



ITA.No.1817/Mum/2018
Ramesh Kumar Jawanmalji Sakaria
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.1817/Mum/2018
(निर्धारण वर्ष / Assessment Year:2010-11)

Ramesh Kumar Jawanmalji Sakaria 13, Moti Manson 5 th Khetwadi Lane Grant Road, Mumbai-400 004	बनाम/ Vs.	Income Tax Officer-19(3)(1) Room No.219, 2 nd Floor Matru Mandir, Grant Road Mumbai- 400 007
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. ACUPJ-3255-E		
(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] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-53 [CIT(A)], Mumbai, Appeal No.CIT(A)-53/IT-212/ITO-19(3)(1)/2017-18 dated 01/01/2018 qua confirmation of certain additions on account of *alleged bogus purchases*. The assessment for impugned AY was framed by Ld. Income Tax Officer 19(3)(1), Mumbai [AO] u/s



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143(3) read with section 147 of the Income Tax Act, 1961 on 10/02/2016 wherein the income of the assessee has been determined at Rs.15.56 Lacs after certain additions as against returned income of Rs.4.66 Lacs *filed* by the assessee on 23/09/2010 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.87,23,065/- from twelve such entities, the details of which has been extracted in *para-4.1* of the quantum assessment order. Consequently, statutory notice u/s 148 dated 23/02/2015 was issued to the assessee which was followed by notices u/s 143(2) and 142(1). During impugned AY, the assessee was engaged in *trading of metals etc.*

2.2 The assessee defended the purchases made by him and submitted documentary evidences including bank statement etc. to substantiate the purchases. However, notices issued u/s 133(6) to all the entities elicited no satisfactory response. Finally, not convinced with assessee's submissions, Ld. AO estimated the additions against these purchases @12.5% which resulted into an addition of Rs.10,90,384/- in the hands of the assessee.



3. Aggrieved, the assessee contested the same on legal grounds as well as on merits without any success before Ld. CIT(A) vide impugned order dated 01/01/2018 where Ld. CIT(A) confirmed the stand of Ld. AO. 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 purchases made by him and failed to produce any of the 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



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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 Lower authorities have 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