

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri B.R. Baskaran (AM)

I.T.A. No. 3120/Mum/2017 (Assessment Year 2010-11)
I.T.A. No. 3121/Mum/2017 (Assessment Year 2011-12)

Millenium Polymers (I) Pvt. Ltd. 409, Solaris-II Opp. L&T Gate No. 6 Saki Vihar Road, Powai Mumbai-400 072. PAN : AAACCM8683Q (Appellant)	Vs.	ITO Ward10(2)-4 Mumbai (Respondent)
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Assessee by	Shri Subhesh Kumar Kedia
Department by	Shri S.K. Bepari
Date of Hearing	14.9.2017
Date of Pronouncement	14.9.2017

ORDER

Both the appeals filed by the assessee are directed against the common order dated 23-02-2017 passed by Ld CIT(A)-51, Mumbai and they relate to the assessment years 2010-11 and 2011-12. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition relating to alleged bogus purchases.

2. I heard the parties and perused the record. The assessee is a dealer in rubber and chemicals. Consequent to the information received from Sales tax department that certain parties (called hawala parties) are indulging in providing only accommodation bills without actually supplying the materials, the revenue examined those details. It was noticed that the assessee herein have purchased goods from the parties listed as hawala parties aggregating to Rs.17,41,378/- and Rs.4,93,500/- respectively in the years relevant to AY 2010-

11 and 2011-12. Hence the AO reopened the assessment of both the years under consideration.

3. Before AO, the assessee only furnished purchase bills, bank statements, ledger account copies etc. However the AO was not satisfied with them and accordingly assessed 12.50% of the value of purchases as income of the assessee, since he accepted the sales. The Ld CIT(A) also confirmed the same. Aggrieved, the assessee has filed these appeals.

4. The Ld A.R submitted that the assessee has furnished the details of purchases and payments in order to prove the genuineness. He further submitted that the G.P rate declared by the assessee in AY 2008-09 and 2009-10 was 11.70% and 9.46%, while the G.P rate declared for AY 2010-11 was 14.42%. He further submitted that the transactional G.P declared by the assessee in the impugned bogus purchases was 28.61%. Accordingly, the Ld A.R submitted that there is no requirement for making any addition. On the contrary, the Id D.R placed reliance on the order passed by Ld CIT(A).

5. I have heard rival submissions and perused the record. I notice that the assessee has given G.P ratio details for AY 2008-09 to 2010-11 and did not give the details for AY 2011-12. While the assessee has worked out G.P ratio on the sales turnover, it has worked out the transactional G.P on the purchase value. There should not be any dispute that the G.P rate worked out on Sales and purchases would give different results. The transactional GP rate on sale value of impugned items, as per the data given by the assessee, works out to about 22%. The same is quiet reasonable when compared to the general G.P rate disclosed by the assessee. However, the assessee has not given similar workings for AY 2011-12.

6. However, since the suppliers have admitted that they have provided only accommodation bills and not supplied the goods, the inference drawn by the tax authorities is that the assessee might have purchased goods from the grey market and saved money thereon. The profit that would have been made on the said purchases has been estimated at 12.50% by the tax authorities. In AY 2010-11, the assessee has shown the transactional G.P rate is higher than the average rate and hence I am of the view that the G.P rate of 12.50% adopted in that year is on the higher side. Considering the fact that the VAT rate is 4%, I am of the view that the G.P rate may be estimated at 6% and the same would meet the ends of justice. Accordingly I modify the order passed by Ld CIT(A) in AY 2010-11 and direct the AO to sustain the addition to the extent of 6% of the value of purchases.

7. In assessment year 2011-12, the assessee has not furnished any working to show that the transactional G.P rate was higher than the average rate. Hence I am of the view that the G.P rate of 12.50% sustained by Ld CIT(A) does not call for any interference.

8. In the result, the appeal filed by the assessee for AY 2010-11 is partly allowed and the appeal filed for AY 2011-12 is dismissed.

9. In the result, the appeal filed by the assessee is dismissed.

Order has been pronounced in the Court on 14.9.2017.

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 14/9/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent

3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai