

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai**

**Before Shri Shamim Yahya, Accountant Member
and Shri Pawan Singh, Judicial Member**

ITA No. 5283/Mum/2018
(Assessment Year: 2012-13)

M/s. Medicure Chemist Lion Tarachand Hospital Jain Society, Sion (W) Mumbai 400022	Vs.	JCIT, Range – 26(2) Pratyakshya Kar Bhavan BKC, Bandra (E) Mumbai 400051
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PAN – AAJFM3336Q

Appellant

Respondent

Appellant by: Shri Gyaneshwar Kataram
Respondent by: Shri Akhtar H. Ansari

Date of Hearing: 03.10.2019
Date of Pronouncement: 20.12.2019

ORDER

Per Shamim Yahya, AM

This appeal by the assessee is directed against the order of the CIT(A)-38, Mumbai dated 4th April, 2018 and pertains to A.Y. 2012-13.

2. The issue raised is that the learned CIT(A) erred in upholding the disallowance of ₹99,936/- on account of purchase held to be bogus.

3. The brief facts of the case are that the assessee has made the aforesaid purchases and debited the same to Furniture & Fixtures and claimed depreciation of ₹4,997/- only. Upon holding the purchases to be bogus the entire amount of ₹99,936/- was disallowed and added to the income of the assessee.

4. Against this order the assessee had appealed before us. Upon hearing both the Counsels and perusing the records, we find that when the claim in the Profit & Loss Account was only a debit of ₹4,997/- on account of depreciation there was no justification whatsoever of disallowing and

adding the sum of ₹99,936/- debited to Furniture and Fixtures as addition to the Profit & Loss Account.

5. In this view of the matter we modify the order of the authorities below and hold that the disallowance should be restricted to the claim of depreciation of ₹4,997/- on the purchases of fixed assets held to be bogus.

6. In the result this appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 20th December, 2019.

(Pawan Singh)
Judicial Member

(Shamim Yahya)
Accountant Member

Mumbai, Dated: 20th December, 2019

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -38, Mumbai*
4. *The Pr.CIT – 26, Mumbai*
5. *The DR, “SMC” Bench, ITAT, Mumbai*

By Order

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Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.