IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

ITA No.6520/DEL/2025
Assessment Year: 2012-13

M/S HSB HOME SOLUTIONS LTD., 38, Ranijhansi Road, Delhi 110055. PAN No. AAECP0476G	**Vs.**	ACIT, Central Circle-15, Room No.245, 2nd Floor, ARA Centre, E-2, Jhandewalan Extension, Delhi 110055.
Appellant		**Respondent**

Assessee by	Shri Balwant Singh, AR
Revenue by	Shri Ashok Gautam, CIT DR

Date of hearing:	06.07.2026
Pronouncement on	31.08.2026

O R D E R

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal arises from order dated 21.08.2025, passed u/s 250 of the Income Tax Act, 1961 (hereafter as "the Act"), by Ld. CIT(A)-26, Delhi.

1.1 In this case, a survey action was conducted on 30.11.2018 u/s 133A of the Act in the case of Shri Ashok Kumar Gupta and others. This survey action revealed that Shri Ashok Kumar Gupta was allegedly engaged in providing accommodation entries for booking bogus sales or purchases. Such bogus purchases/sales were booked through the proprietary concern of Shri Ashok Kumar Gupta in the name and style of M/s Gayatri Maa Enterprise. During the course of survey Shri Gupta admitted to providing bogus purchase entries to certain entities, including the assessee under consideration. It is further revealed from the Ld. AO's order dated 27.12.2019 that the assessee was given a chance to establish the genuineness of the purchase transaction but the ld. AO was not satisfied with the purchase/sales bills and vouchers of agricultural commodities filed in justification of the said purchases, rather there is a detailed finding of fact on paras 4 to 9 of the Ld. AO's order indicating that the actual movement of goods was never proved and only the fact of transaction through banking channels was used by the assessee to claim that the impugned transactions were genuine. It is also mentioned by the Ld. AO in para 8 of his order that the existence of parties from whom purchases had been made, could also not be established by the assessee.

1.2 The aggrieved assessee approached the Ld. CIT(A) where it was held that the assessee had made purchases from sales to the entities controlled by Shri Ashok Kumar Gupta to the tune of Rs.5,81,57,000/- (being purchases) and Rs.5,94,91,966/- (being sales). It is further recorded that the physical movement of purchase and sold goods was not evidenced and the supplier's names and customers' names were also not in evidence. However, the Ld. CIT(A) upheld the action of Ld. AO in adding the entire allegedly bogus purchases amounting to Rs.5,81,57,000/- as undisclosed income.

1.3 Further aggrieved, the assessee has approached the ITAT with grounds challenging the addition on merits, on the basis that once both purchases and sales are held to be undisclosed then the purchases simply alone cannot be added. It has also been raised as a ground that the case was reopened through issue of notice u/s 148 of the Act after four years from the end of the relevant assessment year even when there was no failure on the part of the assessee to disclose material facts.

2. Before us the Ld. AR argued that in the present case the sales and purchases were bogus and therefore it was not fair on the part of the assessing authorities to simply choose the purchases for disallowance in entirety. The Ld. AR submitted that the assessee had disclosed a profit of Rs.13,34,966/-, which was not taken into consideration by the Ld. AO while making the impugned addition. It was the submission that the purchases and sales were backed by bills and vouchers and had been conducted through banking channels. It was argued that merely because the assessee could not produce the parties responsible for the impugned transactions would not mean that the purchase/sales were bogus. It was the submission that a business entity could not be expected to keep track of the buyers and sellers that it does business with and if they are not to be located then it is not the assessee's fault. As an alternative submission it was stated that if all purchases and all sales were bogus then a holistic view deserved to be adopted and not a view where only one part of the same (purchases) would be treated adversely. The Ld. AR

also argued that during the course of assessment proceedings u/s 143(3) of the Act, which culminated in order dated 29.03.2014, the assessee had supplied all manner of documents in justification of the profit disclosed. It was the submission that once the assessee had not failed in his duty to fully disclose the material facts then such facts could not be revisited u/s 147/148 of the Act, considering that more than four years had elapsed from the end of the relevant assessment year. For this proposition the Ld. AR relied on the case of New Delhi Television Limited reported in 424 ITR 607 (SC).

