

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai**

Before Shri R.C. Sharma, Accountant Member

ITA No. 601/Mum/2019
(Assessment Year: 2009-10)

Income Tax Officer-28(1)(2) Room No. 328, 3rd Floor Tower No. 6, Vashi Railway Station Complex, Vashi Navi Mumbai 400703	Vs.	Shri Bechar Harji Ravaria 102, B-Wing, Shiv Shakti Apts Sector-1, Plot No. 110, Sanpada Navi Mumbai 400705
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PAN – AGXPP5001B

Appellant

Respondent

Appellant by: Shri Anoop Hiwase
Respondent by: None

Date of Hearing: 29.01.2020
Date of Pronouncement: 30.01.2020

ORDER

Per R.C. Sharma, AM

This is an appeal filed by the Revenue against the order of the CIT(A)-26, Mumbai, in the matter of order passed by the AO under Section 143(3)/147 of the Income Tax Act, 1961 (hereinafter "the Act").

2. The only grievance of the Revenue is against the order of the CIT(A) restricting the disallowance on account of bogus purchases to the extent of 12.5%.

3. I have gone through the orders of the authorities below and found that the assessee is selling copier machine, toner, printer and lamination material. On getting information that assessee is engaged in taking bogus bills for purchases, the AO reopened assessment and thereafter added 100% of alleged bogus purchases in assessee's income. By the impugned order the CIT(A) restricted the addition to the extent of 12.5%, after controverting the findings recorded by the AO. The CIT(A) observed that there cannot be sales without corresponding purchases. Thereafter, considering the judicial pronouncement in the case of CIT vs. Smit P.

Sheth 356 ITR 451 (Guj) and applying the principle laid down therein to the facts of the present case, restricted the addition to the extent of 12.5%. Nothing was placed before me by the learned D.R. so as to persuade me to deviate from the findings recorded by the CIT(A) in paras 6.1 and 6.2 of the appellate order.

4. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 30th January, 2020.

Sd/-
(R.C. Sharma)
Accountant Member

Mumbai, Dated: 30th January, 2020

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -26, Mumbai*
4. *The Pr.CIT - 28, Mumbai*
5. *The DR, "SMC" Bench, ITAT, Mumbai*

By Order

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Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.