



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

BEFORE SHRI R.C.SHARMA, AM

&

SHRI SANDEEP GOSAIN , JM

ITA No.6736/Mum/2017

(Assessment Year :2010-11)

M/s. Mahalakshmi Wood Works, Room No.15, Shri Datta Housing Society, Laxmi Narayan Mandir Marg Mohili Village, Sakinaka Andheri East, Mumbai – 400 072	Vs.	ITO WD 26(2)(4), C-10, Bandra Kurla Complex, Bandra East Mumbai – 400 051
PAN/GIR No.AAMFM4057D		
Appellant)	..	Respondent)

Assessee by	Shri Vimal Punmiye
Revenue by	Ms. N. Hemalatha
Date of Hearing	08/02/2018
Date of Pronouncement	13/02/2018

आदेश / O R D E R

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

This is an appeal filed by the assessee against the order of CIT(A)-38, Mumbai dated 25/09/2017 for A.Y.2010-11 in the matter of order passed u/s.144 r.w.s. 147 of the Income Tax Act, 1961.

2. Rival contentions have been heard and record perused.

3. The brief facts of the case are that AO had received information from Sales Tax Department through O/o DGIT (Inv.), Mumbai that during the year under consideration, the assessee had obtained entries of bogus purchases through the hawala parties thereby claiming to have incurred

expenditure, which are not genuine. The names of the persons who have obtained the bogus bills from such Hawala billers alongwith the ransaction details of each person has also been received by the AO. The Sales Tax Authority displayed the names of these hawala dealers on the website of Sales Tax Department of Maharashtra Government, who have only issued bills without any delivery of goods.

4. Accordingly, AO added entire amount of such purchases in assessee's income.

5. By the impugned order CIT(A) confirmed the action of the AO. Assessee is in further appeal before us.

6. We have considered rival contentions and found from record that assessee is manufacturer of Wooden Packing Box basically used in packing of Machinery Goods Purchased from M/s. Dhruv Sales Corporation was done through the agent. Agent has approached assessee that he is having good quality Wooden Scrap that also at very reasonable rate. After verifying the quality he has placed order with Dhruv sales Corporation for Wooden scrap at regular interval. Delivery of Good taken by client through local transport vehicle these goods were purchased from local Mumbai dealer so octroi charges were not applicable in this case. After Taking delivery of goods it is cut in the prescribed size and shape and that it is assembled by punching nails and delivered to customer.

7. We also found that GP rate of the assessee during the year under consideration is 15.25%. GP rate of the assessee in the A.Y.2009-10 was

14.70% and 15.48% in the A.Y.2008-09. Thus, it appears that assessee is showing good GP rate on its product. Keeping in view the totality of facts and circumstances of the case, we restrict the addition to the extent of 12.5% on such bogus purchases. We direct accordingly.

8. In the result, appeal is allowed in part.

Order pronounced in the open court on this 13/02/2018

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

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

Mumbai; Dated 13/02/2018

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.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai