

आयकर अपीलीय 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.818/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Mrs. Sandhya Ram Jogdand
(Prop. M/s. Sita Polycoats)
Sr. No.135+136, Flat No.24/1/A2,
Ajanta Avenue, Kothrud,
Pune – 411038

.... अपीलार्थी/Appellant

PAN: AEOPJ8146A

Vs.

The Dy. Commissioner of Income Tax,
Circle 3, Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Shri Pankaj Garg

सुनवाई की तारीख / Date of Hearing : 17.07.2019	घोषणा की तारीख / Date of Pronouncement: 01.08.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by assessee is against order of CIT(A)-2, Pune, dated 21.12.2016 relating to assessment year 2009-10 against order passed under section 143(3) r.w.s. 147 of the Income-tax Act, 1961 (in short 'the Act').

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

1. *The learned CIT(A)-2, Pune erred in law and on facts in sustaining the addition made on account of alleged bogus purchases of Rs.56,42,510/- made by learned DCIT, Circle-3, Pune (hereinafter referred to as the learned AO).*
2. *Without prejudice to the Ground No.1, the learned CIT(A)-2 and Id. AO erred in law and on facts in not sustaining the addition to the extent of average gross profits regarding the alleged bogus / hawala purchases.*

3. Despite service of notice, none appeared on behalf of assessee nor any application for adjournment was moved. However, we find that the issue raised in the present appeal is against alleged bogus purchases which were detected by the Maharashtra Sales Tax Department on the ground that VAT had not deposited against aforesaid purchases.

4. The said issue has been decided by Pune Bench of Tribunal in series of cases including M/s. Chhabi Electricals Pvt. Ltd. and others Vs. DCIT in ITA No.795/PUN/2014, relating to assessment year 2010-11, order dated 28.04.2017. Hence, we proceed to decide the present appeal after hearing the learned Departmental Representative for the Revenue.

5. The issue which arises in the present appeal is against addition made on account of alleged bogus purchases. 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.56,42,510/-. The grounds of appeal raised by the assessee are thus partly allowed.

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

Order pronounced on this 1st day of August, 2019.

Sd/-
(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 1st August, 2019.

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-2, Pune;
4. The Pr.CIT-2, 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