

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER

**ITA No. 956 & 957/Mum/2019
(Assessment Year: 2010-11 & 2011-12)**

I.T.O.-30(1)(2), Room No. 505, 5 th Floor, C-13, Pratyakshakar Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai-400051.	Vs.	Shri Bipin Umakant Joshi, Gayatri Enterprises, Block-3, Sita Sadan, Haji Bapu Road, Malad (E), Mumbai-400097.
PAN/GIR No.AACPJ 1374 N		
(Appellant)	..	(Respondent)

Revenue by	Shri R.K. Gubgotra (JCIT-DR)
Assessee by	Shri Lajari Oswal (AR)
Date of Hearing	06/02/2020
Date of Pronouncement	07/02/2020

आदेश / O R D E R

PER: R.C. SHARMA, A.M.

These are the appeals filed by the revenue against the common order of the Id. CIT(A)-41, Mumbai dated 30/11/2018 for the A.Y. 2010-11 and 2011-12 in the matter of order passed U/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act).

2. Rival contentions have been heard and record perused. Facts in brief are the assessee is a dealer of tools alloys steel. On getting information from Sales Tax Department regarding the assessee taking bogus purchase bills, the A.O. reopened the assessment and added

100% of the same in assessee's income. By the impugned order, the Id. CIT(A) has restricted the addition to the extent of 2% after following the order of the Tribunal in assessee's own case for the A.Y. 2009-10.

3. From the record I found that the Tribunal have decided the appeal of the assessee for the immediate preceding year i.e. A.Y. 2009-10 vide order dated 19/02/2018 wherein addition on account of bogus purchases were restricted to the extent of 2% after having the following observation:

"7.1 I have considered rival contentions and carefully gone through the orders of the authorities below and found from record that assessee is a dealer in tools alloy steel. During the year under consideration, on the basis of information from Sales Tax Department, AO has made addition in respect of suspicion suppliers, which was restricted by CIT(A) to the extent of 30%. Assessee had shown GP of 5.66% during the year under consideration. Before the AO, assessee has filed quantitative details of purchases and sales, confirmation of the suppliers. Keeping in view totality of facts and circumstances of the case, vis a vis, GP disclosed by assessee, I do not find any merit for further addition of 30%. I direct to restrict addition to the extent of 2% of the bogus purchases."

4. I have gone through the order of the Tribunal, the facts and circumstances of the case are same as are prevailing during both the years under consideration. Respectfully following the order of the Tribunal dated 19/02/2018, I do not find any infirmity in the order of

the Id. CIT(A) for restricting addition to the extent of 2% of alleged bogus purchases when the assessee had shown G.P. of 6.28% in the A.Y. 2010-11 and G.P. at 6.84% in the A.Y. 2011-12.

5. Since the facts and circumstances of both the years under consideration are pari materia, therefore, by following the reasoning given in the appeal for the A.Y. 2010-11, I also uphold the action of the Id. CIT(A) for the A.Y. 2011-12.

6. In the result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 07th February, 2020.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 07/02/2020
*Ranjan

Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai