



ITA No.4575-76/Mum/2018  
Shri Murli Manohar Agarwal  
Assessment Years :2008-09 & 2011-12

**आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, MUMBAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं./ I.T.A. No.4575/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2008-09)

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आयकरअपील सं./ I.T.A. No.4576/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2011-12)

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| <b>Shri Murli Manohar Aggarwal</b><br>C/o. AVI Gems<br>DC-6210, Bharat Diamond Bourse<br>Bandra Kurla Complex<br>Mumbai-400 051. | <b>बनाम/</b><br><b>Vs.</b> | <b>Income tax Officer-19(2)(3)</b><br>Matru Mandir<br>Mumbai. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AABPA-4295-N</b>  |                            |   |
| (□ पीलार्थी/ <b>Appellant</b> )  | :                          | (प्रत्यर्थी / <b>Respondent</b> )                             |

|                    |   |                                |
|--------------------|---|--------------------------------|
| <b>Assessee by</b> | : | Shri Niraj Punamiya-Ld.AR      |
| <b>Revenue by</b>  | : | Ms. Jyoti Lakshmi Nayak-Ld. DR |

|  |   |            |
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| सुनवाई की तारीख/<br><b>Date of Hearing</b>       | : | 04/02/2020 |
| घोषणा की तारीख /<br><b>Date of Pronouncement</b> | : | 05/02/2020 |

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by assessee for Assessment Years [in short referred to as ‘AY’] 2008-09 and 2011-12 contest separate orders of learned first appellate authority. Since issues are common i.e. estimated additions on account of *alleged bogus purchases*, the appeals were heard together and are now being disposed-off by way of this



consolidated order for the sake of convenience and brevity. The Ld. Authorized Representative for Assessee (AR) submitted that legal grounds challenging the validity of reassessment proceedings are not being pressed under both the appeals. In the above background, we first take up appeal for AY 2008-09. We have carefully heard the rival submissions and perused relevant material on record. Our adjudication to the subject matter of appeals would be as given in succeeding paragraphs.

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2.1 Briefly stated the assessee being resident individual stated to be engaged in trading of diamonds was assessed for year under consideration u/s143(3) r.w.s. 147 on 29/03/2016 wherein the income of the assessee was determined at Rs.102.50 Lacs after certain additions as against returned income of Rs.98.52 Lacs filed by the assessee on 30/09/2008 which was processed u/s 143(1).

2.2 Pursuant to receipt of certain information that the assessee availed accommodation entries from *Bhanwarlal Group Companies*, the case was reopened as per due process of law vide issuance of notice u/s 148 on 17/03/2015 which was followed by statutory notices wherein the assessee was directed to file requisite details and substantiate purchase transactions.

2.3 It transpired that the assessee reflected aggregate purchases of Rs.37.25 Lacs from two group entities and armed with investigation carried out in the case of *Bhanwarlal Group Companies*, Ld. AO to proceeded to treat these purchases as non-genuine purchases. After considering assessee's submissions and facts on record, Ld.AO rejected



assessee's books of accounts u/s 145(3) and estimated additions of 8% against these purchases which came to Rs.2.98 Lacs.

3. The learned first appellate authority, after considering assessee's submissions and the nature of trade, reduced the estimation to 5%. Still aggrieved, the assessee is under further appeal before us.

4. Upon due consideration, we are of the opinion that there could be no sale without actual purchase of material particularly when the assessee was into trading activities. The sales turnover has not been disputed / disturbed by the revenue. The assessee was in possession of primary purchase documents and the payments to the suppliers were through banking channels. However, at the same time, the assessee failed to produce any of the suppliers to confirm the transactions. The search proceedings indicated that the said suppliers were acting merely as paper entities. The stated factual matrix, in our considered opinion, would make it a fit case to make estimated additions to account for profit element embedded in these purchase transactions to factorize for profit earned by assessee against possible purchase of material in the grey / unorganized market and undue benefit of VAT against such bogus purchases, which lower authorities have rightly done so. Therefore, finding the estimation of 5% to be quite fair and reasonable, we decline to interfere in the impugned order. The appeal stands dismissed.

**ITA No. 4576/Mum/2018, AY 2011-12**

5. Facts are pari-materia the same in this year. The assessee was similarly saddled with estimated additions of 3% by Ld. AO. The same, upon confirmation by Ld. CIT(A), is under further appeal before us. Facts being pari-materia the same, finding the estimation to be quite fair and



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reasonable, we decline to interfere in the impugned order in the matter of estimation.

### **Conclusion**

6. Both the appeal stands dismissed.

*Order pronounced in the open court on 05<sup>th</sup> January, 2020.*

**Sd/-  
(Mahavir Singh)**

उपाध्यक्ष / **Vice President**

मुंबई Mumbai; दिनांक Dated : 05/02/2020

*Sr.PS, Jaisy Varghese*

**Sd/-  
(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.