

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

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA NO. 6979/MUM/2018(A.Y.2010-11)

Income Tax Officer , Ward 2(3),
6th Floor, 'B'Wing, Room No.13,
Ashar I.T. Park, Road No.16Z,
Near Ambika Nagar, Wagle Industrial Estate,
Thane(W) 400 604

..... Appellant

Vs.

Asifa Irfan Dhole,
H.No.60, BD Patil Road,
Opp. Jama Masjid,
Meera Raod (E), Thane 401 107
PAN: AGHPD 1752D

..... Respondent

Appellant by : Shri R. Bhoopati
Respondent by : None

Date of hearing : 18/12/2019
Date of pronouncement : 06/01/2020

ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)- 1 [in short 'the CIT(A)], Thane dated 24/09/2018 for the assessment year 2010-11.

2. Shri R. Bhoopati representing the department submitted that information was received from Sales Tax Department, Maharashtra that the assessee in connivance with hawala dealers has obtained bogus purchases bills. The assessment for assessment year 2010-11 was reopened. The Assessing Officer vide order dated 17/03/2018 passed

under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short ' the Act'), held that the assessee has obtained bogus purchases bills aggregating to Rs.8,96,792/- from M/s. Mona Enterprises. Consequently, the Assessing Officer made addition of the aforesaid amount. In first appellate proceedings, the CIT(A) restricted the disallowance to 25% of the bogus purchases. The Id. Departmental Representative submitted that the assessee could not prove genuineness of the purchase transactions either during assessment proceedings order in the first appellate proceedings. Hence, the addition made by Assessing Officer is justified. The Id. Departmental Representative prayed for reversing the finding of CIT(A) and upholding the assessment order.

3. I have heard the submissions made by Id. Departmental Representative and have perused the orders of authorities below. The Assessing Officer made addition of Rs.8,96,792/- on account of bogus purchases. It was alleged that the assessee has obtained bogus purchases bills from M/s Mona Enterprises during the period relevant to the assessment year under appeal for an amount of Rs.8,96,792/-. It is an undisputed fact that the sales made by assessee have not been disputed by the Assessing Officer. Without purchases there cannot be sales. Hence, the entire alleged bogus purchases cannot be added back. The CIT(A) in first appellate proceedings has restricted the addition to 25% of alleged bogus purchases. The same has been accepted by assessee. Taking into consideration entirety of facts and the material available on record, I am of considered view that the order of CIT(A) is fair and

justified. Hence, warrants no interference. The same is upheld and the appeal of the Revenue is dismissed being devoid of merit.

4. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on Monday, the 06th day of January, 2020.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 06/01/2020
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