

आयकर अपीलीय अधिकरण "एच" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"H" 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.1119/Mum/2019
 (निर्धारण वर्ष / Assessment Year: 2008-09)

&

आयकर अपील सं./ I.T.A. No.1120/Mum/2019
 (निर्धारण वर्ष / Assessment Year: 2010-11)

JCIT(OSD) Central Circle-5(1) Room No.1926, 19 th Floor Air India Bldg., Nariman Point Mumbai-400 021.	बनाम/ Vs.	M/s. Hicons Construction B-201, Leo Apartments 24 th Road, Khar(W) Mumbai-400 052.
PAN/GIR No. AAEFH-3281-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Gurbinder Singh -Ld.Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	01/12/2020
घोषणा की तारीख / Date of Pronouncement	:	01/12/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of these appeals for Assessment Years (AY) 2008-09 and 2010-11, the department challenges the common order of Ld. Commissioner of Income Tax (Appeals)-53, Mumbai [CIT(A)], dated

28/11/2018 which has restricted the addition on account of *alleged bogus purchases* to 25%.

2. None appeared for assessee at the time of hearing and no valid adjournment application was on record. However, we find that the impugned order is common order for AYs 2007-08, 2008-09 & 2010-11. The appeal of the revenue for AY 2007-08 has already been dismissed by coordinate bench of this Tribunal in ITA No. 1118/Mum/2019 order dated 12/02/2020. Facts are identical in all the three years and therefore, we are inclined to follow the earlier order of the Tribunal.

3. Facts in AY 2008-09 are that the assessee has been assessed u/s 144 r.w.s. 147 vide order dated 19/02/2015. In the said order, the assessee was saddled with certain additions on account of alleged bogus purchases aggregating to Rs.288.45 Lacs from two entities, the details of which have already been extracted in para-3 of the assessment order. The assessee failed to appear before Ld. AO during assessment proceedings. Therefore, going by the material on record, the said purchases were disallowed and added to the income of the assessee in its entirety. Similar are the facts in AY 2010-11 wherein the assessee was saddled with similar additions of Rs.194.04 Lacs.

4. Upon further appeal, Ld. CIT(A) observed that the disallowance so made would yield abnormal high profits and therefore, the additions were to be estimated at 25% of aggregate purchases. Aggrieved, the revenue is in further appeal before us.

5. We find that the Tribunal has already dismissed appeal of revenue for AY 2007-08 vide ITA No.1118/Mum/2019 order dated 12/02/2020 wherein the estimation of 25% has been upheld by the coordinate bench. Respectfully following the same, we dismiss both the appeals.

6. Both the appeals stand dismissed.

Order pronounced on 01st December, 2020.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01/12/2020

Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि □ प्रेषित/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– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

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