

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

**BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER**

**ITA No.925/Mum/2019  
(Assessment Year: 2009-10)**

Raj Mohammed Ibrahim Shaikh, Flat No. 202, A-Wing, Dion Shelter, Nehru Nagar, Kurla (E), Mumbai-400024.	Vs.	I.T.O.-23(3)(1), Pratyakshkar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai-400051.
<b>PAN/GIR No.AMVPS 9664 D</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri R.K. Gubgotra (JCIT-DR)
<b>Date of Hearing</b>	<b>06/02/2020</b>
<b>Date of Pronouncement</b>	<b>14/02/2020</b>

**आदेश / O R D E R**

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

This appeal by the assessee is directed against the ex parte order dated 30/07/2018 of Id. CIT(A)-38, Mumbai for the A.Y. 2009-10 in the matter of order passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act). Following grounds have been taken by the assessee:

*"The Learned CIT(A) erred in confirming the addition on account of Alleged Bogus Purchase amounting to Rs.14,32,091/- (being 25 percent of Rs.57,28,367/-) and confirming disputed demand of Rs.8,02,050/-.*

*The Learned CIT(A) erred in confirming addition on account of unproved purchases to the extent of Rs.14,32,091/- being 25 percent of alleged suspicious purchases of Rs.57,28,367/- without appreciating that the purchases are genuine and all the payment against such purchases are*

*made through banking channels and identity creditors is established further sales are not doubted.*

*The learned CIT(A) has erred in holding the impugned purchases to be bogus, in spite of voluminous evidences on record simply on the basis that the current addresses of vendors were not provided and the vendors were not produced before the Respondent, the Id. CIT(A) has erred in upholding the addition of Rs.14,32,091/-made by the Respondent on the wrongly premise that the quantitative stock details were not provided.*

*The Id. CIT(A) has erred in upholding the addition of Rs.14,32,091/-made by the Respondent by making comparison with Average Profits and average ratio of material purchased and hence the addition confirmed by the CIT(A) may be deleted.*

*The Interest charged u/s. 234B and 234C being consequential may kindly be deleted.”*

2. I have gone through the orders of the authorities below and found that the A.O. has reopened the assessment on getting information from the Sales Tax Department regarding assessee taking accommodation entry for purchase of goods without physical delivery of same. After making enquiry, the A.O. added 25% of alleged bogus purchases in assessee's income. Against the order of the A.O., the assessee approached to the Id. CIT(A) and the Id. CIT(A) dismissed the appeal ex parte.

3. From the record I found that the assessee was suffering from Kidney problem and was taking treatment from KEM hospital since last 16 years and during the relevant period, the assessee was out of town for treatment for last three months. Accordingly, the assessee could not attend the hearing and not deputed his representative to appear before

the Id. CIT(A). The Id. CIT(A) after passing ex parte order dismissed the appeal of the assessee. I found that there was reasonable cause for non-appearance before the Id. CIT(A). Therefore, in the substantial interest of justice, we set aside the ex parte order of the Id. CIT(A) and matter is restored back to him for deciding afresh after providing due and effective opportunity of hearing to the assessee.

4. In the result, appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 14<sup>th</sup> February, 2020.

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

Mumbai; Dated 14/02/2020  
\*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**