2.1 The Ld. DR, on the other hand, took us through the orders of authorities below and drew our attention to the original assessment completed u/s 143(3) of the Act (dated 29.03.2014) and pointed out that the following cryptic finding, comprising the entire assessment order, was given as under: -

> *"The assessee e-filed the return of its income on 11.10.2013 declaring taxable income at Rs. Nil and the same was processed u/s 143(1). Action u/s 132 of the Income Tax Act was carried out by the department on 19.03.2022 in Prabhatam group of cases including the assessee at their business premises and residential premises of the directors. During the course of search various books of account and documents etc. were found and seized. Notices u/s 143(2) was issued on 21.08.2013. Notice u/s 142(1) and the questionnaire were issued on 16.09.2013 and in response thereto Shri Mukesh Aggarwal FCA and Sh. Sachin Singhal CA, AR(s) of the assessee company attended the proceedings from time to time, filed the required details and the case was discussed with him.*
>
> *The assessee company had no business activity during the year.*
>
> *After discussion with the AR(s), assessment u/s 153C of the Act is completed at Rs. Nil income as declared by the assessee."*

It was argued that there was absolutely no indication that the genuineness of sales and purchases had been examined. It was also pointed out that the AO has even incorrectly recorded that ***"the assessee company had no business activity during the year"***. It was the submission that there was not even a whisper that the assessee had disclosed any fact surrounding the sales and purchases and therefore there was no reason to state that there was a full and true disclosure of facts by the assessee. It was pointed out by the Ld. DR that the assessee's claim that merely because the parties with whom sales and purchases had been affected were not locatable then the assessee could not be held responsible, was entirely misplaced as the assessee was responsible for establishing that the transactions claimed by him were with genuine and existing parties. The Ld. DR stated that the New Delhi Television Limited case (supra) was distinguishable on facts and in para 27 of this case law it was clearly mentioned that following the case of Phoolchand Bajranj Lal reported in 203 ITR 456 (SC), it was held that if the transactions of a particular assessment year were found to be bogus then the disclosure made could not said to be all "true" and "full".

3. We have considered the rival submissions and have gone through the records before us and we have also perused the case laws relied on by the Ld. AR/DR. We deem it fit to adjudicate on the jurisdictional issue first. We find that the assessee has challenged the assumption of jurisdiction on the ground that he had had made a full and true

disclosure of facts in the first-round assessment proceedings culminating in the assessment order dated 29.03.2014 (extracted in full supra). We find that there is no mention whatsoever of any examination of the sales and purchases of the assessee, rather there is a finding that during the year under consideration there was no business activity. We find it strange that a recording of fact is there which indicates that there was no business activity when we find that there are considerable purchases and sales during the year and there is even a net profit from such activity. Thus, we are clear that not much reliance can be placed on the finding of fact in the original assessment order. Moreover, not only is there a mention in the Phoolchand Bajrang Lal case (supra) that in case if bogus transactions are revealed then the assessee cannot be said to have fully and truly disclosed material facts. We are also guided by the fact that the survey action took place on 30.11.2018, which is several years after the original assessment, and the facts being brought to light through such survey action are found to have been used in reopening the assessee's case. For this proposition the case of High Gain Finvest (P) Ltd. reported in 304 ITR 325 (Del) deserves to be mentioned, where in the head notes the following is mentioned as under: -

> *"The Tribunal had erred in arriving at the conclusion that it did. The Supreme Court has said in Raymond Woollen Mills Ltd. v. ITO [1999] 236 ITR 34 that the Court is only required to see whether there is some prima facie material on the basis of which the revenue could reopen the case. The sufficiency or correctness of the material cannot be gone into at this stage. [Para 9]*

Applying the law laid down by the Supreme Court, what had to be considered was whether there was some material, even though of a prima facie nature, which would constitute 'information' enabling the Assessing Officer to have a reason to believe that income had escaped assessment. On a perusal of the reasons recorded by the Assessing Officer, it was clear that he had relied upon the information received by him to the effect that a survey operation was conducted at the office premises of 'S'. Information was given by 'S' that at least in respect of one cheque, bearing No. 305002 dated 19-11-1996, a transaction had taken place which related to a bogus entry concerning 'M'. The bank and the account No. relating to the bogus entry/transaction was also mentioned. This was adequate and specific material to come to the conclusion that income had escaped assessment because of a bogus transaction having been entered into between the assessee and 'M'. Whether eventually the information was correct or not could not be decided at this stage as held in Raymond Woollen Mills' case (supra). [Para 10]

The Supreme Court in ITO v. Lakhmani Mewal Das [1976] 103 ITR 437 has held that there is a duty cast upon the assessee to make a full and true disclosure of the primary facts at the time of original assessment. The ITO can issue a notice under section 148 in respect of an assessment if he has reason to believe that income chargeable to tax has escaped assessment and that such income has escaped assessment by reason of an omission or failure on the part of the assessee to fully and truly disclose all material facts for the purposes of making an assessment. Of course, the reason for initiating proceedings under section 148 must have a rational connection or a direct nexus with the material which leads the ITO to form a belief that income has escaped assessment due to the failure of the assessee to fully and truly disclose all material facts. [Para 11]

