

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER

**ITA No. 6471/Mum/2018
(Assessment Year: 2009-10)**

I.T.O.-33(1)(5), C-12, 703, Pratyakshakar Bhavan, BKC, Mumbai- 400051.	Vs.	Heena. A. Parikh, E-304, Dheeraj Presidency, M.G. Road, Opp. Sanskruti Bhavan, Kandivali (West), Mumbai-400067.
PAN/GIR No.AKDPP 9648 L		
(Appellant)	..	(Respondent)

Revenue by	Shri Kumar Padmapani Bora (Sr.DR)
Assessee by	Shri Ajay Parikh
Date of Hearing	04/12/2019
Date of Pronouncement	06/12/2019

आदेश / O R D E R

PER: R.C. SHARMA, A.M.

This appeal by the revenue is directed against the order dated 27/07/2018 of Id. CIT(A)-45, Mumbai for the A.Y. 2009-10 in the matter of order passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act).

2. Rival contentions have been heard and record perused. In this appeal, the revenue is aggrieved by the action of the Id. CIT(A) for upholding the addition on account of purchases to the extent of 5.3%. The facts in brief are that the assessee is engaged in the business of

trading of iron and steel. The A.O. got information regarding assessee being involved in purchase of goods without actual delivery of goods, accordingly, the assessment was reopened by issuing notice U/s 148 of the Act and thereafter the A.O. made addition of Rs. 18,35,824/- in respect of bogus purchases which is equivalent to 12.5% of alleged bogus purchases. By the impugned order, the Id. CIT(A) confirmed the addition to the extent of 5.3% after having the following observation:

“5.4 In the present case, the A.O. has noted in the assessment order in para 3 that the assessee has declared a gross profit of 7.2% in the P&L account and added 12.5% of the bogus purchases to the income declared. Respectfully following the order of the Hon’ble ITAT, Mumbai in the case of M/s Royal Enterprises, the assessing officer is directed to apply the differential percentage of 5.3% (12.5%-7.2%) on the bogus purchases of Rs. 1,46,86,682/-. In other words Rs. 7,78,394/- is confirmed out of the addition of “Rs. 18,35,824/-. Assessee gets part relief. The grounds of appeals are partly allowed.”

3. Against the above order of the Id. CIT(A), the revenue is in further appeal before the ITAT.

4. I have gone through the documents placed on record and found that the addition made by the A.O. was directed to be upheld at 5.3% by the Id. CIT(A) after considering the GP rate declared by the assessee at 7.2%. I found that the Id. CIT(A) has considered various judicial pronouncements and accordingly whatever G.P. has been declared by the assessee was directed to be reduced from the addition so made by

the A.O. Nothing was brought to our notice by the Id DR so as to persuade me to deviate from the finding of the Id. CIT(A) for upholding the addition of Rs. 5.3% of alleged bogus purchases. Accordingly, I uphold the order of the Id. CIT(A).

5. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on 6th December, 2019.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 06/12/2019
*Ranjan

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.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai