

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

BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 5377/Mum/2018

(निर्धारण वर्ष / Assessment Years : 2009-10)

| | | |
|---|----------------------|---------------------------|
| Ganpatraj Nermal Jain 10/1, Bhandari Street, 1 st Kumbharwada, Mumbai. | बनाम/ Vs. | ITO 19(1)(3) Mumbai |
| स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No. : AFNPJ0762Q | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |

| | |
|-------------------------------------|--------------------------|
| अपीलार्थी ओर से/ Appellant by : | Shri S.L. Jain, AR |
| प्रत्यर्थी की ओर से/Respondent by : | Shri Akthar H Ansari, DR |

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

आदेश / ORDER

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

This is an appeal filed by the assessee against the order of the Ld. CIT(A) for the A.Y 2009-10, in the matter of order passed u/s 143(3) r.w.s 147 of the IT Act.

2. In this appeal the assessee is aggrieved for the addition of 12.5% made by the A.O in respect of alleged bogus purchases and also challenged validity of reopening.

- 2 -

3. I have considered the rival contentions and I found that in this case, the return of income for the A.Y 2009-10 was filed on 04.09.2009 declaring total income of Rs. 1,91,410/-. The return was processed u/s 143(1) of the Act. Subsequently, the AO received information from the DGIT (INV), Mumbai who in turn received information from the sales tax department, Mumbai about some hawala entry providers. The information was that the sales tax department has exercised due diligence which revealed that the assessee is involved in taking accommodation entries of bogus purchases from ten parties amounting to Rs. 63,35,118/-.

4. After making full enquiries the AO reached to the conclusion that assessee has taken accommodation bill for purchases without having delivery. He computed profit element on such purchase at 12.5% and added a sum of Rs. 7,91,890/- in assessee's income. By the impugned order

- 3 -

the CIT(A) further given relief to the extent of gross profit already declared by the assessee on such bogus transactions. The assessee is in further appeal before us.

5. I have considered rival contentions and found that on the basis of proper information from DGIT, the A.O recorded the reasons to believe that income to the tune of bogus purchases has escaped assessment. Thereafter, giving due opportunity to the assessee the AO reopened assessment by issue of notice u/s 148 of the Act. I do not find any infirmity in the order of reopening the assessment. So far as merit of addition is confirmed, I found that both AO and CIT(A) had dealt with the issue and after applying various judicial pronouncements the CIT(A) has further given a relief to the extent of gross profit already declared by the assessee on this alleged purchases. The detailed findings so recorded by the lower authorities have not been controverted by the Ld. AR, by brining any positive matter

- 4 -

on record. Accordingly, I do not find any reason to interfere in the order of CIT(A) for upholding addition of GP at 12.50% and further giving relief of GP already declared by the assessee.

6. In the result the appeal filed by the assessee is dismissed.

This Order pronounced in Open Court on 13/11/2019

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

*ITA Nos. 5377/Mum/2018.
Ganpatraj Nemal Jain, Mumbai.*

- 5 -

Other Member...