Insofar as the instant case was concerned, there was material to prima facie come to the conclusion that the assessee had not disclosed all relevant facts truly and fully. There could be no doubt that on the facts of the instant case, there was a live link or a direct nexus between the material which suggested escapement of income and the information on the basis of which it could be concluded that income had escaped assessment. The reasons recorded by the Assessing Officer specifically related to a particular transaction, by way of an example, in respect of the concerned financial year which would suggest that a bogus entry or a transaction had been generated. If the fact regarding the bogus entry or transaction was found to be correct, it would be difficult to say that income of Rs. 5 lakhs, the subject-matter of the bogus entry, had not escaped assessment. [Para 12]

Under the circumstances, there was enough material before the Assessing Officer to initiate proceedings under section 147/148 and *that the Tribunal had failed to correctly appreciate the legal position and instead of proceeding on the basis that there must be some prima facie material, the Tribunal had erroneously proceeded on the basis that the material must stand the test of proof in regular proceedings. This is not the law as laid down by the Supreme Court and, therefore, the Tribunal was not justified, in law, in holding that the initiation of proceedings under section 147/148 was bad in law. [Para 13]"*

It is clear from this case law that information subsequently coming in possession of the AO regarding certain transactions being allegedly bogus, have been correctly utilized for reopening the case. We are also fortified by the case of Sanand Properties (P) Ltd. reported in 488 ITR 337, order dated 12.05.2026 (SC). In this case law certain paragraphs deserve to be extracted for the proposition that in the case before us there was actually a failure to disclose and there is no evidence that the AO in the first round of assessment had enquired or even examined the purchases and sales. Some relevant paragraphs from the Sanand Properties case (supra) deserves to be extracted as under: -

*"**72.** Before proceeding further, it is pertinent to clarify at this stage that in the matter before us, since the notice for reopening assessment under Section 148 was served upon the SPPL within four years from the end of the relevant assessment years, the first proviso to Section 147 is not attracted. Consequently, the Revenue is not required to establish a failure on the part of the assessee to disclose fully and truly all material facts. However, the Explanation 1 to Section 147 remains highly relevant to the present matter for the interpretative guidance it provides to what amounts to disclosure and the relevance of the information that remains buried in the books of account or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer. The Explanation 1 to Section 147 clarifies the statutory objective that the mere production of account books or other evidence before the Assessing Officer does not necessarily amount to 'disclosure' within the meaning of the Act. Thus, even in the absence of the higher threshold of 'failure to disclose', the interpretative standards of what constitutes a 'true*

and full disclosure' remains applicable. In other words, the meaning attributable to what amounts to such disclosure remains equally relevant to the contention raised by the assessee that the 'tangible material' based on which the reassessment is stated to be done had already been provided to the Revenue. As a result, it is important to analyse in detail the manner in which such information was furnished by the assessee and the extent to which the Revenue had engaged with the information in the assessment order in order to reflect whether an opinion has been formed on this issue.

***74.** On a perusal of the materials on record, we also find that a copy of the AOP Agreement was indeed submitted by the SPPL to the Assessing Officer at the time of scrutiny assessment for both, i.e. the AY 2007-08 and the AY 200809 respectively. The SPPL had submitted a copy of the AOP Agreement, alongside other documents with its letter dated 06.11.2009, in the course of scrutiny assessment for the year. On another occasion, the SPPL had submitted a copy of the AOP Agreement attached with its letter dated 01.07.2010, during the course of correspondence with respect to the AY 2008-09.*

***75.** However, it is crucial to note that the materials on record indicate that the SPPL had not shed light on the primary fact that the income which it declared as a share of the 'profit' of the AOP, was a 35% share of the gross sale receipts of the residential units sold by the AOP. When the information gathered in the form of the impounded documents and the SPPL's director's statement came to the Revenue's knowledge, the true purport of the transaction between the SPPL and the AOP was revealed.*

***76.** In light of the position of law as explained in Calcutta Discount (supra) and Phool Chand (supra), the mere disclosure of the existence of the AOP and the quantum of income derived by the SPPL from the AOP at the time of original assessment, does not preclude the Assessing Officer from reopening assessment where fresh information emerges which prima facie indicates that certain income has escaped assessment. The statements made by the SPPL regarding the AOP in its return of income or in the course of the original assessment do not amount to discharging its duty to provide the assessing officer with the primary facts relevant to determining the issue in dispute. A perusal of the materials on record would indicate that SPPL had merely informed the Revenue that certain income is accrued to it from the profit of the AOP. Even when a copy of the AOP Agreement was submitted to the Assessing Officer, the particular item in the document, i.e. Paragraph 7 of the AOP Agreement which is at the core of the dispute, was not brought to the fore.*

***77.** Upon a detailed reading of the assessment orders for the AY 2007-08 and the AY 2008-09, respectively it is evident that the*

Revenue had accepted the SPPL's declaration regarding the income derived from the AOP at face value, without delving into the fundamental nature of the income itself, i.e. the Revenue had proceeded with the assessment without questioning whether the subject income is indeed a share of the profit of the AOP. While the Assessment Orders are not entirely silent on this income, the existing discussion pertained to entirely different issues. Therefore, it is crucial that we deal with the discussion on the income accrued to SPPL from the AOP in the Assessment Orders for the AY 2007-08 and the AY 2008-09 respectively in greater detail.

***82**. Thus, we find that in the assessment orders for both, i.e. the AY 2007-08 and the AY 2008-09, the Assessing Officer had not formed any opinion on what the fundamental nature of the income was, which accrued to the SPPL from the AOP. Hence, when 'tangible material' in the form of the impounded documents and the director's statement shed light on the manner in which the SPPL received its income from the AOP, it gave rise to 'reasons to believe' that income liable to tax has escaped assessment. As observed by this Court in Phool Chand (supra), it would be immaterial whether the Income Tax Officer at the time of making the original assessment could or, could not have found by further enquiry or investigation, whether the transaction was genuine or not, if on the basis of subsequent information, the Income Tax Officer has reasons to believe that income chargeable to tax had escaped assessment. He may start reassessment proceedings either because some fresh facts come to light which were not previously disclosed or some information with regard to the facts previously disclosed comes into his possession which tends to expose the untruthfulness of those facts. In such situations, it is not a case of mere change of opinion or the drawing of a different inference from the same facts as were earlier available but acting on fresh information. Applying the principle as laid down by this Court in Phool Chand (supra), when fresh information was acquired in the course of the survey dated 23.12.2010 which prima facie led the Assessing Officer to believe that the true nature of the income was not profit but revenue which had escaped assessment, such reasons cannot be discarded as mere change of opinion.*

***83**. Thus, we find that the notices for reopening of the SPPL's assessment for both, i.e. the AY 2007-08 and the AY 2008-09 respectively were a result of the Revenue acting on fresh information and not merely change of opinion."*

Considering the detailed discussion on the legal issues it deserves to be held that the reopening was valid and to this extent the relevant grounds of the assessee fail.

3.1 Regarding the addition on merits, we notice that both the purchases and sales have been held to be bogus and the Ld. AO has merely picked up the purchases for making the impugned addition. We find force in the Ld. AR's contention that the profit shown from such allegedly bogus transactions has not been considered and the sales would appear to be considered genuine if we simply go by the logic that has been adopted by the Ld. AO, in as much as out of bogus sales and purchases only the purchases have been treated adversely. It also deserves to be discussed at this stage that we are unable to be persuaded by the Ld. AR's argument that the assessee is not responsible for physically locating the parties from whom the sales and purchases have been made. It is a trite position that an assessee needs to establish the *bona fides* of the transactions that have an impact on the assessable income. To this end the Ld. AO would be well within his rights to ask the assessee to prove the transactions to his satisfaction. Obviously, the satisfaction of the Ld. AO needs to be tested on the touchstone of plausibility but here we find that beyond the transactions happening through banking channels the assessee has not been able to prove the same through any physical movement of goods etc. Accordingly, there is no reason to merely support and admit the impugned transactions to be genuine on the ground that the same have been transacted through banking channels only. Accordingly, considering the totality of facts and circumstances of the case, we deem it fit to apply a gross profit rate of

5% on the turnover of business (Rs.5,94,91,966/-) and direct the ld. AO to work out the gross profit through this formula. The Ld. AO would give the benefit of the profit already disclosed by the assessee. In this respect, we are adopting a conservative approach in as much as in a recent case of Prathana Gems of the Hon'ble Gujarat High Court, reported in 186 taxmann.com 673, it is mentioned that instead of treating bogus purchases as entirely disallowable the same have been restricted to 6% of disallowance. This matter was agitated before the Hon'ble Supreme Court also where the SLP was rejected [186 taxmann.com 984 (SC), order dated 15.05.2026]. Even at the expense of repetition we need to point out that considering the facts of this case a 5% gross profit rate appears to be reasonable and the same has been applied.

4. In the result, the Ld. AO is directed to compute the assessable income of the assessee in line with directions given above. The appeal is partly allowed.

Order pronounced in the open court on 31.08.2026

Sd/-	**Sd/-**
(ANUBHAV SHARMA)	**(SANJAY AWASTHI)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 31.08.2026

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI