

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER

ITA No.692/Mum/2017  
(Assessment Year 2009-10)

P.R Pharma Source Pvt. Ltd,  
A-407 Anjani Complex,  
4<sup>th</sup> Floor, Opp.Gurunank Petrol Pump,  
Andheri Kurla Road, Chakala,  
Andheri (East),  
Mumbai 400 099.  
PAN AAACP 2829H

..... Appellant

Vs.

The ACIT, Cir. 10(3)(2),  
Mumbai.

.... Respondent

Appellant by : Shri Haridas Bhat  
Respondent by : Ms. Hemalatha

Date of hearing : 12/07/2017  
Date of pronouncement : 06/10/2017

**ORDER**

The captioned appeal filed by the assessee pertaining to assessment year 2009-10 is directed against an order passed by CIT(A)-17 Mumbai dated 28/11/2016, which in turn, arises out of an order passed by the Assessing Officer under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act') dated 10/02/2015.

2. In this appeal, the solitary grievance of the assessee is with respect to an addition of Rs.2,63,994/- made by the income tax authorities on account of bogus purchases.

3. In brief, the relevant facts are that the assessee is engaged in the business of trading in raw materials for the pharmaceutical industry. On the basis of the information received from the Maharashtra Sales tax Department that assessee had made purchases of Rs.2,63,994/- from one M/s. Ganesh Enterprises, a dealer, whose name appeared in the list of Hawala dealers, the Assessing Officer reopened the assessment by issuance of notice under section 148 of the Act and finalized the assessment under section 143(3) r.w.s. 148 of the Act on 10/02/2015. In the said assessment proceedings the Assessing Officer treated the purchases made from M/s. Ganesh Enterprises of Rs.2,83,994/- as bogus, based on the information received from Maharashtra Sales Tax Department as well as the failure of the assessee to produce the party for appropriate verification. The CIT(A) has also affirmed the addition, against which assessee is in further appeal before the Tribunal.

4. I have heard the rival parties and perused the relevant record. No doubt, in the present case, the basis of the Assessing Officer is primarily the information received from the Maharashtra Sales Tax Department that the concern in question i.e.M/s. Ganesh Enterprises is appearing in the list prepared by them of Hawala Dealers, who do not actually transact, but are engaged in providing accommodation entries. It is also a fact that on being asked to produce the party, the assessee could not do so, but summarily relied upon the documentary evidence. Be that as it may, it is also emerging from record that assessee is a trader of goods and its sales, including the sales of the impugned purchase of goods, stands established and is not doubted. Under such circumstances, following the ratio of the Gujarat High Court in the case of Simit P. Sheth, 356 ITR 451(Guj) what is liable to be assessed is merely the profit element on the unproved purchases and not the entire amount of

purchase. Thus, considering the said ratio, I set-aside the order of the CIT(A) and direct the Assessing Officer to retain an addition of amount equal to 12.5% of the unproved purchases and delete the balance.

5. Thus, assessee gets partial relief and accordingly the captioned appeal is partly allowed.

Order pronounced in the open court on 06/10/2017

Sd/-  
(G.S.PANNU)  
ACCOCUNTANT MEMBER

Mumbai, Dated 06/10/2017  
Vm, Sr. PS

**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//

BY ORDER,  
  
(Dy./Asstt. Registrar)  
**ITAT, Mumbai**