

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

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA No. 6916/Mum/2018  
Assessment Year : 2010-11

The Income Tax Officer, -21(1)(2), MUMBAI	Vs.	M/s.Barmare Timber Traders, Plot No.18, Reti Bunder, Mahim (W), MUMBAI [PAN : AAAFB1768L]
(Appellant)		(Respondent)

Revenue by : Shri R.Bhoopathi, DR  
Assessee by : Miss Namrata Patel, AR

Date of Hearing : 17-12-2019	Date of Pronouncement : 20-12-2019
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**ORDER**

This appeal by the Revenue is directed against the order of the Commissioner of Income Tax(Appeals)-48, Mumbai, dated 27-09-2018, for the AY.2010-11.

2. The brief facts of the case as emanating from records are: The assessee is a partnership firm, engaged in trading of bamboos, timber, plywood etc. In scrutiny assessment proceedings, the Assessing Officer (AO) observed that the assessee has indulged in obtaining bogus purchase bills of Rs.2,23,205/- from M/s.Ronak Enterprises, a hawala dealer. Accordingly, the AO made an addition of Rs.2,23,205/-, treating the purchases made from hawala dealer as bogus.

Aggrieved against the assessment order dt.19-03-2011 passed u/s.143(3) of the Income Tax Act, 1961 (herein after

referred to as 'the Act'), the assessee filed appeal before the CIT(A).

3. The CIT(A) vide impugned order, partly allowed the appeal of assessee, restricted the addition to Rs.27,900/- i.e., 12.5% of the alleged bogus purchases.

Against the order of First Appellate Authority (FAA), the Revenue is in appeal before the Tribunal.

4. Shri R.Bhoopathi, representing the Department, vehemently defended the assessment order. The ld.DR submitted that the assessee has failed to substantiate genuineness of the purchases. The assessee also failed to furnish copies of transport, octroi bills etc., thus, the assessee could not establish trial of goods originating from suppliers to the godown of the assessee. The ld.DR prayed for modifying the order of CIT(A) and confirming the entire bogus purchases as 'addition'.

5. Per contra, Miss Namrata Patel, appearing on behalf of the assessee, vehemently defended the impugned order and prayed for dismissing the appeal of Revenue.

6. The submissions made by rival sides heard and the orders of the authorities below perused. The sales made by the assessee have not been disputed by the Revenue. Therefore, the entire alleged bogus purchase cannot be added back. Without purchases, there cannot be sales. In the given facts of the case, it appears that the assessee has made

purchases from grey market and thereafter, obtained bills from alleged hawala operators. The FAA has sustained addition to the extent of Rs.27,900/- i.e., 12.5% of the alleged bogus purchases. Taking into consideration documents on record and entirety of facts, I find that the order of CIT(A) fair and justified. Hence, no interference in the impugned order is warranted. The impugned order is upheld and the appeal of Revenue is dismissed.

*Order pronounced in the open court on Friday  
the 20<sup>th</sup> day of December, 2019*

Sd/-  
(VIKAS AWASTHY)  
न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai; दिनांक/Dated : 20-12-2019

TNMM

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai
4. आयकर आयुक्त / CIT, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file

: 4 :

ITA No. 6916/Mum/2018

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai