



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

INCOME TAX APPEAL NO.1570 OF 2019

Pr. Commissioner of Income Tax-2, Thane ... Appellant
Versus
Pushpak Auxichem Pvt. Ltd. Respondent

Mr. Akhileshwar Sharma, for the Appellant.

**CORAM : M.S.KARNIK &
S.M.MODAK, JJ.**

DATE : 29th JANUARY, 2026

PC. :

1. Heard Mr. Akhileshwar Sharma for the appellant.
2. Mr. Akhileshwar Sharma submits that similar appeals have been admitted by this Court. He points out that even though the tax effect appears to be less than Rs.2 Crore, this Appeal falls within the exception.
3. Accordingly, we admit this Appeal on the following substantial questions of law.

SUBSTANTIAL QUESTIONS OF LAW

“(i) Whether the Tribunal after accepting that this a case of bogus purchases, could have proceeded to determine profit rate without confirming the disallowance of purchases, without considering the provisions of Section 69C of the Income Tax Act, 1961 and without considering the decision of

the Gujarat High Court in the case of N.K. Industries Ltd. Vs. Deputy Commissioner of Income Tax, (2016) 72 taxmann.com 289 since the Special Leave Petition against the said decision was dismissed by the Hon'ble Supreme Court in case of N. K. Protiens Ltd. Vs. Deputy Commissioner of Income Tax, on 16 January 2017, (2017) 84 taxmann.com 195 (SC) ?

(ii) On the facts and circumstances of the case and in law, the ITAT has erred in restricting the disallowance to profit margin on unproven purchases without considering the position of law established by the Hon'ble Apex Court in the case of N. K. Protiens Ltd., that 100 % disallowance on bogus purchases is upheld ?

4. Tag this Appeal along with Income Tax Appeal No.1793 of 2018. List the matter on 26th February 2026 at 3:00 p.m.
5. The Appellant to serve the Respondent and file affidavit of service.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)