



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

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

ITA no.6273/Mum./2018  
(Assessment Year : 2011-12)

Income Tax Officer  
Ward--3(5), Mumbai

..... Appellant

v/s

Rupesh P. Bhatia  
C/o S.S. Subey, B-Wing  
3, Rameshwar Krupadham CHS  
Badasaheb Joshi Marg, Phadke X Road  
Dombivali (E), Kalyan 421 201  
PAN - AATPB6537E

..... Respondent

Revenue by : Smt. Jothilakshmi Nayak  
Assessee by : Shri N.A. Kulkarni

Date of Hearing - 08.01.2020

Date of Order - 05.02.2020

**ORDER**

**PER SAKTIJIT DEY. J.M.**

The captioned appeal has been filed by the Revenue challenging the order dated 6<sup>th</sup> August 2018, passed by the learned Commissioner of Income Tax (Appeals)-1, Thane, for the assessment year 2010-11 and 2011-12. However, in the present appeal, we are concerned with the assessment year 2011-12 only.

2. The grounds raised by the Revenue are on the common issue of partial relief granted by learned Commissioner (Appeals) in the matter of addition made on account of non-genuine purchases.

3. Brief facts are, the assessee, an individual, is engaged in supply of engineering goods. For the assessment year under consideration, the assessee filed his return of income on 29<sup>th</sup> September 2011, declaring total income of ₹ 5,99,480. Though, initially, the return of income was processed under section 143(1) of the Act, however, subsequently, on the basis of information received from the Sales Tax Department, Government of Maharashtra, through the office of the DGIT (Inv.), Pune, revealing that the assessee is a beneficiary of accommodation bills provided by certain hawala operators, the assessment was re-opened under section 147 of the Act. During the assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of purchases amounting to ₹ 15,19,553, claimed to have been made during the year from certain parties. As observed by the Assessing Officer, in response to the query raised, the assessee did not furnish any evidence on the plea that due to a theft committed in its business premises, the computers and all other relevant documents have been stolen, hence, he is not in a position to furnish any evidence. Due to non-furnishing of evidence by the assessee, the Assessing Officer treated the entire purchases of

₹ 15,19,553, as non-genuine and added back to the income of the assessee. The assessee challenged the aforesaid addition before the first appellate authority.

4. After considering the submissions of the assessee in the context of facts and material on record, learned Commissioner (Appeals) restricted the disallowance / addition to the extent of 25% of the non-genuine purchases.

5. The learned Departmental Representative relying upon the observations of the Assessing Officer submitted, since the assessee failed to furnish any evidence to prove the purchases, the Assessing Officer was justified in making 100% addition.

6. The learned Authorised Representative strongly relying upon the order passed by learned Commissioner (Appeals) submitted, considering the fact that the addition has been made @ 25%, which has been accepted by the assessee, Revenue's appeal should be dismissed.

7. We have considered rival submissions and perused the material on record. Though, it may be a fact that being not satisfied with the submissions of the assessee, the Assessing Officer has added the entire purchases by treating them as non-genuine, however, learned Commissioner (Appeals) taking note of the factual position has

restricted the addition to 25% of the non-genuine purchases. In our considered opinion, the aforesaid decision of learned Commissioner (Appeals) is in accordance with the ratio laid down in various judicial precedents, hence, does not require any modification. Accordingly, upholding the decision of learned Commissioner (Appeals) on the issue, we dismiss the grounds raised.

8. In the result, appeal stands dismissed.

Order pronounced in the open Court on 05.02.2020

**Sd/-**  
**RAJESH KUMAR**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 05.02.2020**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai