



ITA.No.962/Mum/2018
Rajesh K. Bhanushali
Assessment Year- 2010-11

आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।

**BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.962/Mum/2018
(निर्धारण वर्ष / Assessment Year:2010-11)

Rajesh K.Bhanushali 1/22, Jay Mahavir R.B.Mehta Road Ghatkopar(E) Borivali-400 077	बनाम/ Vs.	Income Tax Officer-22(2)(4) 4 th Floor, Tower No.6 Vashi Railway Stn. Complex Vashi, Mumbai- 400 703
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AADPB-1516-F		
(पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	N. Hemalatha, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	22/05/2018
घोषणा की तारीख / Date of Pronouncement	:	22/05/2018

आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-25 [CIT(A)], Mumbai, *Appeal No. CIT(A)-25/IT-15/2014-15 dated 05/12/2017 qua* confirmation of certain additions on account of *alleged bogus purchases*. The assessment for impugned AY was framed by Ld. Income Tax Officer-22(2)(4), Mumbai [AO] u/s 143(3) read with



section 147 of the Income Tax Act,1961 on 14/11/2014. wherein the income of the assessee has been determined at Rs.13.19 Lacs after certain additions as against returned income of Rs.4.31 Lacs e-filed by the assessee on 13/10/2010 which was processed u/s 143(1). The issue under appeal is quantum addition against certain *alleged bogus purchases*. None has appeared for assessee despite notice and therefore, left with no option, we proceed to dispose-off the same on the basis of material available on record and after hearing Ld. Departmental Representative [DR].

2.1 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in *bogus purchase bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.18,52,664/- from an entity namely *Umiya Sales Agency Private Limited*. Consequently, statutory notice u/s 148 dated 24/03/2014 was issued to the assessee which was followed by notices u/s 143(2) and 142(1). The assessee was proprietor of an entity namely *Fortune Fabrics* which was engaged in the business of trading of *HDPE Bags*.

2.2 During assessment proceedings, the assessee, *inter-alia*, submitted ledger extracts, *VAT Return* and copies of invoices etc. to prove the genuineness of purchases. It was also submitted that correct figures of purchases made by the assessee from the said party was Rs.12,94,550/-. However, notices issued u/s 133(6) to confirm the transactions elicited no satisfactory response. The assessee also failed to produce the said party to confirm the transactions. The factual matrix led the Ld. AO to treat the purchases as *bogus purchases*. Accordingly,



an amount of Rs.8,87,640/-, being the peak of purchases, was added to the income of the assessee.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 05/12/2017 wherein Ld. CIT, placing reliance on several judicial pronouncements, restricted the impugned additions to 12.5% of *alleged bogus purchases* which came to Rs.1,61,819/-. Still aggrieved, the assessee is in further appeal before us. The Ld. DR has placed reliance on the stand of lower authorities.

4. Upon careful consideration, we are of the considered opinion that there could be no sale without purchase of material since the assessee was engaged in *trading activities*. The sales turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The assessee was in possession of primary purchases documents. At the same time, the assessee could not conclusively substantiate the purchases made by him and failed to produce the said party to confirm the transactions. All these factors cast a serious doubt on assessee's claim. Therefore, in such a situation, the addition, which could be made, was to account for profit element embedded in these purchase transactions to factorize for profit earned by assessee against possible purchase of material in the *grey market* and undue benefit of VAT against such bogus purchases, which Ld. CIT(A) has rightly done. Therefore, finding the same in order, we dismiss the assessee's appeal.

5. Resultantly, the assessee's appeal stands dismissed.



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Assessment Year- 2010-11

Order pronounced in the open court on 22nd May, 2018

Sd/-
(Saktijit Dey)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 22. 05.2018
Sr.PS:- Thirumalesh

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

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

आदेशानुसार/ BY ORDER,

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