

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

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
AND  
SHRI N.K.PRADHAN ACCOUNTANT MEMBER

ITA NO.7494/Mum/2018(A.Y.2011-12)

Neelam Gupta,  
Flat No.1102, Chhadva Residency, Motibaug,  
Borla Village, Chembur (East),  
Mumbai – 400 071.  
PAN:AEHPG 2363R

..... Appellant

Vs.

Income Tax Officer , Cir.26(2)(3),  
C-11,Room No.711,  
Pratyakshkar Bhavan,  
BKC, Bandra (East),  
Mumbai 400 051

..... Respondent

ITA NO.79/Mum/2019(A.Y.2011-12)

Income Tax Officer , Cir.26(2)(3),  
C-11,Room No.711,  
Pratyakshkar Bhavan,  
BKC, Bandra (East),  
Mumbai 400 051

.... Appellant

Vs.

Neelam Vedprakash Gupta,  
Flat No.1102, Chhadva Residency, Motibaug,  
Borla Village, Chembur (East),  
Mumbai – 400 071.  
PAN:AEHPG 2363R

Assessee by : None  
Revenue by : Shri Dharam Veer Singh

Date of hearing : 13/01/2020  
Date of pronouncement : 18/02/2020

ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals) – 38, Mumbai ( in short ‘the CIT(A)’ ) dated 31/07/2018 for assessment year 2011-12.

2. The brief facts of the case as emanating from the records are : The assessee is engaged in trading of TMT Bars, steel, etc. On the basis of information received from Investigation Wing, the Assessing Officer reopened the assessment. In re-assessment proceedings the Assessing Officer observed that assessee has made bogus purchases to the tune of Rs.1,02,24,183/- from various hawala dealers. The Assessing Officer made addition of 12.5% of the alleged bogus purchases i.e. Rs.12,78,023/-. Aggrieved against the assessment order dated 25/11/2016, the assessee filed appeal before the CIT(A). The CIT(A) after considering various case laws on the issue granted part relief to the assessee by restricting the addition to 10.5% of the alleged bps. In other words, the CIT(A) restricted disallowance of bogus purchases to Rs.10,73,539/-. Still aggrieved, the assessee is in second appeal before the Tribunal assailing the addition confirmed by the CIT(A). The revenue is also in appeal against the relief granted by the CIT(A).

3. A perusal of the appeal file shows that notice of hearing of the appeal was issued to the assessee through RPAD. The acknowledgement card available on record indicates that the notice was duly served on the assessee. Despite service of notice neither the assessee nor any Authorized Representative of the assessee is present in the court today. No request for adjournment has been received either. It seems that the assessee is not keen to pursue his appeal. Under such circumstances, we are constrained to decide the appeal with the assistance of Id.Departmental Representative and material available on record.

4. Shri Dharam Veer Singh, representing the Department submitted that the Assessing Officer considering entire facts and has estimated profit element embedded in bogus purchases to 12.5%. The Assessing Officer had done a fair and justified estimation of GP. The further relief granted by the CIT(A) is without any implication. The Id.Departmental Representative prayed for restoring the finding of Assessing Officer and setting aside the order of the CIT(A).

5. We have heard the submissions made by Id.Departmental Representative and have examined the order of authorities below. The assessee is engaged in trading of steel bars, etc. The Assessing Officer estimated G.P @ 12.5% on alleged bogus purchases. The CIT(A) has granted relief by restricting the G.P on bogus purchases to 10.5% after taking into consideration the GP declared by assessee at 1.59%. The CIT(A) has reduced the GP declared by the assessee from GP estimated by the Assessing Officer. After taking into consideration entirety of facts, the nature of assessee's business, the turnover declared by the assessee and the GP offered, we are of

considered view that ends of justice would meet if the GP on bogus purchases is restricted to 8%. We hold and direct accordingly.

6. In the result, appeal of assessee is partly allowed and appeal of revenue is dismissed.

Order pronounced in the open court on Tuesday, the 18<sup>th</sup> day of February, 2020.

Sd/-  
(N.K.PRADHAN)  
ACCOUNTANT MEMBER

Sd/-  
(VIKAS AWASTHY)  
JUDICIAL MEMBER

Mumbai, Dated 18/02/2020  
Vm, Sr. PS(O/S)

**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//

BY ORDER,  
(Dy./Asstt. Registrar)  
**ITAT, Mumbai**