

आयकर अपीलीय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA Nos.2763 & 2765/PUN/2017
निर्धारण वर्ष / Assessment Years : 2009-10 & 2010-11

M/s Span Hydrotech Pvt. Ltd.,
Ground Floor, Vedant 307/27,
Pradhikaran, Nigdi, Pune.

PAN : AAACN5813F

.... अपीलार्थी/Appellant

Vs.

DCIT, Circle-10,
Pune.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Smt. Deepa Khare

प्रत्यर्थी की ओर से / Respondent by : Shri Rajesh Gawli

सुनवाई की तारीख / Date of Hearing : 30.10.2018	घोषणा की तारीख / Date of Pronouncement: 20.11.2018
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

There are two appeals under consideration relating to assessment years 2009-10 and 2010-11. Both the appeals are in connection with the re-assessment proceedings involving alleged bogus purchases.

2. Identical grounds raised by the assessee in both the appeals. For the sake of convenience, the grounds of appeal in ITA No.2763/PUN/2017 read as under : -

“1. On the facts and circumstances of the case, the reassessment proceedings u/s 147 being initiated in absence of material showing escapement of income in the hands of the appellant is void and may kindly

be cancelled. The material based for reopening is vague and has no live link with escapement of income in the hands of the appellant.

2. The learned CIT(A) erred in law and on facts in confirming addition of Rs.10,57,705/- on account of inflated purchases alleged to be bogus.

3. The learned CIT(A) erred in law and on facts in confirming the addition inspite of holding that the ld. A.O. has not brought on record any evidence to prove that the purchases were bogus and further ignoring the evidence produced in support of the purchases.

4. The appellant craves to add, alter, modify or substitute any ground of appeal at the time of hearing.”

3. Briefly stated relevant facts include that the assessee is a company engaged in the business of manufacture of WTP Plants, reseller in specialty chemicals and job work charges. The assessee filed its return of income on 29.09.2009 declaring total income of Rs.3,68,020/-. The Assessing Officer completed the assessment u/s 143(3) r.w.s. 147 on 05.02.2015 and made an addition of Rs.10,57,705/- on account of bogus purchases.

4. Aggrieved with the order of Assessing Officer, the assessee filed an appeal before the CIT(A). Rejecting the various explanations of the assessee, the CIT(A) sustained the addition made by the Assessing Officer.

5. Aggrieved with the order of CIT(A) sustaining the addition, the assessee is in appeal before me raising the aforementioned grounds.

6. At the outset, deviating from the grounds, ld. Counsel for the assessee submitted that this is the case of alleged bogus purchase and the Assessing Officer made addition on entire purchases as additional income of the assessee in both the years. The CIT(A) confirmed the said additions ignoring the fact that the GP rates are normally confirmed.

7. On these facts, the ld. Counsel for the assessee fairly submitted that these orders of the CIT(A) were passed in the month of August, 2017 without benefit of assistance of the decision of the Pune Bench of the Tribunal in the case of M/s Chhabi Electricals Pvt. Ltd. vs. DCIT vide ITA No.795/PUN/2014, order dated 28.04.2017. The ld. Counsel for the assessee submitted that the said order was passed by the Tribunal in the month of April, 2017. The ld. Counsel for the assessee submitted that the lower authorities did not have the benefit of copy of the same despite the fact that the order passed by the Tribunal in the month of April, 2017. The ld. Counsel further submitted that the matter may be remanded to the file of the Assessing Officer for finding the GP computation of the said bogus purchases in accordance with the order the of the Tribunal so called.

8. On hearing both the sides, I find such issues on merits are to be decided in the light of the said order of the Co-ordinate Bench of the Tribunal in the case M/s Chhabi Electricals Pvt. Ltd. (supra). It is a settled legal proposition that such cases of the bogus purchases are classified into four groups. The assessee should fall in one of the four categories specified in the said decision of the Tribunal in the case of M/s Chhabi Electricals Pvt. Ltd. (supra). In the remand proceedings, I direct the Assessing Officer to examine the facts of the present case and analyse the details and also classify the same into one of the four categories already considered by the Tribunal in the case of M/s Chhabi Electricals Pvt. Ltd. (supra). The Assessing Officer should grant a reasonable opportunity of being heard to the assessee in accordance with the principles of natural justice and pass a speaking order on the issue raised by the assessee. Accordingly, the

grounds raised by the assessee in both the appeals are allowed for statistical purposes.

9. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 20th day of November, 2018.

Sd/-
(D. KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 20th November, 2018.

Sujeet

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune;
4. The Pr. CIT-5, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,स

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune