

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER
AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA NO.6742/MUM/2018(A.Y. 2010-11)
ITA NO.6743/MUM/2018(A.Y. 2011-12)

Income Tax Officer, Ward-1(1),
Room No.23, B-Wing, 6th Floor,
Ashar IT Park, Wagle Industrial Estate,
Road No.16Z,
Thane 400604

..... Appellant

Vs.

M/s. Five Nine Footwear,
Gala No.9-B, Petwala Chawl,
242/244, M.A.Road, Mumbai 400 008
PAN:AACFF1414H

..... Respondent

Appellant by : Shri Kumar Padmapani Bora
Respondent by : Shri Vishwas V. Mehendale

Date of hearing : 11/12/2019
Date of pronouncement : 11/12/2019

ORDER

PER VIKAS AWASTHY, JM:

These two appeals by the Revenue are directed against the order of Commissioner of Income Tax (Appeals)-1 (in short 'the CIT(A)'), Thane dated 27/09/2018 common for assessment years 2010-11 and 2011-12. Since the issue raised in both the appeals is identical and is arising from same set of facts, therefore, these appeals are taken up together for adjudication and are disposed of vide this common order.

2. Shri Kumar Padmapani Bora representing the Revenue submitted that the assessee is engaged in the business of manufacturing and trading of foot wears. Information was received from the Sale Tax Department, Government of Maharashtra that assessee is beneficiary of accommodation entries provided by hawala dealers. Assessment for assessment years 2010-11 and 2011-12 were reopened. The Assessing Officer observed that assessee has made bogus purchases from M/s.Shakti Trading Co. to the tune of Rs.5,19,985/- in assessment year 2010-11 and Rs.77,022/- in assessment year 2011-12. Consequently, the Assessing Officer made addition of the aforesaid amounts in the respective assessment years. In the First Appellate proceedings the CIT(A) restricted the addition to Rs.4,89,235/- in assessment year 2010-11 and Rs.22,886/- in assessment year 2011-12. The Id.Departmental Representative contended that the CIT(A) has failed to take note of the fact that the assessee has failed to substantiate genuineness of the purchases made from M/s. Shakti Trading Co.. The Id.Departmental Representative prayed for reversing the findings of CIT(A) and restoring the additions made by Assessing Officer.

3. On the other hand, Shri Vishwas V. Mehendale appearing on behalf of the assessee vehemently defended the impugned order and prayed for confirming the same. The Id. Authorized representative of the assessee submitted that order of CIT(A) is reasonable. The sales made by the assessee have not been disputed by the Department, therefore, the entire alleged bogus purchases cannot be added back.

4. Both sides heard and orders of authorities below were perused. It is an undisputed fact that sales made by the assessee have not been disputed by the Revenue. Thus, the entire alleged bogus purchases cannot be added. It is the suppressed profit element on bogus purchases that can only be added as

income of the assessee. After examining the impugned order we find that the same is reasonable and justified, hence, no interference is warranted.

5. In the result, impugned order is upheld and appeals of the Revenue for assessment years 2010-11 and 2011-12 are dismissed being devoid of any merit.

Order pronounced in the open court after hearing of the appeals on Wednesday the 11th day of December, 2019.

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

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 11/12/2019
Vm, Sr. PS(O/S)

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai