

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JM)**

**ITA No. 2243/MUM/2019  
Assessment Year: 2009-10**

M/s Sun N Star Advertising Pvt. Ltd., 306, Nitco Biz Park, Road No. 16, Wagle Estate, Thane (W)- 400604 PAN: AAICS8518C	<b>Vs.</b>	The Dy. CIT, Circle-3, Ashar IT Park, 6 <sup>th</sup> Floor, Wagle Estate, Thane (W)- 400604
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : None

Revenue by : Shri Udaya Bhaskar Jakke (DR)

Date of Hearing: 08/10/2020

Date of Pronouncement: 15/10/2020

**ORDER**

**PER SAKTIJIT DEY, JM**

This is an appeal by the assessee against the order dated 31.07.2017 of Ld. Commissioner of Income Tax (Appeals)- 2, Thane pertaining to the assessment year 2009-10.

2. When the appeal was called for hearing no one appeared on behalf of the assessee to represent the case. Considering the nature of dispute, I proceed to dispose of the appeal ex-parte qua the assessee after hearing the Ld. Departmental Representative and based on material available on record. The dispute in the present appeal is confined to addition made on account of non-genuine purchases.

3. Briefly the facts are, the assessee is a resident company. For the assessment year under dispute the assessee filed its return of income on 30.09.2009 declaring total income at Rs. 22,98,260/-. Based on information received from Sales Tax Department, Govt. of Maharashtra, that the assessee is

a beneficiary of accommodation bills provided by certain entities identified as hawala operators, the Assessing Officer reopened the assessment u/s 147 of the Act. In course assessment proceedings the Assessing Officer called upon the assessee to prove the genuineness of purchases worth Rs. 10,60,313/- claimed have been made during the year from two parties. Not being satisfied with the explanation of the assessee, the Assessing Officer treated the entire purchases as non- genuine and added back to the income of the assessee. Though, the assessee challenged the aforesaid addition before learned Commissioner (Appeals), however, the addition made was sustained.

4. I have heard the Ld. Departmental Representative and perused the material on record. As could be seen from the impugned order of learned Commissioner (Appeals), the appeal was decided ex-parte while sustaining the addition made by the Assessing Officer. Though, in paragraph 2 of the appeal order learned Commissioner (Appeals) has mentioned that on the four occasions the appeal was fixed for hearing neither anyone appeared nor any request for adjournment was received, however, it is not forthcoming whether the notices issued by learned Commissioner (Appeals) were at all served on the assessee. Thus, in my considered opinion, the assessee deserves an opportunity to appear and explain its case before learned Commissioner (Appeals), which, the assessee could not do due to ex-parte disposal of the appeal. Accordingly, I am inclined to set aside the impugned order of learned Commissioner (Appeals) and restore the issues back to his file for fresh adjudication after providing due and proper opportunity of being heard to the assessee. Needless to mention, the assessee must also cooperate in finalizing the proceedings by appearing before learned Commissioner (Appeals) in response to the notice for hearing to be issued by him. With the aforesaid observations, grounds are allowed for statistical purposes.

5. In the result appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 15<sup>th</sup> October, 2020.

Sd/-  
SAKTIJIT DEY  
(JUDICIAL MEMBER)

मुंबई Mumbai; दिनांक Dated: 15/10/2020

Alindra, PS

**आदेश प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai