



ITA Nos.1121-22/Mum/2019
M/s. Polltech Instruments
Assessment Years: 2010-11 & 2011-12

आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.1121/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

&

आयकर अपील सं./ I.T.A. No.1122/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2011-12)

DCIT-29(2) Room No.202, 2 nd Floor, C-10 Pratyakshkar Bhavan BKC Bandra (E) Mumbai- 400 051.	बनाम/ Vs.	M/s. Polltech Instruments 309, K.K. Gupta Industrial Estate Dr. R.P. Road, Mulund (West) Mumbai- 400 080.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AAEFP-7838-H		
(आपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Devang Joshi-Ld.AR
Revenue by	:	Ms. Jyothilakshmi Nayak-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	17/02/2020
घोषणा की तारीख / Date of Pronouncement	:	12/03/2020

आदेश / ORDER

Per Bench

1. Aforesaid appeals by revenue for Assessment Years [in short referred to as ‘AY’] 2010-11 and 2011-12 contest separate orders of learned first appellate authority on certain common grounds of appeal. Since issue are identical, appeals were heard together and are now



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being disposed-off by way of this common order for the sake of convenience and brevity.

ITA No.1121/Mum/2019 (AY 2010-11)

2.1 The revenue assails the order of Ld. Commissioner of Income-Tax (Appeals)-40, Mumbai, [CIT(A)] dated 14/12/2018 on following grounds of appeal: -

1. On the facts and circumstances of the case, the Id. CIT(A) has erred in restricting the addition of Rs.28,102/- being 12.5% of Rs.2,24,817/- to Rs.13,489/- i.e. 6% of the aforesaid bogus purchases from hawala parties ignoring the fact that the assessee failed to produce the parties.
2. On the facts and circumstances of the case, the Id. CIT(A) has erred in restricting the addition of Rs.28,102/- being 12.5% of Rs.2,24,817/- to Rs.13,489/- i.e. 6% of the aforesaid bogus purchases in view of the decision of the Hon'ble Supreme Court in the case of N.K. Proteins Ltd. wherein the Apex Court has dismissed the SLP filed against the High Court's decision of upholding the 100% addition made by the A.O. on account of bogus purchases.

As evident from the grounds, the sole subject matter of appeal is estimated addition on account of alleged bogus purchases.

2.2 We have carefully heard rival submissions and perused relevant material on record. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3.1 Facts on record would reveal that assessee being resident firm stated to be engaged in manufacturing / trading of certain Air Pollution Monitoring instruments was assessed for year under consideration u/s. 143(3) r.w.s. 147 on 12/02/2016, wherein it was, *inter-alia*, saddled with estimated addition of Rs.0.28 Lacs, computed @12.5% of suspicious purchases.

3.2 Pursuant to receipt of certain information from DGIT (Investigation), it transpired that assessee obtained bogus bills aggregating to Rs.2.24



Lacs from 3 entities, the details of which have already been extracted in para-4 of the quantum assessment order. Accordingly, the case was re-opened as per due process of law vide issuance of notice u/s. 148 on 18/06/2014 which was followed by notices u/s. 143(2) & 142(1) wherein the assessee was directed to substantiate the purchase transactions.

3.3 Notices u/s. 133(6) as issued to 3 entities, to confirm the transactions, were returned back by postal authorities. Although the assessee defended the purchases by submitting copies of invoices and ledger extract etc. however, it failed to produce any of the suppliers to confirm the transactions. The assessee, in the opinion of Ld. AO, failed to discharge the onus to prove the identity of the above parties and also failed to substantiate the receipt / delivery of material. Finally, Ld. AO estimated additions of 12.5% against these purchases which resulted into addition of Rs.0.28 Lacs in the hands of the assessee.

4. The Ld. CIT(A), after considering the factual material as well as assessee's submissions reduced the estimation to 6%. Aggrieved, the revenue is in further appeal before us.

5. Upon due consideration, we are of the opinion that there could be no sale without actual purchase of material keeping in view the assessee's nature of business. The sales turnover has not been disputed / disturbed by the revenue. The assessee was in possession of primary purchase documents. However, at the same time, the assessee failed to produce any of the suppliers to confirm the transactions. The delivery of material remained unsubstantiated. The stated factual matrix, in our considered opinion, would make it a fit case to make estimated



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additions to account for profit element embedded in these purchase transactions to factorize for profit earned by assessee against possible purchase of material in the grey / unorganized market and undue benefit of VAT against such bogus purchases, which Ld. CIT(A) has rightly done keeping in view the stated factual matrix. The estimation of 6% as made by Ld. AO, in our opinion, was quite fair and reasonable and therefore, the same would not require any interference on our part. The appeal stands dismissed.

ITA No.1122/Mum/2019, AY 2011-12

6. Facts are pari-materia the same in this year. The assessee was similarly assessed u/s. 143 r.w.s. 147 on 13/02/2016 wherein it was saddled with an estimated addition of 12.5% against alleged bogus purchases of Rs.6.13 lacs which resulted into addition of Rs.0.76 Lacs in the hands of the assessee. The Ld. CIT(A) reduced the estimation to 6% against which the revenue is in further appeal before us. Facts being identical as in AY 2010-11, taking the same view, we dismiss the appeal.

Conclusion

7. Both the appeal stands dismissed.

Order pronounced in the open court on 12th March, 2020.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 12/03/2020
Sr.PS, Jaisy Varghese



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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**