

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI RAM LAL NEGI, JUDICIAL MEMBER**

**ITA No.1434/M/2019
Assessment Year: 2010-11**

ITO 27(1)(4), Room No.409, 4 th Floor, Tower No.6, Vashi Railway Station Complex, Vashi, Navi Mumbai – 400 703	Vs.	M/s. Inka Engineers, Unit No.A 15A, Ghatkopar Indl. Estate, LBS Marg, Ghatkopar (W), Mumbai – 400 086 PAN: AAAF12286A
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Rajesh K. Mishra, D.R.

Date of Hearing : 05.03.2020
Date of Pronouncement : 27.05.2020

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 14.12.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. The only issue raised by the Revenue is against the deletion of addition of Rs.7,02,989/- by Ld. CIT(A) as made by the AO towards bogus purchases.

3. The facts in brief are that the AO received information from investigation wing that the assessee has taken accommodation purchase bills from various parties and accordingly the case of

the assessee was reopened by issuing notice under section 148 of the Act on 19.03.2015 which was complied with by the assessee by submitting that return filed originally on 17.09.2010 may kindly be treated as having been filed in response to notice under section 148 of the Act. During the course of assessment proceedings, the AO found that assessee has claimed total purchases of Rs.24,74,590/- out of which Rs.8,03,416/- were made from four hawala parties and hence called upon the assessee to prove the genuineness of the same by filing bills, vouchers and other evidences. The assessee filed the evidences before the AO which did not find favour with the AO and finally he treated the entire purchases as bogus and added the same to the income of the assessee.

4. In the appellate proceedings, the Ld. CIT(A) directed the AO to apply a GP of 12.5% by following the Hon'ble Gujarat High Court decision in the case of CIT vs. Simit P. Sheth (2013) 356 ITR 451 (Guj) and thus partly allowed the appeal. And now the Revenue aggrieved by the Ld. CIT(A)'s order is in appeal before us.

5. After hearing both the parties and perusing the material on record, we observe that in this case undoubtedly, the assessee is beneficiary of hawala purchase entries from four parties aggregating to Rs.8,03,416/-. The assessee has furnished bills, vouchers and payment details before the AO in support of the purchases. The notices issued under section 133(6) to the supplier were not served upon the parties and returned with the remark "left". We note that the assessee filed delivery challans, transport details along with bank statement and tried to prove

the purchases. However, AO did not accept the same and made 100% addition. In the appellate proceedings, the Ld. CIT(A) reduced the addition to 12.5% by following the decision of Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth (supra) wherein the High Court has held that it would be reasonable, if the profit margin on the bogus purchases are brought to tax and directed at 12.5% of the bogus purchases. We have examined in depth the records as placed before us and the order of Ld. CIT(A) and found that the order passed by Ld. CIT(A) is quite reasoned and speaking one and does not need to be interfered with. Accordingly, we are inclined to uphold the same by dismissing the appeal of the Revenue.

Order pronounced in the open court on 27.05.2020.

Sd/-
(Ram Lal Negi)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 27.05.2020.

* 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.