

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER**

**ITA.NOs. 1378 & 1379/MUM/2018  
(A.Ys: 2012-13 & 2011-12)**

M/s Mantra Exports (P.) Ltd Mantra House 91, Marol Co-op Industrial Estate M.V. Road, Andheri (E) Mumbai – 400 059  <b>PAN: AAACM7287J</b>	v.	Dy. CIT, Range – 10(2)(2) Aayakar Bhavan, M.K. Road Mumbai – 400 020
<b>(Appellant)</b>		<b>(Respondent)</b>

**Assessee by : Shri Mayur R. Makadia**

**Department by : Shri R. Bhopati**

**Date of Hearing : 13.09.2019**

**Date of Pronouncement : 27.11.2019**

**ORDER**

**PER C.N. PRASAD (JM)**

1. These two appeals are filed by the assessee against different orders of the Ld. Commissioner of Income-tax (Appeals)-17, Mumbai [hereinafter for short "Ld. CIT(A)"] dated 08.12.2017 for the A.Y. 2011-12 and A.Y.2012-13.

2. The only issue in these two appeals is in respect of confirming the addition/disallowance of unproved purchases from M/s. Amarisa Fashions @ 8.27% and @2.92% for the A.Y.2011-12 and A.Y. 2012-13 respectively.

3. Briefly stated the facts are that, the Assessing Officer while completing the assessment for the A.Y. 2011-12 required the assessee to prove the genuineness of the purchases made from various parties referred at Page No. 5 of the assessment order. Assessing Officer also issued notices U/s.133(6) of the Act to the said parties. The Assessing Officer after observing that some of the notices were returned unserved and in some cases the parties have not responded and since the assessee could not produce the parties, the entire purchases were treated as bogus. Before the Ld. CIT(A) the assessee furnished voluminous evidences to prove the genuineness of the purchases. The Ld. CIT(A) called for remand report from the Assessing Officer and considering the remand report deleted the purchases made by the assessee from eight parties out of nine and estimated profit element from the purchases made by the assessee from one party namely M/s. Amarisa Fashions @ 8.27% and 2.92% for the A.Y. 2011-12 and A.Y. 2012-13 respectively.

4. Before us, Ld. Counsel for the assessee submits that the assessee has produced all the evidences to prove the genuineness of the purchases from M/s. Amarisa Fashions and this fact was also accepted by the Ld.CIT(A). However, the Ld. CIT(A) estimated the profit element from M/s. Amarisa Fashions. Ld. Counsel for the assessee submits that having accepted that the transactions are genuine and having not doubted the voluminous evidences furnished by the assessee there is no justification in estimating the profit element from the genuine purchases. Ld. Counsel for the assessee submits that the only reason why the lower authorities have treated the purchases as bogus is that the assessee could not produce the party. Therefore, the Ld. Counsel for the assessee prays that the addition sustained by the Ld. CIT(A) be deleted.

5. On the other hand, Ld. DR strongly supported the orders of the authorities below.

6. We have heard the rival submissions and perused the orders of the authorities below. It is the categorical finding of the Ld. CIT(A) that the assessee had in fact produced the following documents before the Assessing Officer in the course of the assessment proceedings, in the proceedings before him and also before the Assessing Officer in the remand proceedings: -

- (a). *Sample copies of invoices.*
- (b). *Sample Copies of Purchase Orders*
- (c). *Sample Inspection Reports by foreign buyers of the appellant*
- (d). *Form Hon'ble issued by the Sales Tax Department*
- (e). *Bank statements showing the payment in cheque.*
- (f). *Confirmation of the party.*
- (g). *Quantitative chart linking the purchases made from M/s. Amarisa Fashions with the Exports made by the appellant.*

7. We also observe that the Ld. CIT(A) has given a finding that all these documents cannot be doubted. In fact it is the finding of the Ld. CIT(A) that the assessee has produced voluminous details before the Assessing Officer and Assessing Officer has conveniently chosen to ignore these details despite the same having been filed before him in the course of the assessment proceedings as well as remand proceedings and he also observed that the assessee has duly discharged its burden of proof by filing necessary explanation along with documentary evidences to prove the genuineness of the transactions. It is also the finding of the Ld. CIT(A) that Assessing Officer has not discharged its onus and Assessing Officer has not brought on record any incriminating evidences to show that any cash has been received back by the assessee from the said supplier. None of these findings have been rebutted by the Revenue with evidences. The Ld.CIT(A) having observed that the assessee has discharged its burden by producing all these voluminous evidences in respect of the purchases made from M/s. Amarisa Fashions and having observed that assessee has discharged its onus by filing all these

evidences and having observed that the Assessing Officer has not discharged his burden to prove that these documents were not genuine, there is no reason why these purchases should be treated as non-genuine and to estimate profit element from such purchases. Thus, in the facts and circumstances of the case and taking into consideration the evidences furnished by the assessee, we hold that the purchases made from the M/s. Amarisa Fashions are genuine. In such circumstances there cannot be any estimation of profit element from such purchases. Thus, we direct the Assessing Officer to delete the addition/disallowance in respect of purchases made from M/s. Amarisa Fashions treating them as bogus.

8. Coming to the appeal for the A.Y. 2012-13, facts being identical the decision taken therein for the A.Y. 2011-12 shall apply mutatis mutandis for the A.Y. 2012-13. We order accordingly.

9. In the result, appeals of the assessee are allowed.

Order pronounced in the open court on the 27<sup>th</sup> November, 2019

Sd/-  
**(RAJESH KUMAR)**  
**ACCOUNTANT MEMBER**  
Mumbai / Dated 27/11/2019  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**