

**आयकर अपीलीय अधिकरण "ई" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"E" 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.4066/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2011-12)

<b>JCIT(OSD)-Circle-15(1)(1)</b> Room No.470, 4 <sup>th</sup> Floor Aaykar Bhavan, M.K. Road Mumbai-400 020.	<b>बनाम/ Vs.</b>	<b>M/s. ESP (Asia) Pvt.Ltd.</b> 10,13, Neco Chambers Sector-11, CBD Belapur Navi Mumbai-400 706.
<b>PAN/GIR No. AABCE-6484-C</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Shri Vijay Kumar Menon-Ld.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	26/11/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	26/11/2020

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. By way of this appeal for Assessment Year (AY) 2011-12, the department challenges the order of Ld. Commissioner of Income Tax (Appeals)-24, Mumbai [CIT(A)], Appeal No.CIT(A)-24/DCIT-15(1)/IT-682/2016-17 dated 25/03/2019 which has restricted the addition on account of *alleged bogus purchases* to 12.5%.
2. None appeared for assessee at the time of hearing and no valid adjournment application was on record. However, the material on record

was sufficient for disposal of the appeal. The Ld. DR pleaded for restoration of addition as made by Ld. AO.

3. The assessee was subjected to reassessment proceedings for the year under consideration pursuant to receipt of certain information from Sales Tax Department, Maharashtra which indicated that the assessee availed bogus purchase bills aggregating to Rs.14.38 Lacs from two entities. The detail of the same has already been extracted in para-5.1 of the assessment order dated 28/12/2016. The assessee failed to produce any of the suppliers to confirm the transactions. However, in defense, the assessee submitted invoices, ledger accounts along with copies of bank statement evidencing payment through banking channels. Finding that the assessee failed to discharge the onus of establishing the genuineness of the purchases so made, Ld. AO disallowed entire purchases and added the same to the income of the assessee u/s 69C. The assessee is stated to be engaged in providing repairing and maintenance services.

4. Before Ld. first appellate authority, the assessee reiterated that the purchases were genuine. The Ld. CIT(A) primarily going by the decision of Hon'ble Gujarat High Court in **Simit P.Sheth V/s CIT 356 ITR 451** restricted the additions to 12.5% of these purchases. Aggrieved, the revenue is in further appeal before us.

5. Upon due consideration of factual matrix as enumerated in preceding paragraphs, we find no infirmity in the action of Ld. CIT(A) in estimating the additions @12.5% since the assessee was in possession of primary purchase documents and the payment to the suppliers were through banking channels. The assessee's nature of business would require actual purchase of material. At the same time, the assessee

failed to conclusively prove the purchase transactions. In such a case, there would be no option but to estimate the additions against these purchases which Ld. CIT(A) has rightly done so. Concurring with the same, we dismiss the appeal.

6. The appeal stands dismissed.

*Order pronounced on 26<sup>th</sup> November, 2020.*

**Sd/-**

**(Saktijit Dey)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 26/11/2020  
Sr.PS:-Jaisy Varghese

**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.**