

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

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA No.	A.Y.	Appellant	Respondent
6909/Mum/18	2010-11	The Income Tax Officer, -19(3)(3), MUMBAI	Shri Shrenik Champalal Jain, 50, 1 <sup>st</sup> Carpenter Street, 3 <sup>rd</sup> Floor, MUMBAI [PAN: AAIPJ6480F]
6910/Mum/18	2011-12		

Revenue by : Shri R.Bhoopathi, DR  
Assessee by : NONE

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

These two appeals by the Revenue are directed against the order of the Commissioner of Income Tax(Appeals)-30, Mumbai, dated 28-09-2018, common for the AYs.2010-11 & 2011-12.

2. The brief facts of the case as emanating from records are: The assessee is an individual, engaged in trading of ferrous and non-ferrous metals. On the basis of information received from the DGIT (Inv), Mumbai, the assessments of assessee for the AYs.2010-11 & 2011-12 were re-opened. In the re-assessment proceedings, the Assessing Officer (AO) observed that the assessee has indulged in obtaining bogus purchase bills from certain hawala dealers and thus, made addition of Rs.20,75,932/- in AY.2010-11 and Rs.40,45,421/- in AY.2011-12 i.e., @12.5% of the alleged bogus purchases in respective assessment years.

Aggrieved against the assessment orders for the respective assessment years, the assessee filed appeals before the CIT(A).

3. The CIT(A) vide impugned order common for both the impugned assessment years, restricted the addition to 4% of the alleged bogus purchases.

Against the order of CIT(A), the Revenue is in appeal for both the assessment years i.e., AYs.2010-11 & 2011-12. The assessee has accepted the additions confirmed by the First Appellate Authority (FAA).

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 delivery challans, 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 addition made by AO.

5. None appeared on behalf of the assessee.

**Findings of Tribunal:**

ITA No.6909/Mum/2018 (AY.2010-11):

6. The submissions made by ld.DR heard and the orders of the authorities below perused. The AO estimated Gross Profit (GP) @12.5% on the alleged bogus purchases. The FAA has restricted the addition to the extent of 4% of the bogus

purchases. After taking into consideration entire facts and the documents on record, I am of considered view that the order of CIT(A) is fair and reasonable, hence no interference is warranted. The impugned order is upheld and the appeal of Revenue is dismissed.

ITA No.6910/Mum/2018 (AY.2011-12):

7. The facts in AY.2011-12 are similar to AY.2010-11. The CIT(A) has restricted the addition to 4% of the bogus purchases on similar lines. The same has been accepted by the assessee. The findings given for rejecting Department's appeal for AY.2010-11 would *mutatis mutandis* apply to assessment year under appeal. Accordingly, this appeal of Revenue is also dismissed.

8. In the result, the appeals of Revenue for both the impugned assessment years are 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

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

आदेशानुसार/ BY ORDER,

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