



Dinesh P. Parekh  
Assessment Years 2009-10 & 2010-11

**आयकर अपीलीय अधिकरण “एक-सदस्य मजलम” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.4987/Mum/2018  
(निर्धारण वर्ष / Assessment Year:2009-10)

&

आयकर अपील सं./ I.T.A. No.4988/Mum/2018  
(निर्धारण वर्ष / Assessment Year:2010-11)

<b>Dinesh P. Parekh</b> 8, Balaram Bhavan Corporation, Sagaon Manpada Road Dombivli East-421 201.	<b>बनाम/</b> Vs.	<b>Income tax Officer-Ward 3(2)</b> 2 <sup>nd</sup> Floor, Rani Mansion Murbad Road, Kalyan (West).
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AHEPP-0886-E</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Shri Ashutosh Rajhans-Ld.DR
<b>Assessee by</b>	:	Shri Bhadresh K. Doshi-Ld. AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	11/09/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	11/09/2019

**आदेश / O R D E R**

**Per Bench: -**

1. Aforesaid appeals by assessee for Assessment Years [AY] 2009-10 & 2010-11 contest common order of first appellate authority on certain



Dinesh P. Parekh  
Assessment Years 2009-10 & 2010-11

grounds of appeal. Since the facts as well as issues are identical, both the appeals are being disposed-off by way of this common order for the sake of convenience & brevity. The assessee is aggrieved by estimation on account of *alleged bogus purchases*.

2.1 Facts of AY 2009-10 are that the assessee being resident individual stated to be engaged in trading of hardware / engineering items was assessed u/s. 143(3) r.w.s. 147 on 18/02/2015 wherein the income of the assessee was determined at Rs.13.15 Lacs after sole addition of *alleged bogus purchases* for Rs.10.97 Lacs as against returned income of Rs.1.91 Lacs filed by the assessee on 29/09/2009 which was processed u/s.143(1).

2.2 Pursuant to receipt of certain information from investigation wing / Sales tax Department, Govt. of Maharashtra, it transpired that the assessee stood beneficiary of alleged bogus purchases to the tune of Rs.10.97 Lacs from 9 parties, the details of which has already been extracted at para-3 of the quantum assessment order. Accordingly, as per due process of law, re-assessment proceedings were initiated against the assessee u/s 147 by issuance of notice u/s 148 on 05/04/2013. The statutory notices u/s 143(2) & 142(1) were issued in due course of assessment proceedings wherein the assessee was directed to substantiate the purchase transactions.

2.3 Although the assessee defended the purchase transactions, however, the assessee, in the opinion of Ld. AO, failed to demonstrate the delivery of material. Accordingly, the stated purchases were disallowed and added to the income of the assessee.



Dinesh P. Parekh  
Assessment Years 2009-10 & 2010-11

3. The learned first appellate authority, applying the Gross profit Rate of AY 2012-13, worked out suppressed Gross Profit to the extent of Rs.6.49 Lacs and deleted the balance additions. Aggrieved, the assessee is under appeal before us. It appears that the revenue is not in further appeal.

3. We have heard and considered the arguments of respective representatives.

4. We are of the considered opinion there could be no sale without actual purchase of material keeping in view the assessee's nature of business. The assessee was in possession of primary purchase documents and the payments to suppliers were through banking channels. The sales turnover reflected by the assessee has not been disturbed / disputed by Ld. AO. However, at the same time, the assessee miserably failed to substantiate the purchases during assessment proceedings and could not produce any of the suppliers to confirm the transactions. The assessee also failed to prove the delivery of material. Under such circumstances, the additions which could be sustained, was to account for profit element embedded in these purchase transactions to factorize for profit earned by assessee against possible purchase of material in the grey market and undue benefit of VAT against such bogus purchases, which Ld. first appellate authority has rightly done. However, the approach of Ld. first appellate authority in estimating the suppressed Gross Profit by adopting the GP rate of subsequent year, in our considered opinion, was not correct approach. We estimate the additions @12.5% of alleged bogus purchases



Dinesh P. Parekh  
Assessment Years 2009-10 & 2010-11

of Rs.10,97,982/- which comes to Rs.1,37,248/-. The balance addition stands deleted. The appeal stands partly allowed.

5. In AY 2010-11, the first appellate authority has confirmed full addition of Rs.2,52,691/- as made by learned AO. Taking the same stand, we restrict the same to 12.5% and sustain addition to the extent of Rs.31,586/-. This appeal also stands partly allowed.

6. In the result, both appeals stand partly allowed.

*Order pronounced in the open court on 11<sup>th</sup> September, 2019.*

Sd/-

**(Mahavir Singh)**

न्यायिक सदस्य / **Judicial Member**

Sd/-

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 11/09/2019  
Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.**