

आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" 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.1339/Mum/2012
(निर्धारण वर्ष / Assessment Year: 2007-08)

Amandeep Singh Arora C/o. V. Vaidyanathan & Co. F-36, Sitaram Building, Palton Road Mumbai-400 001.	बनाम/ Vs.	ACIT-20(1) Piramal Chambers, Lalbaug Mumbai.
PAN/GIR No. ADLPA-1611-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Vaidyanathan Venkataraman-Ld. AR
Revenue by	:	Shri Brajendra Kumar -Ld.DR

सुनवाई की तारीख/ Date of Hearing	:	03/12/2020
घोषणा की तारीख / Date of Pronouncement	:	03/12/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal is twice recalled matter since the appeal was earlier disposed-off vide order dated 02/03/2016 and thereafter vide order dated 13/05/2019. However, the order has been recalled on both the occasions. Accordingly, the appeal has come up for hearing afresh before this bench.

2. By way of this appeal, the assessee contest the addition of Rs.7.40 Lacs as confirmed by Ld. Commissioner of Income Tax (Appeals)-

31, Mumbai [CIT(A)] vide order dated 22/12/2011. After considering rival submissions and documents on record, our adjudication to the appeal would be as is as given in succeeding paragraphs.

3.1 The assessee being resident individual stated to be engaged in trading of textile fabric under proprietorship concern namely M/s Best Eyes was assessed u/s 143(3) on 31/12/2009 wherein it was saddled with addition of Rs.7.40 Lacs on account of bogus purchase. The same is the subject matter of present appeal before us.

3.2 The addition stem from the fact that the assessee reflected credit balance of Rs.43.81 Lacs against one creditor M/s Rameshchandra Balchand. However, the creditor confirmed balance of Rs.36.40 Lacs only and therefore, the assessee was asked to reconcile the difference of Rs.7.40 Lacs.

3.3 The assessee explained that it made purchases by challans during financial year 2006-07 on consignment basis but bills were not raised by the said creditor. However, the assessee accounted the same as purchases and included the same in stock as well. There was dispute on the consignments and the bills were raised by the said creditor in financial year 2007-08. The same was sought to be substantiated by the fact that these purchases were not recorded in FY 2007-08 but the payments were made in that year. However, not convinced, the difference of Rs.7.40 Lacs was added to the income of the assessee as bogus purchases.

4. The Ld. CIT(A) upon perusal of relevant account statements, noted that the said the corresponding sales were recorded by the said party in the months of December, 2007 to March, 2008 whereas the assessee recorded the same during the month of January, 2007 to March, 2007.

Therefore, the purchases for the year under consideration were inflated and a conclusion was to be drawn that the goods were procured from grey market in cash since the purchases so made were shown to be a part of closing stock for the year. Accordingly, the additions were to be confirmed. Aggrieved, the assessee is in further appeal before us.

5. Upon careful consideration, it is admitted position that certain purchases have been reflected by the assessee in its books of accounts and the same are shown to be a part of closing stock for the year under consideration. On the basis of this fact, it has been concluded by Ld.CIT(A) that the goods were procured from grey market in cash and therefore, the entire purchases were to be disallowed. However, since the purchases form part of closing stock, the assessee deserve the credit of goods as allegedly procured from the grey market in cash from unknown sources. Therefore, given the facts of the case, we would estimate the profit on these purchases @ 10% of Rs.7,40,740/-. The same comes to Rs.74,074/-. The balance addition stands deleted. The Ld. AO is directed to re-compute the total income of the assessee.

6. The appeal stands partly allowed in terms of our above order.

Order pronounced on 03rd December, 2020.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03/12/2020
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.