



ITA No.5563/Mum/2018
Purvesh D. Zaveri
Assessment Year-2011-12

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

माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI C.N. PRASAD, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं./ I.T.A. No.5563/Mum/2018
(निर्धारण वर्ष / Assessment Year:2011-12)

Mr. Purvesh D. Zaveri Room No. 6, Ground Floor R.M. Chawl, LNHO Compound, 7 K.M Munshi Marg, Chowpatty, Mumbai-400 007.	बनाम/ Vs.	I.T.O Ward 19(2)(5) 2 nd Floor, Matru Mandir Tardeo Mumbai-400 007
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAEPZ-8042-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Akhtar H. Ansari-Ld.DR

सुनवाईकीतारीख/ Date of Hearing	:	14/11/2019
घोषणाकीतारीख / Date of Pronouncement	:	20/11/2019

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2011-12 contest the order of Ld. Commissioner of Income-Tax (Appeals)-6, Mumbai [in short referred to as ‘CIT(A)’], *Appeal No.CIT(A)-*



ITA No.5563/Mum/2018
Purvesh D. Zaveri
Assessment Year-2011-12

6/IT-66/2059/2017-18 dated 06/07/2018 qua confirmation of addition of Rs.3.29 lakhs on account of alleged bogus purchases.

2. None has appeared for assessee and no valid adjournment application is on record. Left with no option, we proceed to dispose-off the appeal on the basis of material on record and after hearing learned departmental representative.

3.1 Facts on record would reveal that the assessee being resident individual was assessed for impugned AY u/s. 144 r.w.s. 147 on 22/02/2016 wherein the income of the assessee was determined at Rs.5.61 Lacs after sole addition of *alleged bogus / suspicious purchases* for Rs. 3.29 Lacs as against returned income of Rs.2.32 Lacs filed by the assessee on 26/09/2011.

3.2 Pursuant to receipt of certain information from the DGIT, Mumbai / Sales Tax Department, Govt. of Maharashtra, it transpired that the assessee obtained accommodation purchase bills of Rs.3.29 Lacs from an entity namely M/s. Daksha Enterprises. Accordingly, the case was reopened as per due process of law vide issuance of notice u/s 148 on 07/11/2014 which was followed by statutory notice u/s 142(1) wherein the assessee was directed to substantiate the stated purchases. The assessee's failure to do the same and in view of the fact that notice issued u/s 133(6) to the stated supplier to confirm the transactions remained unserved, the said purchases were disallowed and added to the income of the assessee.



3. Aggrieved, the assessee contested the stand of the Ld. Assessing Officer before learned first appellate authority and *inter-alia*, submitted that the books were duly audited u/s 44AB and the payment to the supplier was through banking channel. In support, the assessee also filed the resale identification statement, books of account, tax audit report, copy of bank statements, copy of ledger account, xerox copies of purchase/sales invoices etc to substantiate the said purchases and pleaded for reasonable estimation. However, the said pleas could not convince learned first appellate authority, who confirmed the stand of the Ld.AO. Aggrieved, the assessee is under further appeal before us.

4. After careful consideration, 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. Undisputedly the assessee was in possession of primary purchase documents and the payments to the suppliers were through banking channels. The sales turnover achieved by the assessee has not been disputed by the revenue. However, at the same time, the assessee miserably failed to substantiate the purchases and could not produce the supplier to confirm the transactions and therefore, the onus casted upon assessee, in this regard, remained undischarged. Therefore, on the given facts and circumstances, the additions which could be sustained, would be 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. Keeping in view Gross Profit Rate of more



ITA No.5563/Mum/2018
Purvesh D. Zaveri
Assessment Year-2011-12

than 12% reflected by the assessee, we estimate the additions @12.5% of alleged bogus purchases of Rs.3,29,175/- which comes to Rs.41,147/-. The balance addition stands deleted.

5. Resultantly, the appeal stands partly allowed.

Order pronounced in the open court on 20th November, 2019

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 20/11/2019

Sr.PS:- **PP, SPS

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.