



**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"SMC" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA no.38/Mum./2019  
(Assessment Year : 2010-11)

Asstt. Commissioner of Income Tax  
Circle-24(1), Mumbai

..... Appellant

v/s

Advanced Techniques & Technologies  
406, Golden Chambers  
New Link Road, Andheri (W)  
Mumbai 400 053  
PAN – AAFFA577R

..... Respondent

Revenue by : Shri R. Bhoopathi  
Assessee by : None

Date of Hearing – 09.01.2020

Date of Order – 17.01.2020

**ORDER**

**PER SAKTIJIT DEY. J.M.**

The aforesaid appeal has been filed by the Revenue challenging the order dated 24<sup>th</sup> September 2018, passed by the learned Commissioner of Income Tax (Appeals)-36, Mumbai, pertaining to the assessment year 2010-11.

2. The grievance of the Revenue in the present appeal is confined to the partial relief granted by learned Commissioner (Appeals) in the

matter of addition made by the Assessing Officer on account of non-genuine purchases.

3. Brief facts are, the assessee, a partnership firm, is engaged in the business as a manufacturer, retailer, importer of packing materials, piston rings, etc. For the assessment year under dispute, the assessee filed its return of income on 26<sup>th</sup> September 2010, declaring total income of ₹ 11,51,026. Initially, the return of income filed by the assessee was processed under section 143(1) of the Act. Subsequently, on the basis of information received from the Sales Tax Department, Government of Maharashtra, through the office of the DGIT (Inv.), Mumbai, that the assessee is a beneficiary of accommodation bills provided by certain entities identified as hawala operators, the Assessing Officer re-opened the assessment under section 147 of the Act. During the assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of purchases worth ₹ 2,53,989, claimed to have been made from Dharmesh Trading Co. during the year under consideration. In this context, the Assessing Officer called upon the assessee to furnish various documentary evidences. As observed by the Assessing Officer, in response to the query raised, the assessee furnished purchase bills, bank statement, ledger account copy, etc. Further, to verify the genuineness of such purchases independently, the Assessing Officer

issued notice under section 133(6), which as alleged by the Assessing Officer, revealed that the purchases are not genuine. Considering these facts the Assessing Officer treated the purchases as non-genuine and relying upon certain judicial precedents he disallowed 25% of such purchases and added back the amount of ₹ 63,497, to the income of the assessee. The assessee challenged the aforesaid addition before the first appellate authority.

4. After considering the submissions of the assessee in the context of facts and material on record, learned Commissioner (Appeals) reduced the addition to 12.5% of the non-genuine purchases.

5. When the appeal was called for hearing, no one was present on behalf of the assessee to represent the case. There is no application by the assessee seeking adjournment either. Therefore, we proceed to dispose off the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and on the basis of material available on record.

6. Heard the learned Departmental Representative and perused the material on record. It is evident, though, the assessee was unable to conclusively prove the genuineness of purchases of ₹ 2,53,989, claimed to have been made from a party, however, the Assessing Officer has ultimately disallowed 25% of such purchases. Whereas,

learned Commissioner (Appeals) after having noted all the relevant facts has reduced the addition to 12.5% of the non-genuine purchases. Thus, as could be seen, ultimately the dispute is with regard to the quantum of disallowance that has to be made on account on non-genuine purchases. After considering the nature of business and all other relevant factors, we are of the considered opinion that disallowance @ 12.5% of the non-genuine purchases, as has been done by the learned Commissioner (Appeals), is fair and reasonable and meets the ends of justice. Accordingly, we uphold the decision of learned Commissioner (Appeals) on this issue. Grounds are dismissed.

7. In the result, Revenue's appeal is dismissed.

Order pronounced in the open Court on 17.01.2020

**Sd/-**  
**RAJESH KUMAR**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 17.01.2020**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

True Copy  
By Order

Pradeep J. Chowdhury  
Sr. Private Secretary