



ITA.No.3309/Mum/2016
Alan Electronic Systems Private Limited
Assessment Year-2010-11

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

श्री डी.टी. गरसिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.3309/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2010-11)

Deputy Commissioner Of Income Tax 15(1)(1) Room No.483A,4 th Floor, Aaykar Bhavan, M.K.Road Mumbai-400 020	बनाम/ Vs.	Alan Electronic Systems Private Limited A,34,2 nd Floor Crescent Industrial Estate Kanjurmarg (East) Mumbai- 400 042
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AABCA-9296-N		
(आपीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Aditya R Ajgaonkar, Ld. AR
Revenue by	:	Suman Kumar, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	25/10/2017
घोषणा की तारीख / Date of Pronouncement	:	01/11/2017

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by revenue for Assessment Year [AY] 2010-11 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-24 [CIT(A)], Mumbai, *Appeal No. CIT(A)-22/DCIT-10(3)/IT-176/14-15*



dated 05/02/2016. The assessment for impugned AY was framed by *Ld. Deputy Commissioner Of Income Tax-10(3), Mumbai [AO] u/s 143(3) read with Section 147 of the Income Tax Act,1961* on 30/06/2014. The revenue is aggrieved by relief provided to assessee by *Ld. CIT(A)* on account of certain *bogus purchases*. The effective grounds read as follows:-

1. *"On the facts and circumstances of the cases, the Ld.CIT(A) erred in estimating the profit to the extent of 12.5% of the purchases of Rs.81,23,346/- as the profit element embedded in such purchases in addition to the regular profit without giving any findings as to how 12.5% GP can be taken since the corresponding expenditures have already been claimed in the P&L account and further erred in ignoring the assessee's object failure to prove the purchases when the onus was cast upon him by the statute."*
2. *"On the facts and circumstances of the cases, the Ld. CIT(A) erred in directing to restrict the addition of Rs.81,23,346/- of bogus purchases on the ground that the A.O. had not doubted the consumption/sales of the purchase claimed to have been made from the alleged parties."*
3. *"On the facts and circumstances of the cases, the Ld. CIT(A) erred on not appreciating the fact that the assessee had not produced evidences in the shape of stock register during the course of re-assessment proceedings to substantiate its claim that the goods claimed to have been purchased from alleged parties were actually consumed/sold."*
4. *"On the facts and circumstances of the cases, the Ld. CIT(A) has decided the issue by relying upon the ratio of case laws M/s.Simit P.Sheth (2013) 18 Taxmann.com 385(Guj) and M/s.Bholanath Polyfab Pvt.Ltd.335 ITR 290 (Guj.) and M/s.Sanket Steel Traders without appreciating the fact that in all the aforesaid cases the assessee had maintained the quantitative records contrary to this in the instant case no such records were produced before the A.O. for examination."*

2.1 Briefly stated, the assessee being *resident corporate assessee* engaged in the *manufacturing of electronic equipments, parts & accessories thereof* was subjected to an assessment u/s 143(3) read with *Sec. 147* for impugned AY on 30/06/2014 where the income of the assessee was determined at Rs.1,77,67,180/- under normal provisions after addition of Rs.81,23,246/- on account of certain *bogus purchases*. The original return of income was filed by the assessee on 30/09/2010



declaring total income of Rs.95,43,140/- which was assessed u/s 143(3) on 19/12/2012 at Rs.96,43,930/-.

2.2 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in *bogus purchases bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.81,23,246/- from twenty such parties. Consequently, notice u/s 148 dated 28/03/2014 was issued which was followed by statutory notices u/s 142(1)/143(2).

2.3 The assessee submitted invoices and bank statement evidencing payment to the *alleged bogus suppliers* and contended that the purchases were genuine and the material was consumed in the manufacturing process. However, Ld. AO noted that the assessee could not prove delivery of material and consumption thereof and therefore, the purchases were not genuine and hence, added the same to the income of the assessee.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 05/02/2016 where Ld. CIT(A) justifying the reopening placed reliance on several judicial pronouncements and restricted the impugned additions to 12.5% of *alleged bogus purchases, being estimated suppressed Gross Profit*. Aggrieved, the revenue is in further appeal before us.

4. The Ld. Representative for assessee [AR], at the outset, drew our attention to the fact that the order of Ld. CIT(A) was combined order for AY 2009-10, 2010-11 & 2011-12 since similar issue of *bogus purchases* arose in all these years and Ld. CIT(A) in all the three years had



restricted the impugned additions to 12.5% of *alleged bogus purchases*. Further, the revenue contested the matter for AY 2009-10 & 2011-12 before this Tribunal vide ITA No.3310 & 3311/M/2016 order dated 15/09/2017 where the stand of Ld. CIT(A) has been upheld and the revenue's appeal has been dismissed and therefore, the same view may be taken in the present case. The Ld. DR fairly conceded the same. The copy of Tribunal's order has been placed before us.

5. Heard and perused the cited order of the Tribunal in assessee's own case for AY 2009-10 & 2011-12. We find that the impugned order is common order for AY 2009-10, 2010-11 & 2011-12 and Ld. CIT(A) has estimated the additions @ 12.5%. The stand of Ld. CIT(A) for AY 2009-10 & 2011-12 has been upheld by the Tribunal. Hence, respectfully following the binding precedent, we also confirm the stand of Ld. CIT(A) and dismiss revenue's appeal.

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

Order pronounced in the open court on 01st November, 2017.

Sd/-
(D.T. Garasia)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01.011 .2017
Sr.PS:- *Thirumalesh*



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**