

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER &  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

ITA Nos. 106 & 107/Mum/2019  
Assessment Years : 2010-11 & 2011-12

Mohan Kumar Krishnan Nair, F-66 MIDC Additional Ambernath East, Thane.	<b>बनाम/</b> Vs.	ITO Ward 2(2) Kalyan.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABWPN2464J		
(अपीलार्थी / <b>Appellant</b> )	..	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी ओर से/ <b>Appellant by</b> :	Shri Monish M. Nair
प्रत्यर्थी की ओर से/ <b>Respondent by</b> :	Shri A.H. Ansari

सुनवाई की तारीख / <b>Date of Hearing</b>	20.01.2020
घोषणा की तारीख/ <b>Date of Pronouncement</b>	05 .02.2020

आदेश / ORDER

**PER SHRI SAKTIJIT DEY, JAM:**

Aforesaid appeals by the same assessee arise out of two separate orders, both dated 03.10.2018, passed by learned Commissioner of Income Tax (Appeals) – 3, Thane, pertaining to assessment years 2010-11 & 2011-12.

2. When the appeals were called for hearing, no one was present to represent the case on behalf of the assessee, despite service of hearing notice which is

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evident from the postal acknowledgment kept on record. In view of the aforesaid, we proceed to dispose of the appeals ex-parte qua the assessee after hearing the learned Departmental Representative.

3. Both the appeals have been filed on the common issue of disallowance made on account of non-genuine purchases. Briefly the facts, more or less common in both the appeals are, the assessee is an individual and is engaged in the business of manufacturing and job work of engineering goods through his proprietary concern M/s. Moba engineering works. For the assessment year under dispute, assessee filed his return of income in regular course and the returns so filed were initially processed u/s 143(1) of the Act. Subsequently, the Assessing Officer received information from the Sale Tax Department indicating that purchases worth Rs. 7,29,366/- in assessment year 2010-11 and purchase worth Rs. 6,04,941/- claimed to have been made in assessment year 2011-12 are non-genuine. On the basis of such information, the Assessing Officer reopened the assessments under Section 147 of the Act. In response to the statutory notices issued under Section 142(1) of the Act and Section 143(2) of the Act, as alleged by the Assessing Officer, the assessee neither appeared nor filed any evidence in compliance. Thus, the Assessing officer ultimately

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proceeded to complete the assessments u/s 144 of the Act to the best of his judgment by treating the entire purchases under dispute as non-genuine and added back to the income of the assessee. Contesting the aforesaid additions, the assessee preferred appeals before learned Commissioner (Appeals). However, due to non-appearance of the assessee on the date of hearing, learned Commissioner (Appeals) disposed of the appeals ex-parte by sustaining the additions made by the Assessing Officer.

4. We have heard learned Departmental Representative and perused material on record. From the conduct of the assessee it appears that, he is not too serious in the matter of tax litigations concerning him. This is evident from the repeated non-appearance by the assessee not only before the Revenue authorities but even before us. However, considering the fact that due to non-appearance of the assessee in course of assessment proceeding as well as before learned Commissioner (Appeals), certain purchases claimed to have been made during the years under consideration were treated as non-genuine and additions were accordingly made, we are inclined to grant a final opportunity to the assessee to prove the genuineness of the disputed purchases by furnishing supporting evidences. To facilitate this, we set aside the impugned orders of learned Commissioner (Appeals) and restore the issue back to

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his file for fresh adjudication after providing reasonable opportunity of being heard to the assessee. We also direct the assessee to make effective representation before learned Commissioner (Appeals) to contest the additions made by the Assessing Officer. We make it clear, in the event of any further failure on the part of the assessee to represent his case, learned Commissioner (Appeals) will be at liberty to decide the appeals on the basis of material available on record and in accordance with law. With the foresaid observations, the grounds are allowed for statistical.

5. In the result, assessee's appeals are allowed for statistical purposes.

<b>This Order is pronounced in Open Court on</b>	<b>02.02.2020</b>
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Sd/-  
(G. MANJUNATHA)  
**ACCOUNTANT MEMBER**

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

Mumbai, Dated            05.02.2020  
KRK, PS

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**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Mumbai