



ITA NO.6723/Mum/2016  
Santoksingh M Gulwan  
Assessment Year 2009-10

**आयकर अपीलिय अधिकरण "एफ" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"F" BENCH, MUMBAI**

श्री सी. नागेंद्र प्रसाद, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
**BEFORE SHRI C.N. PRASAD, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.6723/Mum/2016  
(निर्धारण वर्ष / Assessment Year: 2009-10)

<b>Income Tax Officer Ward 2(4)</b> 2 <sup>nd</sup> Floor, Mohan Plaza Wayle Nagar, Khadakpada, Kalyan Kalyan-421 301	<b>बनाम/ Vs.</b>	<b>Santoksingh M Gulwan</b> Prop. Satguru Traders BK No.63/673, Ground Floor, Near Satnam B. Apartment, Gol Maidan, Ulhasnagar – 421 001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. <b>ABKPG-7891-E</b>		
(आपीलार्थी / <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Pooja Swaroop, Ld. DR
<b>Assessee by</b>	:	None

सुनवाई की तारीख / <b>Date of Hearing</b>	:	19/09/2017
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	04 /10/2017

**आदेश / O R D E R**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. The captioned appeal by revenue for Assessment Year [AY] 2009-10 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-3



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[CIT(A)], Thane, Appeal No. 192-THN/15-16 dated 22/08/2016 *qua* relief provided to the assessee against certain *bogus purchases*. The assessment was framed by Ld. Income Tax Officer, Ward 2(1), Kalyan u/s 143(3) *read with Section 147* of the Income Tax Act on 05/03/2015. None has appeared for assessee despite notice. Left with no option, we dispose-off the same on the basis of material available on record and after hearing Ld. Departmental Representative [DR].

2.1 Facts leading to the same are that the assessee being *resident individual* engaged in the business of *trading of plywood* under proprietorship concern namely *Satguru Traders* was subjected to an assessment u/s 143(3) *read with Section 147* for impugned AY on 05/03/2015 at Rs.1,96,98,960/- after addition of certain *bogus purchases* for Rs.1,92,73,078/-. The original return was *filed* on 30/09/2009 at Rs.4,25,880/- which was processed u/s 143(1). The solitary issue involved in the appeal is addition against *bogus purchases*.

2.2 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in *bogus purchase bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.1,92,73,078/- from eight such parties. Consequently, notice u/s 148 dated 29/04/2013 was issued to the assessee which was followed by statutory notices u/s 143(2) and 142(1). The assessee reflected turnover of Rs.215.23 Lacs with *GP / NP rates* of 2.37% & 2.21% respectively.



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2.3 The assessee contended that the purchases transactions were genuine. However, notices sent u/s 133(6) to the *alleged bogus supplier* remained *un-served* by the postal authorities, which led the Ld. AO to disbelieve the said transactions and he accordingly, added the same to the income of the assessee u/s 69C.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 24/08/2016 where the assessee *inter-alia* submitted invoice copies, bank statements, ledger extracts, bill wise details of purchases and corresponding sales bills, comparative turnover / profitability chart for three years & Tax Audit Report etc. to substantiate the purchases transactions. After appreciating the same, Ld. CIT(A) restricted the impugned additions to 15% of these *alleged bogus purchases* which worked out to Rs.28,90,962/-. Aggrieved, the revenue is in further appeal before us.

4. The Ld. DR placing reliance on the stand of Ld. AO drew our attention to the fact that the assessee failed to substantiate the delivery of material and rightly been saddled with full disallowance. The Ld. DR further submitted that notice sent u/s 133(6) was returned back *un-served* and the assessee could not produce any of the said party to confirm the transaction and therefore, failed to discharge the onus casted on him.

5. We have heard the contentions and perused relevant material on record. We are of the considered opinion that there could be no sale



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without purchase of material keeping in view the assessee's nature of business which was *trading in plywood*. The sales turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The purchases were backed by invoices. At the same time, the assessee could not produce the party for confirmation and notices sent u/s 133(6) remained *un-served*, which cast serious doubt on assessee's claim. Therefore, in such a situation, the addition, which could be made, was to account for profit element embedded in these purchase transactions to factorize for profit element earned by assessee against possible purchase of material in the *grey market* and undue benefit of VAT against bogus purchases, which Ld. CIT(A) has rightly done. Therefore, finding the same to be quite fair & reasonable, we find no reason to interfere with the same.

6. Resultantly, the revenue's appeal stands dismissed.

*Order pronounced in the open court on 04<sup>th</sup> October, 2017.*

Sd/-

**(C. N. Prasad)**

न्यायिक सदस्य / **Judicial Member**

Sd/-

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 04 .10.2017

Sr.PS:- *Thirumalesh*



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**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

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

**आदेशानुसार/ BY ORDER,**

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