

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

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

**ITA NO. 6552/MUM/2018 (A.Y: 2009-10)**

Shri Rajesh Jematraj Bafna C/o Aditnath Electronics Room No. 12, 1 <sup>st</sup> Floor, 375/377 Babu Building, Lamington Road Dr. Bhadkamkar Marg, Mumbai -400007  <b>PAN: AANPB4301Q</b>	v.	Income Tax Officer – 19(3)(1) 2 <sup>nd</sup> Floor, Matru Mandir Tardev Road Mumbai – 400 007
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	<b>:</b>	<b>Shri Ravindra Poojary</b>
<b>Department by</b>	<b>:</b>	<b>Shri R. Bhoopathi</b>
<b>Date of Hearing</b>	<b>:</b>	<b>05.12.2019</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>05.12.2019</b>

**ORDER**

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

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – 30, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 10.09.2018 for the A.Y. 2009-10 in sustaining the action of the Assessing Officer in reopening the assessment and disallowing entire purchases of ₹.15,93,357/- made from M/s. Daksha Enterprises as non-genuine/bogus.

2. Ld. Counsel for the assessee submits that Ld.CIT(A) and Ld. Assessing Officer passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, requested that the matter may be restored to the file of the Assessing Officer.

3. Before us, at the time of hearing, assessee filed petition along with additional evidences and prayed for admission of additional evidences. Ld. Counsel for the assessee furnished additional evidences in the form of Ledger Account, purchase Bills, bank statements, purchase register, sales register, item register detail etc., from M/s. Daksha Enterprises to prove that the assessee made purchases from M/s. Daksha Enterprises. Ld. Counsel for the assessee submitted that it has provided all these details to his Chartered Accountant who was engaged then but the said Chartered Accountant did not file these details either before the Assessing Officer or before the Ld.CIT(A). It is submitted that the assessment was also made by the Assessing Officer u/s. 144 r.w.s. 147 of the Act as the details could not be furnished by the Chartered Accountant. Therefore, it is submitted that since these additional evidences go to the root of the matter the same may be admitted and remitted to the file of the Assessing Officer for examination.

4. Ld. DR has no serious objections in sending back the matter to the file of the assessing officer.

5. We have heard the submissions and perused the orders of the authorities below. On a perusal of the additional evidences furnished before us, we are of the view that these evidences go to the root of the matter, accordingly the same are admitted. These evidences have to be examined by the Assessing Officer as these evidences were not available for verification. Thus, we restore all these additional evidences and the issue in hand to the file of the Assessing Officer for denovo adjudication in accordance with law. The assessee may file all these evidences before the assessing officer to substantiate its claim. Needless to say that the assessee shall cooperate with the assessment proceedings before the Assessing Officer and the Assessing Officer shall provide adequate opportunity of being heard to the assessee.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on the 5<sup>th</sup> December, 2019

Sd/-  
**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

Mumbai / Dated 05/12/2019  
Giridhar, Sr.PS

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

**Copy of the Order forwarded to:**

1. The Assessee
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**