



M/s. BMH Concure Technology Inc.
ITA No.3092Mum/2019
Assessment Year: 2009-10

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

माननीय श्री शक्तिजी दे, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SAKTIJIT DEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.3092/Mum/2019
(निर्धारण वर्ष / Assessment Year:2009-10)

Income Tax Officer-28(1)(2) Room No.325, 3 rd Floor Tower No.6,Vashi Railway Station Complex, Vashi, Navi Mumbai-400 703	बनाम/ Vs.	M/s. BMH Concure Technology Inc. Plot No.16, Sector-6 Sanpada, Navi Mumbai-400 705
PAN/GIR No. AAGFB-6284-R		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Oommen Tharian-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	10/11/2020
घोषणा की तारीख / Date of Pronouncement	:	10/11/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as 'AY'] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-26, Navi Mumbai [in short referred to as 'CIT(A)'], Appeal No. CIT-26/IT/231/2015-16 dated 25/02/2019 in restricting certain addition on account of alleged bogus purchases to 12.5% of total bogus purchases of Rs.52,97,038/-



2. Although none appeared for assessee during the course of hearing, however, the matter was proceeded with ex-parte qua the assessee since the material on record was quite sufficient for disposal of the appeal. The Ld. DR pleaded for restoration of additions made by Ld. AO.

3. The material on record would show that the assessee being resident firm is stated to be engaged in the business of manufacturing of conveyer belt. It was assessed for the year under consideration u/s. 143(3) r.w.s. 147 on 09/03/2015 wherein it was saddled with peak addition of Rs.42.53 Lacs on account of alleged bogus purchase. The same stem from information received from Sales Tax Department, Maharashtra wherein it transpired that the assessee made aggregate purchases of Rs.52.97 Lacs from 4 suspicious entities. The details of purchases so made have already been extracted in para-3 of the assessment order. Although the assessee filed copies of bills, ledger account of parties & relevant bank statements to support these transactions, however, notices issued u/s. 133(6) to confirm the transactions remained un-served. The assessee could not produce any of the parties. Therefore, a conclusion was drawn that the assessee was unable to discharge the onus of proving the purchase transactions.

The assessee had claimed that the goods were received and corresponding sales were accounted for and there could not be any sales without purchases. Accepting the same, Ld. AO made peak addition of Rs.42.53 Lacs u/s. 69C.

4. Upon further appeal, Ld. CIT(A), *inter-alia*, relying upon the decision of Hon'ble Gujarat High Court in the case of **CIT Vs. Simit P.**



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Sheth [356 ITR 451] restricted the addition to 12.5% of aggregate purchases and partly allowed the appeal. Aggrieved, the revenue is in further appeal before us. It appears that the assessee has accepted the verdict and has not preferred any further appeal.

5. Upon due consideration of factual matrix as enumerated in preceding paragraphs, we find no reason to interfere with the order of Ld. first Appellate Authority. Evidently, the assessee was in possession of primary purchase documents and corresponding sales formed part of books of account. At the same time, notices issued u/s. 133(6) remained unserved and assessee failed to produce even a single party. Truly, there could not be any sale without actual purchase of material and therefore a presumption could be drawn that the material was purchased from the open market while invoices were procured from tainted suppliers. Therefore, estimating the additions @12.5% was quite fair and reasonable. Therefore finding no substance in the appeal, we dismiss the same.

6. The appeal stands dismissed.

Order pronounced on 10th November, 2020.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 10/11/2020
Sr.PS:-Jaisy Varghese



M/s. BMH Concare Technology Inc.
ITA No.3092Mum/2019
Assessment Year: 2009-10

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**