

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

BEFORE SHRI R.C.SHARMA, AM & SHRI VIKAS AWASTHY, JM

**ITA No. 6250/Mum/2018
(Assessment Year: 2009-10)**

Income Tax Officer 17(2)(4), Mumbai.	Vs.	Shri Nitin Nandkishor Bangad, 59, Gaya Building, 109 Y.M. Road, Masjid Bunder, Mumbai-400003.
PAN/GIR No. ABAPB 4356 P		
(Appellant)	..	(Respondent)

**C.O. No. 254/Mum/2019
(Arising out of ITA No. 6250/Mum/2018)
(Assessment Year: 2009-10)**

Shri Nitin Nandkishor Bangad, 59, Gaya Building, 109 Y.M. Road, Masjid Bunder, Mumbai-400003.	Vs.	Income Tax Officer 17(2)(4), Mumbai.
PAN/GIR No. ABAPB 4356 P		
(Appellant)	..	(Respondent)

Revenue by	Shri Kumar Padmapani Bora (DR)
Assessee by	Shri Vimal Punmiya (AR)
Date of Hearing	02/12/2019
Date of Pronouncement	09/12/2019

आदेश / O R D E R

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

The appeal filed by the revenue and cross objection filed by the assessee are directed against the order of the Id. CIT(A)-58, Mumbai dated 10/08/2018 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. The grievance of the assessee and the revenue relate to the addition made by the A.O. and partly deleted by the Id. CIT(A) in respect of alleged bogus purchases. The A.O. has computed profit at 15.10% on the alleged bogus purchases and by the impugned order, the Id. CIT(A) confirmed the addition by estimating income @ 5.25% of alleged bogus purchases. The precise finding of the Id. CIT(A) is at page No. 2 to 7 of his appellate order.

3. It was argued by the Id AR of the assessee that the tax effect of the revenue appeal is less than Rs. 50.00 lacs, therefore, in terms of CBDT Circular No. 17 of 2019 dated 08.08.2019, the appeal of the revenue deserves to be dismissed.

4. With regard to merit of the addition sustained by the Id. CIT(A) to the extent of 5.25% on alleged bogus purchases, it was contention of the Id AR that the assessee has all the bills of purchases, all payments made through account payee cheque, supplier provided all identity to bank following KYC norms and all sales of assessee were accepted. He also contended that the assessee earned GP ratio as detailed hereunder for last three years:

Assessment Year	%GP
2006-07	11.99
2007-08	16.57
2008-09	16.76
2009-10	14.23

5. The Id AR has further argued that the assessee's books of account were not rejected u/s 145(3) of the Act by the Id. CIT(A). In the immediately preceding year i.e. assessment year 2008-09, the assessee earned GP ratio of 16.76% on total turnover, while for the year under consideration GP ratio earned was 14.23%. End of justice will be met in this case if GP ratio of 5.25% on alleged bogus purchases is added to income of the assessee against which credit for the declared GP ratio should be granted.

6. On the other hand, the Id DR has relied on the order of the A.O.

7. We have considered the rival submissions and carefully gone through the orders of the authorities below and found from the record that the assessee is engaged in the business of trading in hardware, electric goods and tool kit. The assessee's case was reopened on the information received from the Sales Tax Department regarding assessee obtained accommodation entries. After making enquiry, the A.O. made addition by estimating income at 15.10% on alleged bogus purchases. By the impugned order, the Id. CIT(A) has dealt with the issue threadbare and after considering all the facts and circumstances of the case uphold addition to the extent of 5.25% of the alleged bogus purchases. Neither the Id. AR nor the Id DR could persuade us to deviate from the finding and conclusion of the Id. CIT(A), accordingly, we uphold

the order of the Id. CIT(A) for confirming the addition to the extent of 5.25% on alleged bogus purchases.

8. In the result, both i.e. appeal of the revenue and cross objection of the assessee are dismissed.

Order pronounced in the open court on 09th December, 2019.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

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

Mumbai; Dated 09/12/2019
*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