

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 5842 & 5843/Mum/2018  
(निर्धारण वर्ष / Assessment Years : 2007-08 & 2009-10)

ACIT-22(3) Room No. 305, 3 <sup>rd</sup> Floor, Parimal Chambers, Lalbaug, Parel, Mumbai.	<b>बनाम/ Vs.</b>	Mr. Yunus Md. Ansari, 215, D Wing, 2 <sup>nd</sup> Floor, Plot-A, Pioneer Heritage Residency, Daulat Nagar, Santacruz (W), Mumbai.
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No. : AAHPA4425A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Akthar H Ansari, DR
प्रत्यर्थी की ओर से/Respondent by :	None

सुनवाई की तारीख / Date of Hearing	06/11/2019
घोषणा की तारीख /Date of Pronouncement	13/11 /2019

आदेश / O R D E R

**PER R.C. SHARMA(A.M.)**

These are the appeals filed by the revenue against the order of the CIT(A) for the A.Y 2007-08 and 2009-10, in the matter order passed u/s 143(3) r.w.s 147 of the Act.

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2. Common grievance of assessee in both the years are same. However, nobody appeared on behalf of the assessee. I have heard the contentions of the Ld. DR and gone through the orders of the authorities below and found that addition was made by A.O on account of bogus purchases to the extent of 100% of alleged bogus purchases. By the impugned order the CIT(A) confirmed the addition to the extent of 25% of such bogus purchases after considering the issue thread bear and applying various judicial pronouncements. In the precise observation of the CIT(A) was as under:

*“5.5 The net conclusion that can be arrived at from the above discussion is that where the sales and purchases are verifiable and proven e.g. to or from government bodies or agencies etc no addition may be made. If however, the purchases are bogus but the direct sales are proved, the assumptions are that the purchases were made from unknown parties and the AO can apply a profit rate to determine the liability of the assessee. It is also seen that putting an onus on the AO to trace the money trail or verify the withdrawals from the banks etc may give more pointers but it is not sufficient by itself and the ITAT has not accepted such an argument in the case of Shri Ganpatraj A.Sanghavi (supra). If the bogus purchases are unproved and are declared consumed by assessee itself in its trading, manufacturing or non-trading activities, the entire addition can be made as it only goes to inflate the expenses of the assessee. (refer M/s. Shoreline Hotel Pvt. Ltd vs. CIT*

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Central-1 in ITA No.964/M/2015 dated 19.06.2015).

5.6 In view of the above, it is an admitted fact that DGIT (Inv) has given information with regard to certain hawala dealers who are engaged in accommodation entries without actually supplying the goods. The appellant is one of the beneficiary and has received such accommodation bills from one of the hawala operator totaling to Rs. 9,19,556/-. The A.O attempted to verify such party by making independent enquiries u/s 133(6) of the Act. However, the concerned party was not found at the existing address. The onus shifted on the appellant particularly in the background of finding of DGIT(Inv), Mumbai. The appellant filed certain details such as purchase bills, ledger account, bank statement etc. However, some of the specific details required to establish the genuineness of purchase such as evidence of transportation of goods, entry of goods in the stock register, one to one consumption pattern of alleged purchase items, confirmation from the parties concerned etc could not be submitted before the AO. Nor the Principle officer of the concerned party was produced before the A.O for examination. However, it is also a fact that A.O has not questioned the total sale component and if there is a sale, there should be purchase.

5.7 During the statement u/s 131, the appellant has given a statement that he has obtained accommodation entry for purchases and expressed his inability to explain the same. It was further submitted that to buy peace of mind, the entire such purchases were offered for taxation. However, during the assessment proceedings, the appellant has submitted all the details and has claimed that the entire purchases cannot be added because his sales are genuine and without purchases there cannot be sales. The AO has mentioned this argument in the body of the order. Even during the appellant proceedings, it was submitted that entire purchases cannot

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be income because corresponding sales are genuine and has been accepted by the department. Thus, in my opinion this is not a case where the entire purchases can be added when the sales have not been questioned. The appellant is engaged into the manufacturing activity related to embroidery and garments. Thus, the principles of Vijay protein where 25% disallowance on purchase was upheld, is justified in the instant case. In view of the above, the A.O is directed to restrict the disallowance of 25% of the entire purchases.

Thus, as a result, the appeal filed by the appellant is partly allowed u/s 250 read with section 251 of the Act.

6. A.Y.2009-10 fI.T.No.3261:

6.1. The facts and circumstances of this case is absolutely identical to that of A.Y.2007-08 except that the bills for bogus purchases in this year is as under:

Sr. No	Name of the entity	Amount (Rs)
1.	M/s. Globex International	18,12,055

6.2. On the basis of arguments, discussion and reliance of case laws, the disallowance made by the A.O. is restricted to 25%. Hence, the ground of appeal filed by the appellant on this issue is partly allowed.

3. I found that after considering all the facts and circumstances and also the judicial pronouncements, the CIT(A) reached to the conclusion that 25% of such bogus

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purchases is required to be added. The order passed by the CIT(A) are well reasoned order which do not require any interference on my part.

4. In the result both the appeals of the Revenue are dismissed.

This Order pronounced in Open Court on	13/11/2019
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Sd/-  
( R.C. SHARMA )  
ACCOUNTANT MEMBER

Mumbai, Dated 13/11/2019

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Mumbai