

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND SHRI RAJESH
KUMAR, ACCOUNTANT MEMBER**

**ITA No.7513/MUM/2018
Assessment Year: 2010-11**

ITO-27(2)(1), Mumbai	Vs.	Krupa Scientific & AAPPL Co. 113/115, Shivam Industrial Estate, Govandi, Mumbai, Pin- 400088. PAN: AAAFK1899H
(Appellant)		(Respondent)

Present for:

Appellant by : R. Bhoopati, CIT-DR
Respondent by : None

Date of Hearing : 07.01.2020

Date of Pronouncement : 31.01.2020

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 17.10.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. The only issue raised by the Revenue in grounds of appeal is against the deletion of addition by CIT(A) to the tune of Rs. 1,00,555/- being 12.50 bogus purchases as against 100% by the AO.

3. At the time of hearing neither the assessee nor his authorized representative appeared for attending the hearing nor any adjournment application was received despite service of notice through RPAD. Therefore, we are proceeding to decide this appeal on merits after hearing the ld. DR.

4. The facts in brief are that the assessee filed his return of income on 30.09.2010 declaring total income of Rs.3,43,670/- which was processed u/s 143(1) of the Act. Thereafter the AO received information from DGIT (Inv.), Mumbai that the assessee is beneficiary of hawala purchase entries to the tune of Rs.1,14,920/- and accordingly reasons were recorded and notice u/s 148 was issued. The AO issued show-cause notice to the assessee to prove the genuineness of the purchases failing which why the same should not be added to the total income of the assessee. Accordingly the assessee filed a copies of bills, vouchers and other evidences to prove the genuineness of the purchases. However the reply of the assessee did not find favour with the AO. Thus after relying the decision of Hon'ble Delhi High Court in the case of CIT vs. Korlay Trading Co. Ltd. 232 ITR 820) and Hon'ble Delhi High Court in the case of CIT vs. La Medica 117 Taxman 628 (2001) applied the rate of 100% on the said bogus purchases by making an addition of Rs.1,14,920/- by framing assessment u/s 143(3) r.w.s. 147 of the Act.

5. In the appellate proceedings, the ld. CIT(A) partly allowed the appeal of the assessee by partly sustaining the addition @12.5% on the bogus purchases after taking into account the contentions and submissions made by the assessee during the course of appellate proceedings and by following the decisions of Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth reported in 356 ITR 451

and in the case of M/s Bholanath Poly Fab. P. Ltd. reported in 355 ITR 290.

6. After hearing the ld. DR and perusing the material on record, we observe that in this case the undisputed facts are that the assessee was beneficiary of hawala purchases entries to the tune of Rs.1,14,920/-. Though the assessee has tried to substantiate and prove the genuineness of the purchases yet the AO sought to assess the said entire bogus purchases to tax on the ground that these purchases are from hawala dealer who were engaged in issuing bogus purchase bills without doing any business and and consequently applied added the entire bogus purchases thereby making an addition of Rs. Rs.1,14,920/- though not doubting the genuineness of the sales. The ld. CIT(A) reduced the said addition to 14,365/- by applying 12.5% bogus purchases bogus purchases by following the decision of CIT vs. Simit P. Sheth and M/s Bholanath Poly Fab. P. Ltd which appears to be correct and reasonable. We are, therefore, inclined to uphold the order of the ld. CIT(A) on this issue which is in consonance with the decisions of the various High Courts and Tribunals by dismissing the appeal of the Revenue.

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

Order pronounced in the open court on 31.01.2020.

Sd/-
(Saktijit Dey)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 31.01.2020.

RS, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.