



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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

ITA no.675/Mum./2019
(Assessment Year : 2010-11)

Income Tax Officer
Ward-28(1)(1), Mumbai

..... Appellant

v/s

M/s. Ameya Industries
A-141, MIDC Plot TTC Industrial Area
Khairane Thane Belapur Road
Navi Mumbai 400 709
PAN - AADFA1720C

..... Respondent

Revenue by : Shri Ashish Kumar
Assessee by : None

Date of Hearing - 30.01.2020

Date of Order - 13.03.2020

ORDER

PER SAKTIJIT DEY. J.M.

The present appeal has been filed by the Revenue challenging the order dated 20th November 2018, passed by the learned Commissioner of Income Tax (Appeals)-26, Mumbai, pertaining to the assessment year 2010-11.

2. The dispute in the present appeal is confined to partial relief granted by learned Commissioner (Appeals) while restricting the addition made on account of non-genuine purchases to 12.5%.

3. When the appeal was called for hearing, none appeared on behalf of the assessee despite issuance of notice. There is no application seeking adjournment either. Thus, from the aforesaid facts it is clear that the assessee is neither diligent nor interested in pursuing the present appeal. Accordingly, we proceed to dispose off the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and on the basis of material available on record.

4. Brief facts are, the assessee, an individual, is engaged in printing business. For the assessment year under dispute, the assessee filed its return of income on 21st September 2010, declaring total income of ₹3,24,110. The return of income filed by the assessee was initially processed under section 143(1) of the Act. Subsequently, on the basis of information received from the Sales Tax Department, Government of Maharashtra, through the office of the DGIT (Inv.), Mumbai, that the assessee is a beneficiary of accommodation bills provided by certain entities identified as hawala operators, the Assessing Officer re-opened the assessment under section 147 of the Act. During the assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of purchases worth ₹27,38,498, claimed to have been made during the year from ten parties. Further, to independently verify the genuineness of such purchases, the Assessing Officer issued notices under section 133(6) of the Act to the

concerned parties. As alleged by the Assessing Officer, all such notices returned back un-served with the remark "*left*". Further, on verification of the evidences furnished by the assessee, the Assessing Officer did not find them convincing. Accordingly, he was of the view that the purchases of ₹ 27,38,498, are non-genuine. However, holding that the assessee has inflated the purchase price and thereby has reduced the profit while buying from undisclosed sources, the Assessing Officer disallowed 25% out of the non-genuine purchases to make the addition of ₹ 6,24,625. The assessee contested the aforesaid addition before the first appellate authority.

5. After considering the submissions of the assessee in the context of the facts and material on record, learned Commissioner (Appeals) reduced the disallowance to 12.5% of the non-genuine purchases.

6. We have considered the submissions of learned Departmental Representative and perused the material on record. Though, it may be a fact that the assessee was unable to conclusively prove the source of the disputed purchases, however, it is a fact on record that the Assessing Officer has accepted that the assessee has effected the purchases, though, from un-known source. For this reason alone, the Assessing Officer has not disallowed the entire purchases, but has made disallowance of 25% out of such purchases, which has been

reduced to 12.5% by learned Commissioner (Appeals). Thus, ultimately, the dispute between the parties narrows down to the reasonable profit rate which can be applied for making the disallowance. After considering the nature of business carried on by the assessee and all other relevant facts, we are of the considered opinion that learned Commissioner (Appeals) was justified in restricting the disallowance to 12.5% of the non-genuine purchase. Grounds raised by the Revenue are dismissed.

7. In the result, appeal is dismissed.

Order pronounced in the open Court on 13.03.2020

Sd/-
G. MANJUNATHA
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 13.03.2020

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai