

आयकर अपीलिय अधिकरण पुणे न्यायपीठ "बी" पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM

आयकर अपील सं. / ITA No.1056/PUN/2017
निर्धारण वर्ष / Assessment Year : 2011-12

M/s. CTR Manufacturing Industries Ltd.,
Nagar Road,
Pune – 411014 अपीलार्थी/Appellant

PAN: AAACC7256R

Vs.

The Dy. Commissioner of Income Tax,
Circle 1(1), Pune प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Nikhil Pathak
प्रत्यर्थी की ओर से / Respondent by : Shri M.K. Verma

सुनवाई की तारीख / Date of Hearing : 08.07.2019	घोषणा की तारीख / Date of Pronouncement: 17.07.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by assessee is against order of CIT(A), Pune-1, dated 16.01.2017 relating to assessment year 2011-12 against order passed under section 143(3) r.w.s. 147 / 250 of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following grounds of appeal:-

On facts and in law,

- 1] *The learned CIT(A) erred in confirming the disallowance of purchases of Rs.1,37,99,275/- made by the appellant company from M/s. Hariom Traders and Supreme Enterprises on the ground that the said purchases were not genuine.*

- 2] *The learned CIT(A) erred in holding that the appellant company had failed to prove with proper documentary evidence that it had purchases from the above referred two parties and hence, the disallowance of purchases was justified.*
- 3] *The learned CIT(A) erred in holding that even if, the purchases are considered to have been made, in that event, the appellant has made the said purchases from unexplained sources and therefore, the same is required to be added as an income u/s 69C of the Act.*
- 4] *The learned CIT(A) failed to appreciate that -*
- a. *The assessee had actually purchased the material and it was used in its manufacturing operations and therefore, no disallowance was warranted.*
 - b. *The assessee had submitted the relevant statistical data and drawings which clearly indicated that it had made the purchases of MS Plates and Pipes of Rs.1,37,99,275/- as otherwise, it was impossible for the assessee to manufacture the final product sold to the customers.*
 - c. *The assessee had submitted various documentary evidences to indicate that it had received the material which was utilised in manufacturing operations and therefore, the disallowance on account of non genuine purchases was not justified in law.*
- 5] *The learned CIT(A) erred in not appreciating the correct facts of the case while disallowing the claim of the appellant.*
- 6] *The learned CIT(A) erred in holding that the addition is warranted u/s 69C without appreciating that the appellant had not made any unaccounted purchases and therefore, the question of applying the provisions of Section 69C simply did not arise.*
- 7] *Without prejudice to the above grounds, the appellant submits that the disallowance of entire purchases amounting to Rs.1,37,99,275/- is not justified and only the gross profit on the same can at the most be added to the income of the appellant.*

3. The only issue raised in the present appeal is against addition made on account of bogus purchases and the aforesaid addition was made on the basis of information received from Maharashtra State Sales Tax Department, which had conducted enquiries and unearthed certain hawala dealers of having not deposited VAT against the said purchases.

4. The learned Authorized Representative for the assessee pointed out that the issue in the present appeal stands covered by the order of Pune Bench of Tribunal in M/s. Chhabi Electricals Pvt. Ltd. and others Vs. DCIT in ITA

No.795/PUN/2014, relating to assessment year 2010-11, decided on 28.04.2017 and the said ratio may be applied.

5. The learned Departmental Representative for the Revenue placed reliance on the orders of authorities below.

6. We have heard the rival contentions and perused the record. The issue which arises in the present appeal is against addition made on account of alleged bogus purchases. The case of assessee before the Revenue authorities was that the said goods were utilized in the manufacturing activity carried on by it and without the said raw materials, the manufacturing activity cannot be carried on. The Tribunal in series of decisions have decided the issue with lead order in M/s. Chhabi Electricals Pvt. Ltd. and others Vs. DCIT (supra). The Tribunal in the said decision had held that the addition is to be restricted to 10% of Gross Profit over and above the Gross Profit declared by the assessee in its books of account, on the alleged bogus purchases. Accordingly, the Assessing Officer is directed to restrict the addition to 10% of Gross Profit over and above the Gross Profit declared by the assessee on the aforesaid purchases of Rs.1,37,99,275/-. The grounds of appeal raised by the assessee are thus partly allowed.

7. In the result, the appeal of assessee is partly allowed.

Order pronounced on this 17th day of July, 2019.

Sd/-
(ANIL CHATURVEDI)
लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 17th July, 2019.

GCVSR

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune