



ITA.No.1843/Mum/2018
Dhiraj Babulal Jain
Assessment Year- 2011-12

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.1843/Mum/2018
(निर्धारण वर्ष / Assessment Year:2011-12)

Dhiraj Babulal Jain C/o D.C.Bothra & Co. LLP,CA 297, Tardeo Road, Wille Mansion,1 st Floor Opp.Bank of India, Nana Chowk Mumbai-400 007	बनाम/ Vs.	Income Tax Officer-19(1)(4) 2 nd Floor, Matru Mandir Tardeo Road Mumbai- 400 007
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. ADYPJ-0420-A		
(पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

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

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

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2011-12 contest the order of Ld. Commissioner of Income-Tax (Appeals)-54 [CIT(A)], Mumbai, *Appeal No. CIT(A)-54/IT-714/ITO-19(1)(4)/2015-16 dated 22/12/2017 qua* confirmation of certain additions on account of *alleged bogus purchases*. The assessment for impugned



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AY was framed by *Ld. Income Tax Officer 19(1)(4), Mumbai [AO] u/s 143(3) read with section 147 of the Income Tax Act,1961* on 12/03/2015 wherein the income of the assessee has been determined at Rs.32.15 Lacs after certain additions as against returned income of Rs.18.37 Lacs filed by the assessee on 30/09/2011 which was processed u/s 143(1). None has appeared for assessee and no valid adjournment application is on record. 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]*. The issue involved under appeal is estimated addition against certain *alleged bogus purchases*.

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.1,10,24,932/- from five such entities, the details of which has been extracted in *para-2* of the quantum assessment order. Consequently, statutory notice u/s 148 dated 28/02/2014 was issued to the assessee which was followed by notices u/s 143(2) and 142(1). During impugned AY, the assessee being *resident firm* was engaged in *trading of metals etc.*

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 the entities elicited no satisfactory response and further the assessee failed to demonstrate delivery of goods. Finally, not convinced with assessee's submissions, *Ld. AO* estimated the additions



against these purchases @12.5% which resulted into an addition of Rs.13,78,116/- in the hands of the assessee.

3. Aggrieved, the assessee contested the same on legal grounds as well as on merits with partial success before Ld. CIT(A) vide impugned order dated 22/12/2017 where Ld. CIT(A) while upholding the reassessment proceedings, restricted the impugned additions to 8% of *alleged bogus purchases*. Still aggrieved, the assessee is in further appeal before us. The Ld. DR, *Ms. N.Hemalatha* supported the stand of lower authorities.

4. We have carefully considered the submissions and material on record. So far as the legal grounds raised by assessee, we find that the original return was processed u/s 143(1) and therefore, the only requirement to initiate the reassessment proceedings was that Ld. AO *had reasons to believe that certain income escaped assessment*. The tangible material came in the possession of Ld. AO in the shape of information from *Sales Tax Authority* which suggested escapement of income. Therefore, the proceedings were validly initiated and we concur with the stand of lower authority in this regard. This ground of assessee's appeal stand dismissed.

5. So far as the merits of the case are concerned, 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 delivery



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of material and failed to produce any of the party to confirm the transactions. Notices issued u/s 133(6) 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 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 this ground of assessee's appeal.

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

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

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

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. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

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