

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, ACCOUNTANT MEMBER**

ITA NO. 221/MUM/2019 : **A.Y : 2010-11**

Raman Trikha
403A, Adelphi Co-op. Society,
Building No. 10, Shastri Nagar,
Andheri (W), Mumbai 400 053.
PAN : AABPT7266L (Appellant)

Vs. ITO - 16(1)(5), Mumbai
(Respondent)

Appellant by : None
Respondent by : Shri R. Bhoopathi

Date of Hearing : 20/01/2020
Date of Pronouncement : 29/01/2020

ORDER

PER VIKAS AWASTHY, JM

This appeal by the assessee is directed against the order of CIT(A)-4, Mumbai dated 22.11.2018 for the assessment year 2010-11.

2. The notice of appeal was sent to the assessee through RPAD. As is evident from the acknowledgement card available on record, the same was duly served. Despite service of notice, none appeared to represent the assessee, nor there is any letter seeking adjournment on behalf of the assessee. It seems that assessee is not keen to pursue his appeal. Accordingly, we proceed to decide the appeal on the basis of material available on record and with the assistance of learned DR.

3. The brief facts of the case as emanating from records are: The assessee is a trader in steel. On the basis of information received from DGIT (Inv.), Mumbai that assessee has indulged in bogus purchase of goods and material, assessment for assessment year 2010-11 was reopened by the Assessing Officer. In reassessment proceedings, the Assessing Officer observed that assessee had obtained bogus purchase bills aggregating to Rs.1,18,60,933/-. The Assessing Officer computed gross profit @ 3% on such alleged bogus purchases and made addition of Rs.3,55,828/-. Aggrieved against the assessment order dated 31.03.2015 passed under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act'), the assessee filed appeal before the CIT(A) challenging reopening as well as addition on merits. The CIT(A) vide impugned order dismissed appeal of assessee *in toto*. Now, the assessee is in appeal before the Tribunal. The assessee in appeal has assailed the reopening under Section 147 r.w.s. 148 of the Act, as well as, the addition made on account of alleged accommodation entries.

4. Shri R. Bhoopathi representing the Department vehemently supporting the impugned order submitted that assessee has indulged in obtaining bogus purchase bills from declared *hawala* dealers. During the assessment proceedings, the Assessing Officer had issued notices to 8 *hawala* dealers from whom assessee had procured bogus bills. Out of 8 parties, notice could not be served on 7 as they had either left or their addresses were unknown or they were not traceable. The only dealer on whom notice under Section 133(6) of the Act was served did not respond. The assessee had failed to discharge his onus in proving genuineness of the parties and the transactions. Also, the assessee failed to conclusively prove trail of goods. The Assessing Officer made

a very reasonable addition of 3% of the total bogus purchases. The CIT(A) did not find any infirmity in the assessment order and hence upheld the same.

5. Orders of the authorities below perused. The assessee in ground no. 1 has assailed reopening of assessment under Section 147 of the Act. After perusal of the findings of CIT(A) on this issue, we find no infirmity in the same. There is no material before us to controvert the findings of CIT(A) on this issue, hence, we uphold the validity of reopening of assessment. Consequently, ground no. 1 of appeal by the assessee is dismissed.

6. In ground no. 2 of appeal, the assessee assailed addition of Rs. 3,55,828/-. In reassessment proceedings, the Assessing Officer had come to the conclusion that assessee has obtained bogus purchase bills from declared *hawala* dealers aggregating to Rs.1,18,60,933/-. The Assessing Officer estimated gross profit @ 3% of such bogus purchases. The CIT(A) has upheld the same. After examining the impugned order, we are of the view that the order of CIT(A) is reasonable and hence, warrants no interference. The ground no. 2 of the appeal by assessee is without any merit, hence the same is dismissed.

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

Order pronounced in open Court on Wednesday, the 29th day of January, 2020.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Date : 29th January, 2020

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai