

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ “एच” मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL “H” BENCH, MUMBAI

BEFORE HON’BLE S/SHRI JOGINDER SINGH (JM), AND RAJESH KUMAR,(AM)

आयकर अपील सं./I.T.A. No.5528/Mum/2016
(निर्धारण वर्ष / Assessment Year :2010-11)

Rajendra Madhani, Room No.3,2 nd floor, 477-479, Maulana Azad Road, Gole Deval, Mumai-400004	बनाम/ Vs.	The Asstt.. Commissioner of Income Tax- Matru Mandir, Mumbai-
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./PAN No. : AABPM2019A

अपीलार्थी ओर से / Appellant by:	None
प्रत्यर्थी की ओर से/Respondent by	Shri M C Omi Ningshen

सुनवाई की तारीख / Date of Hearing : 10.10.2017
घोषणा की तारीख /Date of Pronouncement :25.10.2017

आदेश / O R D E R

Per RAJESH KUMAR, Accountant Member:

This is an appeal filed by the assessee and it is directed against the order of the Ld. CIT(A)-30, Mumbai, dated 15.7.2016 pertaining to A.Y.2010-11.

At the outset, we would like to mention here that neither the assessee nor his authorized representative appeared before this Tribunal when the appeal was called for hearing nor any application seeking adjournment of

the hearing was received in the office of the Tribunal despite service of notice through RPAD. Therefore, we proceed to dispose of the appeals of the assessee ex-parte after hearing the Id. DR.

2. Only issue raised in this appeal is against the confirmation of addition of Rs.11,20,559/- being 15% of total purchases of Rs.74,70,395/- by CIT(A) as against 100% addition by the A.O.

3. Facts of the case are that the assessee filed return of income on 25.9.2010 declaring total income of Rs.1,01,20,319/- which was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny and notices u/s 143(2) and 142(1) were issued and served upon the assessee. During the assessment proceedings, the assessee submitted party-wise details of purchases to the AO. The AO in order to verify the purchases, issued notices u/s 133(6) of the Act to 8 parties as mentioned in para 4.1 of the assessment order, which were duly complied by the parties. In the meantime, the AO received the information from the Sales Tax Department, Government of Maharashtra that the assessee has made bogus purchases from 5 parties as mentioned in para 4.2 of the assessment order to whom the AO issued notices u/s 133(6) on the addresses given by the assessee. However, some notices issued u/s 133(6) were returned unserved and the assessee was asked to prove genuineness of the purchases which was replied by the assessee vide letter dated 18.2.2013. In the assessment proceedings, the assessee submitted the purchase bills, proof of payments and details of

consumption of material during manufacturing process etc. However, the AO was not satisfied with the reply of the assessee. He disallowed the entire bogus purchases to the tune of Rs.74,70,395/- by framing the assessment u/s 143(3) of the Act vide assessment order dated 22.3.2013. In the appellate proceedings, the Id.CIT(A) reduced the addition to 15% of the total bogus purchases after considering the submissions and arguments of the assessee. The assessee still aggrieved by the order of CIT(A) preferred an appeal before the Tribunal.

4. We have carefully considered the contentions of the Id. DR and perused the material placed before us including the orders of authorities below. The undisputed facts are that the assessee is a beneficiary of bogus purchases from five parties aggregating to Rs.74,70,395/-. The assessee could not prove the genuineness of the purchases. Moreover, the notices issued u/s 133(6) of the Act was returned unserved. Under the present circumstances, undisputedly the assessee has availed the bogus bills without taking any actual delivery of goods and in such type of case the GP has to be estimated. Thus we are in agreement with the conclusion drawn by the Id.CIT(A) on the issue of estimation of GP of bogus purchase. Accordingly, we uphold the order of the Id.CIT(A) by dismissing the appeal of the assessee.

5. In the result, the appeal of the assessee stands dismissed.

The above order was pronounced in the open court on 25th Oct, 2017.

घोषणा खुले न्यायालय में दिनांक: 25th Oct. 2017 को की गई ।

Sd

sd

(JOGINDER SINGH)
Judicial Member

(RAJESH KUMAR)
Accountant Member

मुंबई Mumbai: 25.10.2017

व.नि.स./ SRL , Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

True copy

आदेशानुसार/ BY ORDER,

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