

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

I.T.A. No. 5430/Mum/2017 (Assessment Year 2011-12)

M/s. Shree Chemtech Marketing Pvt. Ltd. F-3, Ganesh Dham Gawan Pada Mulund East Mumbai-400 081. PAN : AADCS9864N	Vs.	ITO 15(3)(3) Aayakar Bhavan Room No. 452 M.K. Road Mumbai-400 020.
(Appellant)		(Respondent)

Assessee by	Shri Bhupendra Karkhanis
Department by	Ms. N. Hemalatha
Date of Hearing	2.11.2017
Date of Pronouncement	2.11.2017

ORDER

The appeal filed by the assessee is directed against the order dated 25-05-2017 passed by Ld CIT(A)-24, Mumbai and it relates to the assessment year 2011-12. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition relating to bogus purchases. The assessee has also challenged the validity of reopening of assessment.

2. The facts relating to the case are discussed in brief. The assessee is engaged in the business of trading in L & T products. Consequent to the information received from the Sales tax department that certain parties are engaged in the business of providing accommodation bills without actually supplying the materials and upon noticing that the assessee has purchased goods from one of such parties in the year under consideration to the tune of Rs.38.10 lakhs, the AO reopened the assessment of this year by issuing notice u/s 148 of the Act. The assessing officer took the view that the assessee has purchased goods from grey market and not from the hawala suppliers.

Accordingly he estimated the profit from the impugned purchases at 12.50% of the value of purchases and added the same to the total income of the assessee. The Ld CIT(A) confirmed the validity of reopening of assessment and also confirmed the addition made by the AO. Aggrieved, the assessee has filed this appeal.

3. The Ld A.R submitted that the reopening has not been done on proper reasoning and hence it is not valid. Further he submitted that the goods purchased from these parties have been sold mainly to BMC and also to other parties, meaning thereby, the purchases cannot be in doubt. Accordingly he submitted that the entire addition should have been deleted by Ld CIT(A).

4. On the contrary, the Ld D.R placed reliance on the decision rendered by Ld CIT(A).

5. I have heard rival contentions and perused the record. I notice that the assessing officer has reopened the assessment on the basis of information received from Sales tax department. Accordingly I am of the view that it cannot be said that the reopening was not on proper reasoning. Accordingly I uphold the validity of reopening of assessment.

6. There is no dispute with regard to the fact that the assessing officer has accepted the fact of purchase of materials, but he has doubted the source of purchases only. Hence the AO has taken the view that the assessee would have made profit from such purchases and accordingly he has estimated the profit element embedded in such purchases at 12.50% of the value of purchases. In my view, mere submission of purchase bills and payment details would not be sufficient, particularly when the suppliers have been declared as hawala dealers. I notice that the assessee has not obtained any confirmation letter from the

suppliers nor he could produce them before the AO. Hence, in my view, it cannot be said that the assessee has proved the purchases beyond doubt. Under these set of facts, the AO was justified in estimating the profit element embedded in the purchases, which he has estimated at 12.50%. I notice that the Ld CIT(A) confirmed the addition by following his order passed for AY 2009-10. Before me, the assessee did not furnish any information about the fate of order passed by Ld CIT(A). Further, no other material was placed before me so as to compel me to interfere with the order passed by Ld CIT(A). Under these set of facts, I have no other option but to confirm the order passed by Ld CIT(A).

7. In the result, the appeal of the assessee is dismissed.

Order has been pronounced in the Court on 2.11.2017.

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

Mumbai; Dated : 2/11/2017

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,
(Asstt. Registrar/Senior PS)
ITAT, Mumbai