

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

I.T.A. No. 1949/Mum/2017 (Assessment Year 2009-10)

Shri Ramesh M. Soni 417, Bussa Udyog Bhavan, Tokarshi Jivraj Road Mumbai-400 015. PAN : AADPS7323P (Appellant)	Vs.	ITO 8(2)(4) Mumbai (Respondent)
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Assessee by	Shri Rajesh P. Shah
Department by	Shri Ram Tiwari
Date of Hearing	19.9.2017
Date of Pronouncement	19.9.2017

O R D E R

The appeal filed by the assessee is directed against the order dated 25-01-2017 passed by Ld CIT(A)-14, Mumbai and it relates to the assessment year 2009-10. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition of Rs.2,12,528/- relating to bogus purchases made by the AO. The assessee is challenging the validity of reopening of assessment.

2. I heard the parties and perused the record. The assessee is engaged in the business of printers and processors. Consequent to the information received from the sales tax department that certain traders are indulging in issuing accommodation bills without actually supplying materials and upon noticing that the assessee has purchased goods to the tune of Rs.2,12,528/- from one of such dealers, the assessing officer reopened the assessment of the year under consideration by issuing notice u/s 148 of the Act. The assessee had purchased paper from the said dealer and the assessee could not furnish transportation bills and stock register. Hence the AO added the entire amount of Rs.2,12,528/-

and the Id CIT(A) also confirmed the same and also the validity of reopening of assessment.

3. I notice that the assessing officer has received information from the sales tax department about the suspicious/hawala dealers and further noticed that the assessee has purchased goods from such parties in the year under consideration. In my view, the same constitutes sufficient information for forming belief that the income has escaped assessment. Accordingly I am of the view that the Ld CIT(A) was justified in upholding the validity of reopening of assessment.

4. On merits, the Ld A.R submitted that the papers purchased from the above said party has been fully consumed in its business while executing various orders. Accordingly he submitted that it would be difficult to maintain stock register. He further submitted that the goods were directly supplied to the assessee. He submitted that the assessee has furnished copies of bills as well as payment details to prove the genuineness of purchases. He further submitted that the assessee has declared net profit at 5%. The assessee also placed reliance on various case laws. On the contrary, the Ld D.R submitted that the assessee could not conclusively prove the genuineness of purchases.

5. I notice that the assessee has consumed the paper products in its printing business. In view of the numerous orders, there is merit in the contentions of the assessee that it would be difficult to maintain stock register. At the same time, the assessee could not effectively discharge the burden of proving the genuineness of purchases either by obtaining confirmation letter from the impugned supplier or by producing the supplier before the AO, since the supplier has admitted before the sales tax authorities that they have not supplied goods. Under these set of facts, a disallowance is called for. But, in my view, the

disallowance of entire amount of purchases may not be appropriate, since the assessee has claimed to have consumed the papers in its business and the said fact could not be rejected altogether. Accordingly I am of the view that the disallowance may be restricted to 30% of the value of purchases made from the suspicious dealer in order to take care of revenue leakages. In my view, the same would meet the ends of justice. The assessee has placed reliance on various case laws. But, since the issue revolves around the facts available in this case, I am of the view that the case laws could not be taken support of. Accordingly I set aside the order passed by Ld CIT(A) on this issue and direct the AO to restrict the addition to 30% of the value of impugned purchases.

6. In the result, the appeal of the assessee is partly allowed.

Order has been pronounced in the Court on 19.9.2017.

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

Mumbai; Dated : 19/9/2017

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