assessment order passed without issue of notice under section 143(2) of Income Tax Act, 1961 after filling return of income is bad in law and required to be quash.*
- 3. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs. 27,41,646/- being 12.5% of genuine purchase of Rs.2,19,33,171/-by treating the same as suspicious Ground*
- 4. Appellant craves leave to add further grounds or to amend or alter the existing grounds of appeal on or before the date of hearing.*

8. Further, the revenue has filed the appeal on the following grounds:-

- 1 Whether on the facts and in the circumstances of the case, the Ld. CIT(A) erred in restricting the disallowance of bogus purchases to 12.5% instead of sustaining the full addition of 18.5% made by the Assessing Officer, despite the assessee's failure to substantiate the genuineness of the transactions.*



2. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) failed to appreciate that the addition made by the Assessing Officer was based on credible information and was justified considering the nature and extent of non-genuine purchases; hence, the full addition ought to have been upheld.

9. We have heard Ld. AR and Ld. DR and examined the record. At the outset, Ld. AR on behalf of the assessee submitted that assessee does not want to press ground no. 1 and 2 raised in his appeal which pertains to legality of the re-assessment order u/s 147 of the Act. Hence, the ground no. 1 and 2 are dismissed as not pressed.

10. Ground No. 3 raised by the assessee and Ground no. 1 and 2 raised by the revenue are real controversy raised before us pertaining to the addition of 12.5% on account of bogus purchase on estimation basis in the impugned order, therefore we proceed to consider these grounds simultaneously. Ld. AR argued that assessee is primarily aggrieved with the impugned order passed by Ld. CIT(A) because they conceded before the AO for addition @ 18.5% of the bogus purchase only to buy peace anticipating and expecting that no penalty proceeding will be initiated. Since the AO has initiated the penalty proceedings, hence the assessee filed the appeal before the Ld. CIT(A) who has confirmed the order of AO upholding the addition and reducing it to 12.5% of genuine purchases by treating the same as



suspicious. Ld. AR further argued that the addition to the extent of 12.5% is also not justified in the given circumstances when the assessee has established all necessary requirements of genuineness of the transaction, identification of the parties and creditworthiness of the parties.

11. Ld. AR further submitted that at the most, the addition should have been restricted on account of alleged non-genuine purchase to 5% of such purchases. In support of his argument, Ld. AR relied upon the case of Mumbai Tribunal in the case of Palmon Exports Kasez in ITA No. 1106 & 1107/Mum/2018, order dated 14.11.2018 and argued that in the said case the business of the assessee was also similar and the AO made the addition @ 12.5% on account of non genuine of purchases and the said addition was confirmed by the Ld. CIT(A) and further on appeal, the Coordinate Bench of ITAT while considering the facts and circumstances, reduced the addition by restricting the same to 5% of such alleged non genuine purchases. Ld. AR therefore, prayed that the addition be restricted to 5% instead of 12.5% of such alleged non genuine purchases.

12. On the other hand, Ld. DR argued that assessee has failed to discharge the onus of proving the requirement of creditworthiness,



identification, and genuineness of the transaction because the assessee has failed to produce the parties before the AO for their examination as the notices issued were returned unserved and representative of the assessee submitted before the AO that the said parties were not traceable and in these facts and circumstances, the assessee has agreed before the AO to make addition of 18.5% of the bogus purchases.

13. Ld. DR further relied on the judgment of Hon'ble Bombay High Court in PCIT vs. Kanak Impex (India) Ltd. (2025) 172 taxmann.com 283 (Bombay), order dated 3rd March 2025 and argued that in the said case, the Hon'ble Bombay High Court has rejected the criteria of making addition on estimation of profit embedded in the bogus purchases and sales and directed to make addition @ 100% of the alleged bogus sales. Ld. AR further submitted that the grounds of the revenue in that regard be allowed and addition be made @ 100% on the alleged bogus purchases.

14. We have noticed that in the case of Kanak Impex (India) Ltd. (supra), the AO has added 100% of the alleged purchases and in appeal, the Ld. CIT(A) has reduced the addition @ 12.5% and it was argued by the revenue before the Hon'ble Bombay High Court that the addition made by the AO



be restored to the extent of 100% of the bogus purchases and the Hon'ble High Court accepted the contention of the revenue in the circumstances when the assessee did not appear before the AO during the re-assessment proceedings to prove the deduction claimed and no justification for non-appearance was given. It was further observed that assessee has failed to prove the purchases on which claim for deduction was made before the AO and in the instant case, since the purchases are recorded by accommodation entry in the books of account and sales have not been disputed and the Ld. CIT(A) was not justified in estimating the profit, when the basis of addition was not low profit. It was further observed that assessee in the said case has failed to discharge its onus to prove the genuineness of the purchase; hence the addition made by the AO was justified.

15. Ld. AR submitted before us a comparative table to consider the facts and circumstances of the case of Kanak Impex (India) Ltd. (supra) and argued that the factual matrix of said case is totally different from the case of the assessee. The comparative table is extracted below:-



**ITA No. 2561/Mum/2026 &
ITA No. 2939/Mum/2025
Palmon Impex Pvt. Ltd.**

4. Comparative Table: Assessee's Case vs. Kanak Impex Judgment – Legal Distinctions and Supporting Case Law			
SN	Key Issue	Assessee's Case	Kanak Impex (Bom. HC)
1	Participation in Proceedings	Assessee fully participated; responded to notices and furnished documents.	Assessee did not participate in reassessment; reassessment ex parte under sec. 144.
2	Documentary Evidence	Full set of documents: Purchase bills, Bank Statements, Ledgers etc.	No purchase bills, no delivery evidence, only unverified ledgers produced at appellate stage.
3	Payment Method	Payments made via account payee cheques; traceable through bank.	No banking evidence; source of expenditure unexplained.
4	Sales Accepted	AO has accepted sales only disputed purchase	No mention of sales accepted; even genuineness of business doubted.
5	Onus Discharged	Assessee discharged primary onus; AO did not contradict documents.	Onus not discharged; no rebuttal to tax department's findings.
6	Reasoning for Addition	Based only on Sales Tax Dept list; no cross-examination opportunity.	Based on multiple corroborative inputs, but not rebutted due to assessee's non-response.
7	Judicial Response Post-Kanak	Several ITATs post-March 2025 have favoured assessee despite Kanak.	Court ruled in Revenue's favor only because of assessee's failure to submit anything.
8	Nature of Disallowance by Ld. AO	Profit estimation @18.5%.	Entire ₹20.06 crore disallowed under s.69C.
9	Remedy Sought	By Appellant :- GP addition in line with trade margins i.e. 5% (M/s Palmon Export Kasez ITA No.1106/Mum/2018). By Department :- GP addition to reinstate @18.5% as against the 12.5% made by Ld. CIT(A).	Revenue succeeded in seeking restoration of entire addition.

16. On the basis of above table, Ld. AR argued that the case of Kanak Impex (India) Ltd. (supra) does not apply in the assessee's case because the said case was on the issue of bogus purchase with important implications u/s 69C of the Act and the assessee therein did not attend reassessment proceedings or explain the source of fund and even at appellate level, there was no explanation or rebuttal to allegations of bogus purchase and at the time of assessment, the AO invoked the provision of section 69C of the Act and made 100% addition of bogus purchase of Rs. 20.06. crores. Ld. AR further submitted that the various Tribunal including Jurisdictional Tribunal have distinguished the ratio of Kanak Impex (India) Ltd. (supra). Therefore, we proceed to discuss each case one by one as under:-



i) ITO vs. Pradeep Kumar Agarwal (ITA No. 1544/JPR/2024) dated 04.04.2025 (Jaipur Tribunal)

“During the course of hearing, Ld. D/R relied on the decision of Hon’ble Bombay High Court in case of PCIT vs Kanak Impex India Ltd. order dated 03.03.2025 where it confirmed the addition made by AO on account of bogus purchases of Rs.20,06,80,150/- for the reason that assessee failed to prove genuineness of the purchases, the case was reopened on the ground that purchases made by the assessee are from hawala operator, the assessee choose not to attend the reassessment proceedings, the assessee having consciously and intentionally decided not to join the investigation, he cannot now contend that revenue should have given them all the details before making the addition and the decisions relied on by the Ld. Counsel of the respondent assessee are distinguishable on the facts. However, the facts of the present case is entirely different in as much as the revenue has not brought any evidence on record that purchase made from these parties are bogus or hawala transactions or accommodation entries. Assessee has brought on record the fact that these concerns run into heavy losses and to avoid the payment to the creditors, they have left their premises and are absconding for which copy of the case filed by these parties against these suppliers for dishonoring the cheques against the supply of goods to them was filed. The assessee has also linked the purchases made from these parties with the corresponding sales and the GP rate and NP rate declared by the assessee during the year is comparable with earlier years.....”

ii) ACIT CC-7(3) vs. Dhiraj Parbat Gothi (ITA No. 580/Mum/2025) dated 30.05.2025 (Mumbai Tribunal)

“12. We also take note of the additional ground raised by the revenue for which Ld.SR DR referred to the decision of Hon’ble Jurisdictional High Court of



Bombay in the case of Kanak Impex (India) Ltd. (supra). We have perused the said judgment. For the reliance placed by Ld. SR DR on the decision of Hon'ble Jurisdictional High Court of Bombay in the case of PCIT vs Kanak Impex (India) Ltd (supra) calling for addition of 100% of the alleged bogus purchases as against 25% made by the Ld.AO and confirmed by Ld. CIT(A), we have perused this aforesaid judgment. We observe that in para 4, Hon'ble Court noted the factual position that assessee did not appear before the Ld.AO during the course of assessment proceedings and failed to prove the genuineness of the purchase. The said assessment was completed ex-parte u/s. 144 r.w.s 147 of the Act. Hon'ble Court also observed in para 17 about the non-appearance of assessee before the Ld.AO for which there is no justification. Again, it noted in para 29 that the assessee chose not to attend the reassessment proceedings even though the notices were sent by post, email and affixture. Accordingly, in para 13, Hon'ble Court concluded that assessee having not joined the reassessment proceedings, the contention raised by the assessee are to be rejected. Observation of the Hon'ble Court while rejecting the contention of the assessee are:

“30. We fail to understand that the respondent-assessee having consciously and intentionally decided not to join the investigation, cannot now contend that the appellant-revenue should have given them all the details before making the addition. In our view, such a conduct of the respondent-assessee cannot be accepted. It was incumbent upon the respondent-assessee to have joined the re-assessment proceedings, discharge the initial onus of proving the purchases and seek details, if any.”

13. In the present set of facts, elaborately discussed above and in view of the submissions made by the assessee which have not been disproved or controverted by bringing any cogent material on record, judgement of Hon'ble Jurisdictional High Court of Bombay in the case of Kanak Impex (India) Limited (supra) is distinguishable and hence not applicable. Accordingly,



additional ground raised by the revenue by relying on the said judgment is dismissed.”

iii) ITO vs. Khimchand Okchand Bhansali (2025) 174 taxmann.com 148 (Mumbai Tribunal) dated 03.04.2025.

“6. The revenue department being aggrieved is in appeal before this court and at outset has placed reliance on the judgment passed by the Hon’ble Jurisdictional High Court in the case of Principal Commissioner Of Income Tax-5 Vs. Kanak Impex (India) Ltd. in ITA No. 791/2021 decided on 03.03.2025, wherein the Hon’ble High Court restored the addition made by the assessing officer @100% of the bogus purchases, which was restricted to 12.5% by the Ld. Commissioner, and subsequently got affirmed by the Hon’ble Tribunal, restricting the disallowance qua profit margin, on unproven purchases.

7. Ld. Counsel Mr. Dhaval Shah, on the contrary has demonstrated that this case is factually dissimilar to the case dealt with the Hon’ble High Court, as the Hon’ble High Court considered the case, wherein the assessing officer has made the addition @100%, but in the instant case, the Assessing Officer himself has estimated the profit @12.5%.

8. This Court observe that the Hon’ble High Court, while deciding the issue, has also taken into consideration the relevant fact specific to the effects that the Assessee in that case failed to prove the purchases including source of expenditure, by not offering any explanation in the course of reassessment proceedings and therefore in the absence of any explanation qua source of expenditure, the AO had applied the provisions of section 69(c) of the Act and therefore, the Hon’ble High Court justified the action of the AO, in making the addition @100%. Whereas in the instant case, admittedly the Assessee has proved that the transactions have been carried out through banking channels



and the assessing officer has not also not doubted the same and accepted specifically in the assessment order itself vide para 7(xii) for making the payment through banking channel.

9. The Ld. Counsel also submitted four judgments qua identical issue, by the Hon'ble Jurisdictional High Court, including in the case of Principal Commissioner of Income Tax-2 Vs Refrigerated Distribute Private Limited (ITA No. 1840/2018) decided on 05.03.2005, wherein the Assessing Officer estimated the gross profit @25%, which was confirmed by the then Ld. CIT(A). However, subsequently reduced by the tribunal to 10% and therefore, the Hon'ble High Court, by considering the peculiar fact that the issue involved relates to only estimation of profit; ultimately opined/decided that no substantial question of law can be said to have arisen in the instant case.

10. Thus this Court is in concurrence with the contention raised by Mr. Dhaval and the claim made by the Assessee that this case is factually dissimilar to the case dealt with by the Hon'ble High Court Principal Commissioner Of Income Tax-5 Vs. Kanak Impex (India) Ltd. in ITA No. 791/2021 decided on 03.03.2025. Hence the addition the addition @ 100% of the bogus purchases made by the AO and as claimed by the Ld. DR, cannot be restored."

iv) Quality Heightcon Pvt. Ltd. Vs. DCIT (ITA No. 1489/Mum/2025) dated 07.05.2025 (Mumbai Tribunal)

"8. The decision relied upon by the ld. D/R is fact specific and distinguishable from the facts of the case in hand inasmuch as in that case, the assessee consciously and intentionally decided not to join the investigation and did not file the details relating to purchases and failed to prove the genuineness of purchases because of allegation of purchase by accommodation entries whereas the facts of the case in hand show that the assessee not only participated in the assessment proceedings and in the proceedings before the



ld. CIT(A) but also filed necessary details relating to purchases. The allegation that the assessee did not maintain any stock registers does not hold good because the AO never rejected books of accounts but has accepted the book of accounts but for the alleged bogus purchases.”

v) ITO vs. M/s Mangalam Drugs & Organics Ltd. (ITA No. 5279/Mum/2015) dated 08.05.2025 (Mumbai Tribunal)

“20. The ld DR submitted that the CIT(A)'s finding that the AO without rejecting the sales cannot hold the purchases is not correct in the light of the latest decision of the Hon'ble Bombay High Court in the case of PCIT vs Kanak Impex (India) Ltd (ITA No.791 of 2021 dated 03.03.2025). In our considered view, the facts considered in the said case are distinguishable. The Hon'ble High Court in the said case had dealt with the fact where the goods are purchased from grey market using cash against which purchase bills were obtained from a different party. The ground on which the Hon'ble High Court held that rejecting sales is not required is that in the said case the source for the real purchase from grey market is unexplained and therefore the Hon'ble High Court held that adding only the profit element is incorrect. The decision of the Hon'ble High Court in the said case was also on the ground that the assessee has not discharged the onus of proving genuineness, has been non-cooperative during the assessment proceedings. In assessee's case, the assessee's contention is that the purchases are genuine and the assessee has discharged the onus by producing the necessary evidences to substantiate the claim. The assessee has well cooperated with the proceedings before the lower authorities which fact has been recorded by the CIT(A) in the appellate order. Therefore in our considered view, the decision of the Hon'ble High Court in the case of Kanak Impex (India) Ltd (supra) is not applicable to assessee's case.”



**vi) Rajesh Shivji Shah vs. ITO (ITA No. 525/Mum/2025)
dated 29.04.2025 (Mumbai Tribunal)**

“11. Since the facts of the present case are identical with the facts in the case of Ashok Kumar Rungta (supra), therefore I am of the view that disallowance of purchases in the present case cannot be sustained when the VAT authorities itself have accepted the transactions. Although revenue has relied upon the decision of Hon’ble Bombay High Court in the case of PCIT Vs. Kanak Impex (Ind) Ltd Vs. ITA No. 791 of 2021, but the facts contained in the said decisions are different from the facts of the present case as in the case of PCIT Vs. Kanak Impex (Ind) Ltd (supra), the assessee had not cooperated and has not submitted the entire records and the books of accounts in the said case were also rejected. Whereas as per the facts of the present case the assessee had made full compliance before the AO by submitting all the relevant documents and the books of accounts have not been rejected by the AO. All the payments made in the present case were through banking channel and the same have been proved on record but the facts of the cited case i.e PCIT Vs. Kanak Impex (Ind) Ltd (supra), is based on materially different facts. Therefore cannot be applied upon the present case. Considering the totality of the facts and circumstances independently as discussed by me above I allow the grounds raised by the assessee and direct the AO to delete additions made u/s 69C of the Act.”

17. On examining the case in hand, we have noticed that during the course of assessment proceedings, the assessee furnished all legal documentation in the form of purchase invoices, sales invoices, bank statement highlighting the payment made through banking channels, ledger accounts of the suppliers, etc. Thus, the Ld. CIT(A) has restricted the



addition to 12.5% of the non-genuine/suspicious/bogus purchases in place of 18.5% applied in the assessment order on the ground that the assessee did not produce the parties in person for the purpose of examination and recording statement on oath regarding the transactions they had with the assessee. The assessee on the other hand made a request to restrict 5% of alleged bogus purchase in place of 12.5% on the ground that assessment was made without disclosing the information to the assessee and without providing opportunity of cross examination, which was violation of principle of natural justice. Thus, it is evident from the submission of the assessee and the findings of Ld. CIT(A) that assessee in the present case has admittedly submitted at the stages from assessment proceedings till the first appellate authority as well as before us all that necessary documents to establish the purchases made and the payment made through banking channel, etc.

18. We have noticed that the case of Kanak Impex (India) Ltd. (supra) relied by the Ld. DR has been rightly distinguished in the various judgments of Tribunals including the Jurisdictional Tribunals as referred (supra). Further we have noticed that the **Hon'ble Allahabad High Court in the case of Commissioner of Income-tax vs. Smt.**



Swapna Roy in ITA Nos 8, 9, 20, 21, 23 and 31 of 2005, decided on May 24, 2010, was pleased to elaborate as to when the judgment can be followed as binding precedent. The relevant portion of the order of Hon'ble High Court is reproduced below:-

*“61. Reliance placed by the learned counsel for the assessee to the dismissal of the appeal in limine by the Delhi High Court or the Supreme Court seems to be not sustainable. A perusal of the order passed by the Delhi High Court and the hon'ble Supreme Court shows that the appeal has been dismissed without recording a finding with regard to argument advanced or dispute raised. **It is settled law that a judgment shall be binding only in case the dispute is identical based on the same set of facts. The judgment should be considered in reference to the context keeping in view the facts and circumstances of each case.** It is not borne out from the judgment of the Delhi High Court that the question cropped up for adjudication in this court was raised and adjudicated by the Delhi High Court.*

62. The expression, "judgment" has been defined in section 2(9) of the Code of Civil Procedure. The judgment means the statement given by a judge on the grounds of a decree or order. Meaning thereby the court has to state the ground on which it bases its decision. It must be intelligible and must have a meaning. It has a distinction from a word, order as the latter may not contain reasons. Unless, a judgment is based on reason, it would not be possible for an appellate/revisional court to decide as to whether the judgment is in accordance with law vide Surendra Singh v. State of U. P., AIR 1954 SC 194.

63. The Hon'ble Supreme Court in a case reported in Tarapore and Co., Madras v. Tractors Export, Moscow, AIR 1970 SC 1168 held that the judgment means a final adjudication by the court of rights of the parties.



64. In *Vidyacharan Shukla vs. Khubchand Baghel*, AIR 1964 SC 1099, their Lordships of the hon'ble Supreme Court held that the judgment is statement of reason given by a judge.

65. So far as the argument of the respondent's counsel with regard to binding precedent is concerned, it has been held by the hon'ble Supreme Court by a catena of judgments that the issue which has not been considered by the court while delivering a judgment cannot be said to be binding as a decision of the court takes its colour from the questions involved in the case in which it is rendered and while applying decision to a later case, the court must carefully try to ascertain the true principle laid down by the decision of the court. **The court should not place reliance upon the decision without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed as it has to be ascertained by analysing all the material facts and issue involved in the case and argued by both sides.** The judgment has to be read with reference to and in context with a particular statutory provisions interpreted by the court, as the court has to examine as to what principle of law has been decided and the decision cannot be relied upon in support of a proposition that it did not decide (vide *H. H. Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur v. Union of India*, AIR 1971 SC 530, *Amar Nath Om Parkash v. State of Punjab*, AIR 1985 SC 218, *Rajpur Ruda Meha v. State of Gujarat*, AIR 1980 SC 1707, *CIT v. Sun Engineering Works P. Limited Hume Pipe Co. Limited* (1993) 2 SCC 386 and *Makhija Construction and Enggr. Pvt. Limited v. Indore Development Authority*, AIR 2005 SC 2499).

66. In *Jawahar Lal Sazawal v. State of Jammu and Kashmir*, AIR 2002 SC 1187 their Lordships of the hon'ble Supreme Court held that **a judgment may not be followed in a given case if it has some distinguishing features.**

67. In Bhavnagar University v. Palitana Sugar Mill P. Ltd., AIR 2003 SC 511, the hon'ble Supreme Court held that a decision is an authority for which it is decided and not what can logically be deduced therefrom. A little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

68. The aforesaid principle of law has been followed in other cases reported in Delhi Administration v. Manohar Lal, AIR 2002 SC 3088, Union of India v. Chajju Ram, AIR 2003 SC 2339 and Ashwani Kumar Singh v. U. P. Public Service Commission, AIR 2003 SC 2661.

69. In view of the above, keeping in view the finding and the material discussed by the assessing authority and the submission made by the parties, the judgment of the Delhi High Court does not have binding precedent being not a reasoned order deciding the issue in question. It also lacks persuasive effect being not deciding the issue involved.”

19. Thus, it can be culled out from the findings of Hon'ble High Court as extracted above that the judgment should be considered in reference to the context, keeping in view the facts and circumstances of each case. Further the issue which has not been considered by the court while delivering a judgment cannot be said to be binding, as a decision of the court takes its colour from the questions involved in the case in which it is rendered and while applying decision to a later case, the court must carefully try to ascertain the true principle laid down by the decision of the court. The court should not place reliance upon the decision without discussing as to how



the factual situation fits in with the fact situation of the decision on which reliance is placed. A little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

20. From the above discussion, we notice that the case of Kanak Impex (India) Pvt. Ltd. (supra) is distinguishable on account of the facts of the case in hand on various grounds. While respectfully following various decisions of Jurisdictional Tribunal relied by assessee and referred by us in preceding paras, we are of the considered opinion that the case of Kanak Impex (India) Pvt. Ltd. (supra) is not applicable to the case of the assessee because the facts and circumstances are distinguishable on various counts as discussed by us in the preceding paras. We are also not convinced with the arguments of the assessee, in appeal, for reducing the addition to 5% instead of 12.5% as done by the Ld. CIT(A) because there is no illegality or perversity in the order passed by the Ld. CIT(A) wherein the assessee has failed to produce the parties for their examination to prove the transactions done by them with the assessee and the Ld. CIT(A) has applied holistic view in this regard to restrict the addition from 18.5% to 12.5% of alleged bogus purchases. Therefore, we do not find any need to interfere with the order passed by the Ld. CIT(A). Accordingly, we uphold the order



**ITA No. 2561/Mum/2026 &
ITA No. 2939/Mum/2025
Palmon Impex Pvt. Ltd.**

passed by the Ld. CIT(A). Resultantly, the Ground No. 3 raised by the assessee and Ground no. 1 and 2 raised by the revenue in their respective appeals are dismissed.

21. In the result, both the appeals filed by the assessee and revenue are dismissed in above terms.

Order pronounced in the open court on 28.07.2025

Sd/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)
Mumbai / Dated 28.07.2025
Dhananjay (Sr. PS)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai