

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

**BEFORE SHRI MAHAVIR SINGH, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.5524/Mum/2018
(Assessment Year :2010-11)**

&

**ITA No.5525/Mum/2018
(Assessment Year :2009-10)**

M/s. Navjeevan Synthetics Pvt. Ltd. 158/164, Laxmi Bhavan Kalbadevi Road Mumbai – 400 002	Vs.	DCIT 4(3)(1) Aayakar Bhavan Mumbai – 400 020
PAN/GIR No. AAACN1370K		
(Appellant)	..	(Respondent)

Assessee by	Shri H.S. Raheja
Revenue by	Ms. Kavita P Kaushik
Date of Hearing	06/01/2020
Date of Pronouncement	08/01/2020

आदेश / ORDER

PER M. BALAGANESH (A.M):

These appeals in ITA No.5524/Mum/2018 & 5525/Mum/2018 for A.Yrs.2009-10 & 2010-11 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-9, Mumbai in appeal No.CIT(A)-9/Cir.4/498/2015-16 & CIT(A)-9/Cir.4/144/2015-16 respectively dated 23/07/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to

as Act) dated 25/01/2016 & 27/03/2015 respectively by the Id. Dy. Commissioner of Income Tax – 4(3)(1), Mumbai (hereinafter referred to as Id. AO).

2. The ground No.1 raised by the assessee challenging the validity of reopening was stated to be not pressed by the Id. AR at the time of hearing for which necessary endorsement has been made in our file. Accordingly, the same is dismissed as not pressed for both the years.

3. The ground No.2 raised by the assessee is with regard to action of the Id. CIT(A) confirming the disallowance made on account of non-genuine purchases @12.5%.

3.1. We have heard rival submissions. It is not in dispute that assessee had made purchases from certain dealers whose name had appeared in the hawala list prepared by the Sales Tax department of Mumbai and accordingly, the Id. AO had brought to tax the profit element @12.5% on the total value of purchases made from those dealers. It is not in dispute that the assessee had submitted purchase bills / invoices issued by these alleged hawala parties, purchase orders, delivery challans, details of payment, bank statements, stock records etc., before the lower authorities. It is not in dispute that the payments have been made to these parties by account payee cheques. We find that assessee is engaged in the business of manufacturing and trading in textile cloth and processing of hosiery and velvet cloth. It is not in dispute that goods purchased from the alleged suppliers have been either consumed / sold by the assessee and hence, only profit element thereon needs to be brought to tax. Since, in the instant case, the entire documentary records were duly furnished by the assessee including the proof of delivery of

goods by way of delivery challans and stock records and at the same time goods having been purchased from the grey market by the assessee is also not disputed. Hence, what could have been saved by the assessee in the instant case would be only the VAT portion and little bit of incidental profit in the overall transaction. Hence, we hold that the disallowance @8% on the total value of purchase from these alleged parties would meet the ends of justice. Accordingly, the ground No.2 raised by the assessee for both the years is partly allowed.

4. The ground No.3 raised by the assessee for both the years is general in nature and does not require any specific adjudication.

5. In the result, appeals of the assessee are partly allowed.

Order pronounced in the open court on this 08/01/2020

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 08/01/2020
KARUNA, *sr.ps*

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.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai