

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA**

**[Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member]**

**I.T.A. No. 464/Kol/2017**  
Assessment Year: 2009-10  
&  
**I.T.A. No. 465/Kol/2017**  
Assessment Year: 2010-11

**Rajeev Pugalia.....Appellant**  
**(Son & L.R of Late Radhashyam Pugalia)**  
**14/2, Old China Bazar St.**  
**Kolkata – 700 001**  
**[PAN : AEMPP 1437 P]**

**Income Tax Officer, Ward-36(1), Kolkata.....Respondent**  
**Ayakar Bhawan Poorva**  
**110, Shantipally**  
**Kolkata – 700 107**

**Appearances by:**

*Shri V.N. Purohit, C.A., appeared on behalf of the assessee.*  
*Shri Sanjoy Mukherjee, Addl. CIT, DR, appearing on behalf of the Revenue.*

Date of concluding the hearing : October 17<sup>th</sup>, 2017  
Date of pronouncing the order : December 21<sup>st</sup>, 2017

**ORDER**

**Per J. Sudhakar Reddy :-**

Both these appeals are filed by the assessee and are directed against the order of the Id. Commissioner of Income Tax (Appeals)-10, Kolkata, (hereinafter the 'Id. CIT (A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), dt. 17/01/2016, for the Assessment Years 2009-10 & 2010-11.

2. The only issue that arises in both these appeals is whether, certain purchases made by the sole proprietor concern of the assessee are bogus purchases or not and if so as to whether the entire purchases have to be added as income of the assessee or a percentage of the same should be treated as income.

3. The Id. Counsel of the assessee, Shri V.N. Purohit, submitted that the sales of the assessee have been accepted, the closing stock has been accepted and that the assessee has produced the consignment notes, tax invoices and other evidences in

support of the purchases before the Assessing Officer. Even transport notes have been produced. It was vehemently contended that out of total purchases of more than Rs.9.75 Crores, the Assessing Officer alleges that the assessee has made bogus purchase of Rs.4,33,576/-, for the Assessment Year 2010-11. Similarly, for the Assessment Year 2009-10, out of total purchases of Rs.13.95 Crores, the Assessing Officer treated the purchase of Rs.1,30,000/- as bogus purchase. Quantitative details of the purchase and sales were furnished in support of the contention that the purchases were genuine and this was not disputed by the Assessing Officer.

4. The Id. D/R, on the other hand, opposed these contentions and submitted that the Assessing Officer as well as the Id. CIT(A) have found that the assessee is a hawala dealer and was blacklisted by Maharashtra Sales Tax Website and that no evidence was provided on movement of goods and preponderance of probabilities are against the assessee. He relied on the order of the Assessing Officer as well as the Id. CIT(A).

5. After hearing rival contentions, I am of the considered opinion that the alternative contention of the assessee that a percentage of such doubtful purchases is only to be considered as the income of the assessee. The entire purchases cannot be added as income, specifically when the assessee has given quantitative details of movement of stocks. The purchases are doubtful, as evidence of movement of goods has not been produced.

6. In view of the above discussion, I direct the Assessing Officer to apply a net profit rate earned and disclosed by the assessee in its regular books of accounts to the doubtful purchases and treat the same as income of the assessee.

7. In the result, both the appeals of the assessee are allowed in part.

***Kolkata, the 21<sup>st</sup> day of December, 2017.***

***Sd/-***

**[J. Sudhakar Reddy]**  
Accountant Member

Dated : 21.12.2017  
{SC SPS}

*Copy of the order forwarded to:*

**1. Rajeev Pugalia  
(Son & L.R of Late Radhashyam Pugalia)  
14/2, Old China Bazar St.  
Kolkata – 700 001**

**2. Income Tax Officer, Ward-36(1), Kolkata  
Ayakar Bhawan Poorva  
110, Shantipally  
Kolkata – 700 107**

3. CIT(A)-
4. CIT- ,
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

 Senior Private Secretary  
Head of Office/ D.D.O. ITAT, Kolkata Benches