

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM)

I.T.A. No. 6610/Mum/2018 (Assessment Year 2009-10)

Jayesh H. Shah 309, Pratik Avenue Nehru Road Ville Parle East Mumbai-400 057. PAN :AAFPS5426F (Appellant)	Vs.	ACIT-25(2)(4) C-10 Pratyakshkar Bhavan, BCK Bandra East Mumbai-400051. (Respondent)
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Assessee by	Shri Dilip Rane
Department by	Shri R. Bhoopathi
Date of Hearing	09.12.2019
Date of Pronouncement	14.02.2020

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 10.9.2018 pertaining to A.Y. 2009-10.

2. The issue raised is that learned CIT(A) erred in confirming the addition at the rate of 25% being Rs. 62,400/- of the purchases of Rs. 2,49,600/- on the basis of information received from sales tax department.

3. In this case the Assessing Officer has made 25% disallowance out of alleged hawala purchases of Rs. 2,49,600/- from M/s. Dipali Enterprises. While making assessment the Assessing Officer has referred to information from the sales tax department and non response from the parties the notice u/s. 133(6). Learned CIT(A) had confirmed the aforesaid addition.

4. Against the above order the assessee is in appeal before the ITAT.

5. I have heard both the counsel and perused the record. I note that the Assessing Officer has noted that the assessee has engaged into hawala purchases from Dipali Enterprises for an amount of Rs. 21,872/-. Thereafter

the Assessing Officer made addition on the basis of non-response from the party alleged to have supplied bogus bills without doubting sales. The Assessing Officer made disallowance of 25% of hawala purchases of Rs. 2,49,600/-. This was also confirmed by learned CIT(A).

6. I find that it is beyond comprehension as to how on a bogus bill of Rs. 21,872/- disallowance can be to the tune of 25% of Rs. 2,49,600/-. In my considered opinion without doubting sales such an addition without application of mined whatsoever is not at all sustainable. Accordingly, I set aside the orders of authorities below and delete the addition.

7. In the result, appeal filed by the assessee is allowed.

Order has been pronounced in the Court on 14.2.2020.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 14/02/2020

Copy of the Order forwarded to :

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

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai