

आयकर अपीलीय अधिकरण  
IN THE INCOME TAX APPELLATE TRIBUNAL  
मुंबई पीठ "एसएमसी"  
MUMBAI BENCH "SMC", MUMBAI  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष  
SHRI G.MANJUNATHA, ACCOUNTANT MEMBER  
आअसं. 7048& 7049/मुं/2018 (नि. व 2010-11 & 2011-12)  
ITA NO.7048 & 7049/MUM/2018(A.Y.2010-11 & 2011-12)

ITO -26(2),  
Building No.C-11, 5<sup>th</sup> Floor,  
Room No.510, Prayakshakar Bhavan,  
Bandra Kurla Complex, Bandra(E)  
Mumbai 400 051

..... अपीलार्थी /Appellant

बनाम Vs.

Rajkumar T. Nagar,  
Prop. of M/s. Shkomin Services,  
A/53, Nanjyot Indl. Estate,  
Andheri Kurla Road, Safed Pool,  
Mumbai 400 072  
PAN:AAAPN 7071Q

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. R.Kavitha

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 17/02/2020

घोषणा की तिथि/ Date of pronouncement : 19/03/2020

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

These appeals by the Revenue are directed against the orders of Commissioner of Income Tax(Appeals)-38, Mumbai (in short 'the CIT(A)') for the assessment years 2010-11 and 2011-12 respectively. Both the impugned

orders are of even date i.e. 28/06/2018. Since the facts in both the impugned assessment years are similar and the grounds raised by the Revenue in both the appeals are identical, these appeals are taken up together for adjudication and are decided vide this common order. However, for the sake of convenience the facts are narrated from the appeal for assessment year 2010-11.

ITA NO.7048/MUM/2018(A.Y. 2010-11)

2. The brief facts of the case as emanating from records are: The assessee is engaged in the business of manufacturing of engineering and electrical goods. The assessment for assessment year 2010-11 was reopened by the Assessing Officer on the basis of information received from the Investigation Wing of the Department. As per the information received, the assessee had obtained bogus purchase bills aggregating to Rs.5,00,445/- from the declared hawala dealers. The Assessing Officer made addition of the entire alleged bogus purchases. Aggrieved against the assessment order dated 09/03/2016 passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 ( in short 'the Act' ) the assessee filed appeal before the CIT(A). The first appellate authority after considering the facts of the case, material available on record and the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth reported as 356 ITR 451 restricted the disallowance to 20% of the alleged bogus purchases. Against the aforesaid findings of the CIT(A), the Revenue is in appeal before the CIT(A).

3 Ms. R. Kavitha, representing the Department submitted that the assessee had obtained bogus purchase bills from the declared hawala dealers. The assessee failed to furnish documentary evidences/details to substantiate

genuineness of the purchases. Neither the parties from whom alleged purchases made were produced nor quantitative details of the stock and the trail of goods was furnished by assessee before the Assessing Officer. Thus, the Assessing Officer made addition of the entire unproved/suspicious purchases.

5. We have heard the submissions made by Id. Departmental Representative and have examined the orders of authorities below. The assessee had allegedly obtained bills amounting to Rs.5,00,445/- from hawala dealers. The Assessing Officer made addition of 100% of such bogus purchases. It is now a well settled legal proposition that the entire alleged bogus purchases cannot be added, it is only the profit element embedded in such alleged bogus purchases that has to be brought to tax. The Revenue has not raised any doubt over the turnover of the assessee. Thus, without inputs there cannot be production and processing. The CIT(A) after considering all these facts and the GP declared by the assessee in the preceding assessment year estimated GP on the alleged bogus purchases @ 20%. We do not find any infirmity in the impugned order, hence, the same is upheld and the appeal of Revenue is dismissed being devoid of any merit.

ITA No.7049/Mum/2018 (A.Y. 2011-12):

6. The facts in the assessment year 2011-12 are identical to the facts in assessment year 2010-11, except for the amount of addition. The Assessing Officer in assessment year 2011-12 has made addition of Rs.1,44,749/- in respect of bogus purchases. Since, the facts are similar and the grounds raised by the Revenue assailing findings of CIT(A) are identical to the one raised in 2010-11, the findings given while adjudicating the appeal of the Revenue for

assessment year 2010-11 would mutatis mutandis apply to the assessment year 2011-12 as well. For the similar reasons, the appeal of the Revenue is dismissed being devoid of any merit.

7. In the result, both appeals by the Revenue are dismissed.

Order pronounced in the open court on Thursday the 19th day of March, 2020.

Sd/-

(G.MANJUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 19/03/2020  
Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

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