

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER

**ITA No. 40/Mum/2019
(Assessment Year: 2011-12)**

I.T.O.-8(2)(4), Room No. 618, 6 th Floor, Aayakar Bhawan, M.K. Road, Mumbai-400020.	Vs.	M/s Sunbeam Monochem Pvt. Ltd., 201/B, Runwal & Omkar Esquare, Opp. Sion Chunabhatti Signal, Eastern Express Highway, Sion (E), Mumbai-400022.
PAN/GIR No.AABCS 8172 P		
(Appellant)	..	(Respondent)

Revenue by	Shri Akhtar H Ansari (DR)
Assessee by	Shri Satish R. Mody (AR)
Date of Hearing	13/01/2020
Date of Pronouncement	13/01/2020

आदेश / O R D E R

PER: R.C. SHARMA, A.M.

This is the appeal filed by the revenue against the order of the Id. CIT(A)-14, Mumbai dated 21/08/2018 for the A.Y. 2011-12 in the matter of order passed U/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act).

2. In this appeal, the revenue is aggrieved by the action of the Id. CIT(A) for restricting the addition on account of bogus purchases to the extent of 12.5%.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee is a private limited company and filed its return of income on 29/09/2011 declaring total income of Rs. 26,29,054/-. The assessment was reopened on the plea that the assessee has made bogus purchases without taking actual delivery of goods. After recording reasons, the A.O. reopened the assessment and added 100% of such alleged bogus purchases in assessee's income.

4. By the impugned order, the Id CIT(A) has restricted the addition to the extent of 12.5% after considering various judicial pronouncements as stated at page 8 to 12 of his appellate order. Against which, the revenue is in further appeal before the ITAT.

5. I have heard the rival contentions and found that the addition has been made by the A.O. as per the information by the Sales Tax Department. However, the sales made by the assessee were not disputed. After considering various judicial pronouncements, the Id. CIT(A) has restricted the addition to the extent of 12.5% mainly relying on the decision of Hon'ble Gujarat High Court in the case of CIT Vs Simit Sheth (2013) 38 Taxmann.com 385 (Guj) and in the case of Vijay M. Mistry Construction Ltd. 355 ITR 498 (Guj). After considering various judicial pronouncements and the facts of the case,

the Id. CIT(A) found that 12.5% addition in respect of bogus purchases will serve the end of justice. Nothing was brought on record so as to persuade me to deviate from the findings of the Id. CIT(A) in restricting the addition to the extent of 12.5%. Accordingly, I do not find any reason to interfere in the order of the Id. CIT(A) and uphold the same.

6. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on 13th January, 2020.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 13/01/2020
*Ranjan

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai