

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.1841/PUN/2019

निर्धारण वर्ष / Assessment Year : 2011-12

Anjali Arvind Mithsagar, Flat No.13, S.No.140, 5A, Sadashiv Apartment, Bhelke Nagar, Kothrud, Pune 411 038 PAN : ABKPM6391B	Vs.	ITO, Ward-3(4), Pune
Appellant		Respondent

Assessee by
Revenue by

Shri M.K. Kulkarni
Shri S.P.Walimbe

Date of hearing

29-10-2020

Date of pronouncement

29-10-2020

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order dated 02-08-2019 passed by the Commissioner of Income-tax (Appeals)-3, Pune in relation to the assessment year 2011-12.

2. This appeal is time barred by 55 days. The assessee has filed condonation application with affidavit giving the reasons for the delay. I am satisfied with the same. The delay is condoned and the appeal is admitted for hearing for disposal on merits.

3. The only issue raised in this appeal through various grounds is against the confirmation of addition of Rs.8,86,163/- on account of bogus purchases at 100% of the amount of purchases.

4. Briefly stated, the facts of the case are that the assessment in this case was reopened by means of notice u/s.148 on the Assessing Officer (AO) on receiving information about the assessee having received bogus bills from entities controlled and operated by Sangli based hawala operators viz., Shri Suresh Amrutlal Parekh, Shri Dinesh Amrutlal Parekh and Shri Sushant Rajendra Ladda. Based on such information, the AO confronted the assessee and required him to tender explanation. The AO also issued summons to Smt. Lalita A. Ladda, Prop. of Vidhi Enterprises on 17-10-2018 from whom the bogus purchases were recorded. The assessee was also asked to produce Smt. Lalita A. Ladda for cross examination. In the absence of any co-operation forthcoming from the assessee's end, the AO made addition @100% of purchases, which came to be affirmed in the first appeal.

5. I have heard both the sides through virtual court and gone through the relevant material on record. The issue of bogus purchases has come up for consideration before the Hon'ble Bombay High Court in *Pr. CIT & Ors. vs. Mohammad Haji Adam & Co. & Ors. (2019) 104 CCH 0391 MumHC*. The Hon'ble jurisdictional High Court has held in this case that no *ad hoc* addition of bogus purchases is warranted. Rather the addition should be made to the extent of difference between the gross profit rate on genuine purchases and gross profit rate of hawala purchases.

6. There is no dispute that the assessee had properly accounted for the purchases so made against hawala transactions. In other words, the actual purchases made against the hawala purchases have been either consumed or available in the closing stock. In this hue, there cannot be any question of making addition at 100% of the purchases. The quantum of addition towards bogus purchases, being the excess amount of purchases debited by the assessee to the trading account for availing tax benefit, needs to be worked out by considering similar purchases made by the assessee through genuine transactions and thereafter find out the excess

amount of purchases recorded through hawala transactions. The differential percentage between the two prices is directed to be applied to the amount of Hawala purchases for making addition on this score. I, therefore, set aside the impugned order and remit the matter to the file of the AO for working out the correct amount of addition in terms of above observations after allowing a reasonable opportunity of hearing to the assessee.

7. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 29th October, 2020.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 29th October, 2020
सतीश

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-3, Pune
4. The Pr. CIT-2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे “SMC” /
DR ‘SMC’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	29-10-2020	Sr.PS
2.	Draft placed before author	29-10-2020	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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