

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA NO. 6134/MUM/2018 : **A.Y : 2010-11**

DCIT – 15(2)(2),
Mumbai. (Appellant)

Vs. M/s. Indocen Electronic System
Private Limited,
403-409, A-Wing, Great Eastern
Summit, Plot No. 56, Sector-15,
CBD Belapur, Navi Mumbai 400 614.
PAN : AAACI3124N (Respondent)

Appellant by : **Shri Uodal Raj Singh**

Respondent by : **Shri Ashok Puri**

Date of Hearing : **13/10/2020**

Date of Pronouncement : **13/10/2020**

ORDER

PER SHRI VIKAS AWASTHY, JM :

This appeal by the Revenue is directed against the order of Commissioner of Income Tax - 24, Mumbai (in short 'the CIT(A)') dated 19.07.2018.

2. The brief facts of the case as emanating from the records are : The assessee is engaged in the business of repair of PCB and high-tech electronic and communication equipments. Reassessment proceedings were initiated against the assessee under Section 147 r.w.s. 148 of the Income Tax Act, 1961

(hereinafter referred to as 'the Act') on the basis of information received from Maharashtra Sales Tax Department. As per the information received, the assessee had obtained bogus purchase bills to the tune of Rs.37,99,718/- from the following hawala dealers :-

i) R.K. Enterprise	-	Rs.18,53,696
ii) Rumggt Enterprises	-	Rs. 6,50,104
iii) Grifton India Riddhi Enterprises	-	<u>Rs.12,95,918</u>
Total		Rs.37,99,718

The Assessing Officer made addition of the entire alleged bogus purchase. Aggrieved against the assessment order dated 20.12.2017 passed under Section 143(3) r.w.s. 147 of the Act, the assessee filed appeal before the CIT(A).

The CIT(A), following its own order in Assessment Year 2009-10, restricted the disallowance on account of bogus purchase to 12.5%. Against the findings of CIT(A), the Revenue is in appeal before the Tribunal.

3. Shri Uodal Raj Singh representing the Department vehemently defended the assessment order and prayed for modifying the findings of CIT(A) to make 100% disallowance in respect of bogus purchase. The Id. DR submitted that the CIT(A) merely followed its own order of Assessment Year 2009-10 without examining the facts in the impugned assessment year.

4. On the other hand, Shri Ashok Puri appearing on behalf of the assessee vehemently supported the order of CIT(A). The Id. AR submitted that the facts in impugned assessment year are similar to Assessment Year 2009-10. The Id. AR prayed for dismissing the appeal of Revenue.

5. We have heard the submissions made by rival sides and have examined the orders of the authorities below. The case of Revenue is that assessee has indulged in obtaining accommodation entries from hawala dealers without actual purchase of goods. We observe that the CIT(A) in the impugned order has specifically mentioned that the issue raised in the present appeal is similar to the one decided in Assessment Year 2009-10. In the immediately preceding assessment year, CIT(A) had restricted the disallowance in respect of bogus purchases to 12.5%. Following the same criteria, CIT(A) restricted the disallowance on account of bogus purchase in the impugned assessment year to 12.5%. The Id. DR has not been able to distinguish the facts in two assessment years. We find no infirmity in the impugned order. Accordingly, the same is upheld and the appeal of Revenue is dismissed *sans* merit.

6. No cross appeal by the assessee against the impugned order of CIT(A) has been brought to our notice. In case, there is any cross appeal by the assessee, then, the present order may be recalled and both the appeals, i.e. appeal by the assessee and appeal of the Revenue have to be decided together.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on Tuesday, the 13th October, 2020.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Date : 13th October, 2020

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "C" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai