

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" Bench, Mumbai**

**Before Shri B.R. Baskaran, Accountant Member
and Shri Amarjit Singh, Judicial Member**

ITA No. 5432/Mum/2016
(Assessment Year: 2011-12)

ACIT, Circle - 3
2nd Floor, Rani Mansion
Murbad Road
Kalyan (W) 421301

Shri Vithal Bindurao Parvatikar
Pro. Of M/s. Bindu Tech
Vs. B-401, Ambika Tower
Ayodhya Nagari
Dombivili (E) 421201
PAN – AAXPP2061R

Appellant

Respondent

Appellant by: Ms. N. Hemalatha
Respondent by: None

Date of Hearing: 25.06.2018
Date of Pronouncement: 25.06.2018

ORDER

Per B.R. Baskaran, AM

This appeal filed by Revenue is directed against the order dated 27.06.2016 passed by the CIT(A)-3, Nasik (Camp Office – Thane) and it relates to A.Y. 2011-12.

2. Revenue is aggrieved by the decision of the CIT(A) in granting partial relief to the assessee in respect of disallowance of expenses.

3. None appeared on behalf of the assessee. From the record we noticed that the Bench has directed the learned D.R. to service notice on the assessee. As per the direction given by the Bench, notice was duly served upon the assessee on 31.03.2018 by the AO. Despite service of notice, assessee has failed to appear before the Bench. Hence, we proceeded to dispose of the appeal ex-parte, without the presence of the assessee.

4. We have heard the learned D.R. and perused the record. The AO passed the assessment order to the best of his judgement under Section

144 r.w.s. 147 of Income Tax Act (hereinafter “the Act”), since the assessee failed to appear before him. The assessment was reopened on the basis of information received from the Sales Tax Department that the assessee has purchased goods from certain dealers who have been declared as hawala dealers as they have provided only accommodation entries without actually supplying material. In the reopened assessment the AO disallowed the alleged bogus purchase of ₹41,490/- and also disallowed 20% of expenses claimed by the assessee.

5. In the appellate proceedings the assessee furnished certain documents before the learned CIT(A). Accordingly the learned CIT(A) called for a remand report from the AO. The learned CIT(A) sustained the disallowance relating to bogus purchase to 25% of the value of bogus purchase. In respect of adhoc disallowance of 20% of expenses claimed by the assessee the learned CIT(A) sustained the disallowance to the extent of ₹72,750/-.

6. The learned D.R. submitted that the learned CIT(A) has passed the order without properly considering the remand report furnished by the AO. The learned D.R. submitted that the AO has specifically pointed out that the assessee did not produce the stock register, evidence of transport of material, evidence for payment of octroi, etc., which are essential to determine the genuineness of the purchases made by the assessee. The AO has also pointed out that the assessee has not furnished evidences supporting various expenses. The learned D.R. submitted that the learned CIT(A) has passed the order without specifically addressing these defects pointed out by the AO.

7. Having heard the learned D.R. and upon perusal of record we are of the view that the issue contested by Revenue in this appeal needs to be set aside to the file of the learned CIT(A), since the First Appellate Authority has not addressed fully the various defects pointed out by the AO in the remand report. Accordingly we set aside the order passed by the learned CIT(A) in A.Y. 2011-12 and restore the same to his file for adjudicating the issue afresh.

8. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 25th June, 2018.

Sd/-
(Amarjit Singh)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai, Dated: 25th June, 2018

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -Nasik -3, Camp Office-Thane*
4. *The CIT - 1, Thane*
5. *The DR, "G" Bench, ITAT, Mumbai*

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.