

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

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA NO. 6981/MUM/2018(A.Y.2010-11)
ITA NO. 6982/MUM/2018(A.Y.2011-12)

Income Tax Officer 26(3)(5),
Room No.504,5th Floor,
C-11, Bandra Kurla Complex,
Pratyakshakar Bhavan,
Bandra(E), Mumbai 400 051

..... Appellant

Vs.

Mr. Zuber Shrullah Khan,
504, New Dwaraka Puri,
Above Moogaveera Co-Op Bank,
LBS Marg, Kurla(W), Mumbai 400 070
PAN: AHTPK 6149E

..... Respondent

Appellant by : Shri r. Bhoopati
Respondent by : None

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

ORDER

These two appeals by the Revenue are directed against the orders of Commissioner of Income Tax (Appeals)- 38 [in short 'the CIT(A)], Mumbai for the assessment years 2010-11 and 2011-12, respectively. Both the impugned orders are of even date i.e. 21/06/2018. Since the issue raised in both the appeals is arising from same set of facts and identical issue is involved, these appeals are taken up together for adjudication and are disposed of by this composite order.

2. Notice of hearing was sent to the assessee /respondent through RPAD on 20/11/2019 for 18/12/2019. As per acknowledgement available on record, the notice of hearing of appeal was duly served on the assessee. Despite service of notice neither the assessee nor any authorized representative of the assessee was present at the time of hearing of appeal. Therefore, appeal was taken up for hearing with the assistance of Id.Departmental Representative and the material available on record.

3. Shri R. Bhoopati representing the Department submitted that the assessee is engaged in trading of iron and steel. Information was received from DGIT(Inv) Wing that the assessee has indulged in procuring bogus purchases bills from various hawala dealers in assessment year 2010-11 and 2011-12. The assessee obtained bogus purchases bills to the tune of Rs.65,37,141/- in assessment year 2010-11 and Rs.52,39,154/- in assessment year 2011-12. On the basis of the aforesaid information from DGIT (Inv), assessments for assessment year 2010-11 and 2011-12 were reopened. The Assessing Officer in reassessment proceedings, inter-alia, made addition on account of bogus purchases to the extent of 12.5% of the bogus purchases i.e. 8,17,143/- in assessment year 2010-11. On similar lines addition was made by the Assessing Officer in assessment year 2011-12 vide assessment order dated 23/02/2016 passed under section 147 r.w.s. 143(3) of the Income Tax Act, 1961 (in short 'the Act'), on account of bogus purchases i.e. 6,54,894/-. The assessee assailed the additions in appeal before the CIT(A). The CIT(A) vide impugned order restricted the addition to the difference between net profit declared by the assessee and the gross profit estimated by the Assessing Officer.

Thus, for assessment year 2010-11, the CIT(A) restricted the addition to 10.33% of the bogus purchases and for 2011-12, the CIT(A) restricted the addition to 9.8% of the bogus purchases. The Id. Departmental Representative vehemently supported the assessment order and prayed for reversing the findings of the CIT(A).

4. I have heard the submissions made by Id. Departmental Representative and have examined the orders of authorities below. The addition on account of bogus purchases have been made by Assessing Officer by estimating gross profit @ 12.5% of alleged bogus purchases. In the first appellate proceedings, the CIT(A) has reduced the estimation of gross profit by the net profit already declared by the assessee. The CIT(A) restricted the the addition to 10.33% in assessment year 2010-11 i.e.(12.5% - 2.17%) and 9.80% in assessment year 2011-12 i.e. (12.5% - 2.70%). Taking into consideration, entirety of facts, I find no reason to interfere with the findings of CIT(A). The order of first appellate authority is reasonable and justified, hence, the same is upheld. The appeals of the Revenue are without any merit and the same are dismissed.

5. In the result, both the appeals of the Revenue are 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