

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ 'SMC', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "SMC", MUMBAI
Before Shri Shamim Yahya, Accountant Member

ITA No.3463/Mum/2017 : Asst.Year 2010-2011

Shri Samarthmal Sanghvi Fit-Well Industries, Unit No.10 Ground Floor, Tulsi Building 178 Khetwadi Back Road Mumbai – 400 004. PAN : AAFPS4195P.	बनाम/ Vs.	The Income Tax Officer Ward 19(3)(2) Mumbai.
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : **Shri Gautam Salecha**
प्रत्यर्थी की ओर से /Respondent by : **Shri V.Janardhanan (Sr.DR)**

सुनवाई की तारीख / Date of Hearing : 28.06.2017	घोषणा की तारीख / Date of Pronouncement : 03.07.2017
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आदेश / ORDER

This appeal by the assessee is directed against the order of learned CIT (Appeals) dated 09.02.2017 and pertains to assessment year 2010-2011.

2. In this appeal, the assessee is aggrieved by the confirmation of 12.5% minus gross profit out of bogus purchases.

3. I have heard both the Counsel and perused the records. The learned Counsel of the assessee submitted that he shall be agreeing to the order of learned CIT(A). The learned Departmental Representative referred to the decision of Hon'ble Gujarat High Court in the case of N.K.Industry v. DCIT [IT Appeal No.240 of 2003 dated 20.06.2016] wherein the Hon'ble Gujarat High Court had held that 100% out of bogus purchases should be added instead

of 25% allowed by the ITAT. The Special Leave Petition against this order has been dismissed by the Hon'ble Apex Court by order dated 16.01.2017.

4. Further, I find that this is an assessee's appeal and Revenue is not in appeal. Hence, it would not be appropriate to take away the benefit that have already been granted by the learned CIT(A). Accordingly, I uphold the order of the learned CIT(A). The learned Counsel of the assessee fairly agreed to this proposition and did not press any further.

5. In the result, this appeal filed by the assessee stands dismissed.

Order pronounced on this 03rd day of July, 2017.

Sd/-
(Shamim Yahya)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 03rd July, 2017.
Devdas*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A), Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai