

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

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.1138/M/2019
Assessment Year: 2009-10**

ITO – 27(1)(1), Room No.406, 4 th Floor, Tower No.6, Vashi Railway Station Commercial Complex, Vashi, Navi Mumbai – 400 703	Vs.	Shri Abdullah Abdulkarim Shaikh, 11, Kurla Industrial Premises, N.S.S. Road, Narayan Nagar, Ghatkopar (W), Mumbai – 400 086 PAN: AAGPK2886A
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri R. Bhoopati, Sr. D.R.

Date of Hearing : 11.02.2020
Date of Pronouncement : 18.02.2020

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 28.11.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. During the course of hearing, neither assessee nor his authorized representative appeared to attend the hearing nor any application seeking adjournment was filed. Therefore, we are disposing off the appeal after hearing the Ld. D.R. and going through the facts of the case.

3. The only issue raised by the Revenue is against the deletion of addition of Rs.4,42,987/- by Ld. CIT(A) as made by the AO on account of bogus purchases.

4. The facts in brief are that the assessee filed return of income under section 139(1) of the Act on 29.09.2009 declaring an income of Rs.2,00,681/-. Thereafter the case of the assessee was reopened under section 147 of the Act by issuing notice under section 148 dated 30.03.2014 after AO received information from DGIT (Investigation), Mumbai and Sales Tax Department, Government of Maharashtra that assessee is beneficiary of hawala purchase entries. Accordingly, the AO called upon the assessee to prove the genuineness of the said purchases. The assessee filed copies of purchase bills, vouchers, payment details and delivery challans etc. However, AO was not satisfied with the reply of the assessee and added the entire bogus purchases of Rs.6,10,679/- to the income of the assessee by holding that assessee has not produced the consumption of the alleged material purchased in the manufacturing process.

5. In the appellate proceedings, Ld. CIT(A) partly allowed the appeal of the assessee by sustaining the addition @ 27.46% being average GP of the last three years by following the decision of Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth 356 ITR 451 (Gujarat – HC).

6. After hearing the ld. DR and perusing the material on record and impugned order, we note that the Ld. CIT(A) has

passed a very reasoned and speaking order which does not require any interference from our side.

7. We also note that the assessee has not challenged the order of Ld. CIT(A) wherein the Ld. CIT(A) has partly sustained the addition to 27.46%. Under these circumstances, we are inclined to dismiss the Revenue's appeal by upholding the order of Ld. CIT(A).

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 18.02.2020.

**Sd/-
(C.N. Prasad)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 18.02.2020.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.