

IN THE INCOME TAX APPELLATE TRIBUNAL "E", BENCH MUMBAI
BEFORE SHRI R.C.SHARMA, AM
&
SHRI SANDEEP GOSAIN, JM

ITA No.2402/Mum/2017
(Assessment Year :2009-10)

M/s. Indrayani Sales Pvt. Ltd., 3/128, Rahul Mittal Industrial Estate, Andheri Kurla Road Mumbai – 400 059	Vs.	DCIT 10(1)(2), Mumbai-400 013
PAN/GIR No.AABC13891F		
Appellant)	..	Respondent)

Assessee by	Shri R. Murthy
Revenue by	Shri V. Justin
Date of Hearing	07/09/2017
Date of Pronouncement	06/12/2017

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by assessee against the order of CIT(A)-14, Mumbai dated 19/01/2017 for A.Y.2009-10, in the matter of order passed u/s.143(3) r.w.s. 147 of the IT Act.

2. The following grounds have been taken by the assessee:-

1) On the facts and in the circumstances of the case and in the law the Learned Commissioner of Income Tax (Appeals) has erred in confirming the disallowance by adding back to the total income, an amount of Rs 27,08,575/- being 12.5% of total non-genuine purchases of Rs. 2,16,68,605/- as profit earned from such purchases. The Appellant prays that the said disallowance be deleted.

2) The Appellant craves leave to add/alter any of the grounds of appeal before or at the time of hearing.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee company is engaged in the business of trading of Printer, Cartridge parts, tanners ink, etc. The assessee had filed its return

of income for A.Y.2009-10 on 28.9.2009 declaring total income of Rs.41.77,044/-. The return was processed u/s. 143(1) of the Act, Subsequently, the AO received information from the Sales Tax Department and also from the office of the DGIT(Inv) Mumbai that the assessee is a beneficiary of accommodation bill of purchases from certain bogus hawala dealers, The information was that the concerned dealers had not sold my actual goods but had given accommodation entries of sales to the assessee company. AO estimated profit of 12.5% on the alleged purchases.

4. By the impugned order, CIT(A) confirmed the action of the AO against which assessee is in further appeal before us.

5. It was argued by learned AR that assessee had shown GP at 22%, therefore, further addition of 12.5% will be unreasonable. He placed on record the order of the Assessing Officer for the immediate subsequent Assessment Year 2010-11 dated 04/03/2016 wherein addition for similar bogus purchases has been upheld by the AO at 4% after considering nature of assessee's business. We also found that during the year under consideration, assessee had shown GP at 22.86% as compared to the GP of immediately preceding assessment year 2008-09 at 15.78%. Keeping in view totality of facts and circumstances of the case, we restrict the addition to the extent of 4% of the alleged bogus purchases.

6. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on this 06/12/2017

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 06/12/2017

Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai