



ITA.No.1816/Mum/2018  
Irfan Mukarab Khilji  
Assessment Year- 2009-10

**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.1816/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2009-10)

<b>Irfan Mukarab Khilji</b> Gala No.2 Hadis Subekar Industrial Estate Qureshi Nagar Kurla(E), Mumbai – 400 070	<b>बनाम/ Vs.</b>	<b>Income Tax Officer-26(1)(5)</b> C-10,5 <sup>th</sup> Floor Pratyakshkar Bhavan BKC Complex, Bandra(E) Mumbai- 400 051
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No.		<b>AMHPK-4919-P</b>
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Dinesh Rasiklal Shah & Shiya Doshi, Ld.AR's
<b>Revenue by</b>	:	N. Hemalatha, Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	24/05/2018
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	22/06/2018

**आदेश / O R D E R**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. The captioned appeal by assessee for Assessment Year [AY] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-38 [CIT(A)], Mumbai, *Appeal No.CIT(A)-38/ITO.26(1)(5)/IT.60/2015-16 dated 30/11/2016 qua* confirmation of certain additions on account of *alleged bogus purchases*. The



assessment for impugned AY was framed by *Ld. Income Tax Officer-26(1)(5), Mumbai [AO] u/s 143(3) read with section 147 of the Income Tax Act,1961* on 27/03/2015 wherein the income of the assessee has been determined at Rs.14,20,235/- after certain additions as against returned income of Rs.4.75 Lacs filed by the assessee on 24/09/2009 which was processed u/s 143(1). The sole issue under appeal is quantum addition against certain *alleged bogus purchases*. During impugned AY, the assessee was engaged as *manufacture and trader* under proprietorship concern namely *M.K.Forge*. *The assessee declared gross profit @13.10% and net profit @3.22%* in the impugned AY.

2.1 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in issuing *bogus purchase bills* wherein it was found that the assessee stood beneficiary for *bogus purchase bills* to the tune of Rs.37,78,365/- from eighteen such parties, the details of which have been extracted at *para-2* of the quantum assessment order. Consequently statutory notice u/s 148 dated 22/03/2014 was issued to the assessee which was followed by notices u/s 143(2) & 142(1).

2.2 The assessee defended the purchases made by him and submitted documentary evidences to substantiate the purchases. However, notices issued u/s 133(6) to all these parties elicited no satisfactory response and the assessee was asked to produce the stated parties for confirmation of the transactions, which assessee failed to do so. Finally not convinced, *Ld. AO* estimated the quantum addition against these purchases @25% which resulted into an addition of Rs.9,44,591/- in the hands of the assessee. Aggrieved, the assessee contested the same



without any success before Ld. CIT(A) vide impugned order dated 30/11/2016 wherein the stand of Ld. AO got confirmed.

3. The Ld. Authorized Representative for assessee, *Shri. Dinesh Rasiklal Shah*, while drawing our attention to the documents placed in the *paper-book* contested the additions made by lower authorities which was controverted by Ld. Departmental Representative, *Ms.N.Hemalatha*.

4. We have carefully considered the rival contentions and perused relevant material on record. We are of the considered opinion that there could be no sale without purchase of material keeping in view the assessee's nature of business. The turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The assessee reconciled quantitative details also to some extent. However, at the same time, the assessee could not conclusively substantiate the delivery of material purchased made by him and fail to produce any of the party for confirmation of account. Notices issued u/s 133(6) to all the *tainted* parties elicited no satisfactory response. 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 purchases transactions to factorize for profit earned by assessee against possible purchase material in the grey market and undue benefit of VAT against such *bogus purchases*, which lower authorities have rightly done so. However, keeping in view the fact that Ld. CIT(A) has estimated similar additions in assessee's own case for AY 2010-11 & 2011-12 @12.5% and therefore, we restrict the impugned additions to 12.5% of *alleged*



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*bogus purchases* which comes to Rs.4,72,295/- and delete the balance additions.

5. Resultantly, the appeal stand partly allowed in terms of our above order.

*Order pronounced in the open court on 22<sup>nd</sup> June,2018*

Sd/-

Sd/-

**(Saktijit Dey)**

**(Manoj Kumar Aggarwal)**

न्यायिक सदस्य / **Judicial Member** लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 22.06.2018

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. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

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