

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

INCOME TAX APPEAL NO.158 OF 2019

Pr. Commissioner of Income Tax-5 ...Appellant
vs.
Mokalsar Steel Private Limited ...Respondent

WITH

ITXA NO.159/2019	ITXA NO.777/2019	ITXA NO.986/2019
ITXA NO.165/2019	ITXA NO.789/2019	ITXA NO.989/2019
ITXA NO.329/2019	ITXA NO.823/2019	ITXA NO.1115/2019
ITXA NO.536/2019	ITXA NO.845/2019	ITXA NO.1500/2019
ITXA NO.579/2019	ITXA NO.972/2019	ITXA NO.1657/2019
ITXA NO.1659/2019	ITXA NO.2241/2019	ITXA NO.2644 /2019
ITXA NO.1789/2019	ITXA NO.2598/2019	ITXA NO.2684/2019
ITXA NO.1897/2019	ITXA NO.2622/2019	ITXA NO.2891/2019
ITXA NO.3014/2019	ITXA NO.3205/2019	ITXA NO.1233/2019
ITXA NO.103/2019	ITXA NO.2931/2019	ITXA NO.1344/2019
ITXA NO.2941/2019	ITXA NO.1508/2019	ITXA NO.1997/2019
ITXA NO.722/2019	ITXA NO.1071/2019	ITXA NO.155/2019
ITXA NO.59/2019	ITXA NO.140/2019	

Mr. Suresh Kumar a/w. Ms. Mohini Chougule, Mr. Akhileshwar Sharma, Mr. Prakash Chottaray, Ms. Shilpa Goel, Ms. Swapna Ghokhale, Mr. Dinesh Gulabani, Mr. P.A. Narayanan, Mr. Prathmesh Bhosale, Mr. Ravi Rattesar, Mr. Vikas Khanchandani, Ms. Adyasha Das, Mr. Arjun Gupta and Mr. A.K. Saxena, for the Appellants.

Mr. Devendra Jain a/w. Mr. Dharan Gandhi (through VC), Mr. Sameer Dalal, Mr. Rahul Hakani, Ms. Neelam Jadhav, Mr. Shashi Bekal, Mr. Rahul Hakani, Ms. Neelam Jadhav, Mr. Shashi Bekal, Mr. Jitendra Singh, Mr. Akshay Pawar, Ms. Shivali Singh i/b. Mr. Ajay Singh a/w. Ms. Aasifa Khan, Ms. Adyasha Das i/b. Ms. Sushma Nagaraj and Mr. Ashok Patil, for the Respondents.

**CORAM : M. S. SONAK &
JITENDRA JAIN, JJ.**
DATE : APRIL 9, 2025

P.C.:

1. Heard the learned counsel for the parties.

2. Mr. Sharma, learned counsel for the Appellants submit that similar appeals have been admitted by this Court. He points out that even though the tax effect is appear to be less than rupees two crores, these appeals falls within the exception.

3. Accordingly, we admit these appeals on the following substantial questions of law.

SUBSTANTIAL QUESTIONS OF LAW

(i) Whether the Tribunal after accepting that this is 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 16th 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 these appeals along with ITXA No. 1793 of 2018.

(JITENDRA JAIN, J.)

(M. S. SONAK, J.)