

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

**Before Shri R.C. Sharma, Accountant Member**

**ITA No. 525/Mum/2019**  
(Assessment Year: 2011-12)

Income Tax Officer-26(2)(3)  
C-11, Pratyakshakar Bhavan  
Bandra Kurla Complex  
Bandra (E)  
Mumbai 400051

Shri Mohammed Ayub Khan  
Shop No. 84 L, Lane No. 4  
Vs. Shivaji Kutir Mandal  
LBS Marg, Kurla West  
Mumbai 400070

PAN – AHGPK0065Q

**Appellant**

**Respondent**

Appellant by: Shri Anoop Hiwase  
Respondent by: Shri Satishchandra Chandak

Date of Hearing: 28.01.2020  
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)-38, Mumbai for A.Y. 2011-12, in the matter of order passed under Section 143(3)/147 of the Income Tax Act, 1961 (hereinafter "the Act").

2. In this appeal the Revenue is aggrieved by the action of the CIT(A) according addition only to the extent of 12.5% in respect of the alleged bogus purchases, which was made by the AO at 25% of the bogus purchase.

3. Rival contentions have been heard and record perused. Brief facts of the case are that the assessee is engaged in trading ferrous and non ferrous scrap. The AO got information regarding the assessee taking accommodation bills of purchases. Accordingly he reopened assessee by observing that the assessee has inflated purchase price. The AO added 25% of the alleged bogus purchases in assessee's income. By the impugned order the CIT(A) restricted the addition to the extent of 12.5%

after observing that corresponding sales were not disputed. After considering the entire facts and circumstances and applying the judicial pronouncement as laid down by the Hon'ble Gujarat High Court in the case of CIT vs. Smit P. Sheth 356 ITR 451 the CIT(A) restricted the addition to the extent of profit element embedded in such alleged bogus purchases to the extent of 12.5%. The detailed findings reported by the CIT(A) as per paras 7.1.1 to 7.3.8 has not been controverted by bringing any positive record. Accordingly I do not find any reason to interfere in the order of the CIT(A) restricting the addition in respect of bogus purchases to the extent of the profit element embedded therein.

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

Order pronounced in the open court on 30<sup>th</sup> January, 2020.

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

Mumbai, Dated: 30<sup>th</sup> January, 2020

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -38, Mumbai*
4. *The Pr.CIT - 26, Mumbai*
5. *The DR, "SMC" Bench, ITAT, Mumbai*

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Mumbai Benches, Mumbai*

n.p.