



ITA No.1516/Mum/2016
Akhtar Hasan Rizvi
Assessment Year: 2009-10

आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

श्री सी .नागेंद्र प्रसाद, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI C.N. PRASAD, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.1516/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2009-10)

Deputy Commissioner of Income Tax-13(3)(1) 2 nd Floor, Aaykar Bhavan M.K.Road Mumbai-400 020	बनाम/ Vs.	Akhtar Hasan Rizvi 1 st Floor, Rizvi House Hill Road, Bandra(W) Mumbai-400 050
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No.AABPR-6978-H		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
Revenue by	:	Rajesh Kumar Yadav, Ld.DR
Assessee by	:	Vishwas V. Mehendale, Ld.AR
सुनवाई की तारीख/ Date of Hearing	:	10/07/2018
घोषणा की तारीख / Date of Pronouncement	:	10/07/2018

आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [AY] 2009-10 contests the order of Ld. Commissioner of Income-Tax (Appeals)-20 [CIT(A)], Mumbai, *Appeal No.CIT(A)-20/ACIT-12(1)(1)/IT-145/2014-15* dated 30/12/2015 *qua* certain relief provided to the assessee on account of *alleged bogus purchases*. The assessment for impugned AY was framed by



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Ld. Assistant Commissioner of Income Tax-9(3), Mumbai [AO] u/s 143 read with Section 147 of the Income Tax Act, 1961 on 31/10/2014 wherein the income of the assessee has been assessed at Rs.162 Lacs after certain additions as against returned income of Rs.79.37 Lacs *e-filed* by the assessee on 30/09/2009 which was processed u/s 143(1). In the quantum assessment, the assessee has suffered sole addition of Rs.82.62 Lacs on account of *alleged bogus purchases* which is the subject matter of this appeal. It has been noted that the appeal is delayed by 6 days which has not been agitated by Ld. Authorized Counsel for Assessee [AR], *Shri Vishwas V.Mehendale*. Keeping in view the same, we proceed to dispose-off the appeal on merits.

2. Briefly stated the assessee being *resident individual* engaged in *construction business* under proprietorship concern namely *Rizvi Builders* was subjected to reassessment proceedings for impugned AY pursuant to receipt of certain information from *DGIT (Investigation) / Sales Tax Department, Maharashtra* regarding dealers being indulging in *bogus purchase bills* without carrying out any actual business. Pursuant to the said information, it was found that the assessee made certain purchases aggregating to Rs.82,62,499/- from three such suspicious dealers, the details of which have been extracted at *para-2* of the quantum assessment order. Consequently notice u/s 148 dated 18/03/2014 was issued to the assessee wherein the assessee was required to substantiate the purchases made by him. The assessee, while defending the purchases made by him,



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submitted documentary evidences but failed to produce any of the party to confirm the transactions. Notice u/s 133(6) issued by Ld. AO revealed that none of the party was in existence at the given address. Finally, not convinced, Ld. AO made the addition thereof in the hands of the assessee.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 30/12/2015 wherein the Ld. CIT(A), after considering the factual matrix and placing reliance on certain judicial pronouncements, restricted the impugned additions to Rs.10.32 Lacs, being 12.5% of *alleged bogus purchases*. Aggrieved, the revenue is in further appeal before us. It has been submitted that the assessee is not in appeal against the order of first appellate authority.

4. We have heard the rival contentions and perused relevant material on record. We are of the considered opinion that the assessee was engaged in *construction activities*, which could not be carried out without consumption of actual material. The 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 purchase documents. However, at the same time, the assessee failed to produce any of the suppliers to confirm the transactions. Notices issued u/s 133(6) revealed that none of the suppliers was in existence at the given address. 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



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element earned by assessee against possible purchase of material in the grey market and undue benefit of VAT against alleged bogus purchases, which Ld. CIT(A) has rightly done. Therefore, finding the same in order, we dismiss the revenue's appeal.

5. Resultantly, the revenue's appeal stand dismissed.

Order pronounced in the open court on 10th July, 2018

Sd/-

(C.N.Prasad)

न्यायिकसदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखासदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 10.07.2018

Sr.PS:-Thirumalesh

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त (अपील)/ The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधिमुंबई ,आयकरअपीलीयअधिकरण ,/ DR, ITAT, Mumbai
6. गार्डफाईल /Guard File

आदेशानुसार/ BY ORDER,

उपसहायकपंजीकार/ (Dy./Asstt.Registrar)

आयकरअपीलीयअधिकरण ,मुंबई / ITAT, Mumbai