

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Pawan Singh (JM)

I.T.A. No. 5970/Mum/2018 (Assessment Year 2010-11)

ITO Ward-21(2)(1) 1 st Floor Piramal Chambers Lalbaug, Mumbai-400 012.	Vs.	M/s. Khajanchi Sohanraj Kanak (HUF) B-11 Kasturchand Mill Compound, B/H C, Jawle Marg, Dadar (West) Mumbai-400 028. PAN : AAAHK2696G
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri Akhtar H. Ansari
Date of Hearing	26.11.2019
Date of Pronouncement	07.01.2020

ORDER

Per Shamim Yahya (AM) :-

This is an appeal by the revenue is directed against the order of learned CIT(A) dated 31.7.2018 and pertains to A.Y. 2010-11.

2. Grounds of appeal read as under :-

1. "On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition on account of bogus purchases, ignoring the fact that the action of the Assessing Officer was based on credible information received from the Maharashtra Sales Tax Department and the assessee failed to discharge the primary onus of proving with proper documentary evidences that the unaccounted purchases was not made by him and merely relied on denials"

2. "The appellant prays that the order of Ld. CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored."

3. Brief facts are as under :-

The assessee had filed return income for A.Y. 2010-11 on 30.11.2010 declaring total income of Rs.3,23,420/-. In this case, information was received

form DGIT (Inv.) along with statements of such parties indulged in issuance of bogus bills. On going through the information, AO found that ibe/assessee has availed accommodation/fictitious bills from M/s. Great International for Rs. 76,500/-. The AO completed assessment by adding this amount of Rs. 76.500/- to the total income of the assessee.

4. Upon assessee appeal learned CIT(A) gave a finding that there is no transaction of the assessee with the alleged bogus supplier. Hence, he deleted the addition the learned CIT(A) held as under :-

“5.1 Ground No. 2 [(i). (ii). (Mi)] & 3:- Ground No. 2 is the only substantive ground, which has three sub-parts and are inter-related. The main argument of the assessee is that there was no transaction with M/s.Great International during the year. In this regard, Balance Sheet and capital account of the assessee were filed as per the paper book and was verified and its seen that the only income is income from share of profit and interest on capital received from Khajanchi Super Market. Clearly, there is no proprietary business of the assessee and apparently from the capital account and balance sheet and computation of income, it is seen that assessee has not entered into any independent transaction including purchase and sale of any item from any concern. Apart from share of profit and interest on capital, assessee has income from other sources, which consists of bank interest and interest on loan. The assessee had stated the same arguments before the AO at the time of assessment that it has not engaged in any business activity and it has no business transaction with M/s. Great International (para 6 of the assessment order). Further, AO has neither rebutted this claim of the assessee nor has brought any evidence on record to hold that assessee had transaction with M/s. Great International. In view of this, the plea of the assessee is accepted and the ground no. 2 & its sub parts and ground 3 are upheld and the AO is directed to delete the addition of Rs. 75,600/-.”

5. Against the above order the Revenue is in appeal before us.

6. Upon hearing learned Departmental Representative and perusing the record, we do not find any infirmity in the order of the learned CIT(A). hence, we uphold the same.

7. In the result, appeal of the Revenue is dismissed.

Order has been pronounced in the Court on 7.1.2020.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 07/1/2020

Copy of the Order forwarded to :

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

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai