

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी"
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 2994/मुं/2019 (नि.व.2009-10)
ITA NO. 2994/MUM/2019 (A.Y.2009-10)

ITO-4(2)(4),
Room No.647, 6th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai 400 020

: अपीलार्थी/ Appellant

बनाम/ Vs.

M/s. Maya Jewels Pvt. Ltd.,
1, AGR, 76/78, Patel Building,
S K Memon Street, Zaveri Bazar,
Kalbadevi Road, Mumbai 400 002
PAN:AAF5335G

: प्रत्यर्थी/ Respondent

Revenue by : Ms. Smita Verma
Assessee by : None

सुनवाई की तारीख/
Date of Hearing : 02/11/2020
घोषणा की तारीख /
Date of Pronouncement : 23/11/2020

आदेश/ ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-2, Mumbai (in short 'the CIT(A)') dated 25/02/2019 for the assessment year 2009-10.

2. The brief facts of the case as emanating from the records are : The assessee is engaged in manufacturing and trading of gold, silver, diamond and imitation jewellery. The assessment for assessment year 2009-10 was reopened in the case of the assessee on the basis of information received from Sales Tax Department, Government of Maharashtra that the assessee has indulged in obtaining bogus purchase bills amounting to Rs.27,92,647/- from declared hawala operators. In reassessment proceedings the Assessing Officer issued notices under section 133(6) of the Income Tax Act, 1961 (in short 'the Act') to the parties from whom the assessee had made alleged bogus purchases. However, the notices were received back unserved with postal remarks, not known / left/ refused'. Although the assessee produced details viz. bills, bank statement, confirmation of accounts, stock register, mode of payment and mode of delivery of goods, etc., the Assessing Officer held that the assessee had obtained fictitious invoices from suspicious dealers and made addition of 20% of alleged bogus purchases .

Aggrieved by the assessment order dated 13/03/2015 passed under section 143(3) r.w.s. 147 of the Act, the assessee filed appeal before the CIT(A). The CIT(A) after examining the documents on record and considering the submissions of assessee restricted the addition to 6% of the alleged non-genuine purchases. Against the findings of CIT(A), the Revenue is in appeal before the Tribunal.

3. Ms. Smita Verma, representing the Department submitted that although the tax effect involved in this appeal is below the monetary limit specified vide CBDT Circular No. 17/2019, dated 08-08-2019 but the case of assessee falls in exception Para 10(e) of Circular no. 03 of 2018 dated 11/07/2018, further amended by circular dated 20-08.2018. The Id. Departmental Representative

further submitted that the assessee has failed to produce the parties from whom the bogus purchases were made. Even the notices sent to the alleged supplier of goods under section 133(6) of the Act on the address furnished by the assessee were returned back unserved. The assessee failed to prove genuineness of the purchases. The Assessing Officer in a fair manner made addition @20% of the bogus purchases to cover up the leakage of Revenue. The Id. Departmental Representative prayed for reversing the findings of CIT(A) and upholding the assessment order.

4. The submissions made by Id. Departmental Representative heard and orders of authorities below examined. The assessee is a trader and manufacturer of gold, silver, diamond and imitation jewellery. On the basis of information received from the Sales Tax Department, Government of Maharashtra by the Investigation Wing of Income Tax Department reassessment proceedings were initiated in the case of the assessee for the impugned assessment year. During the course of reassessment proceedings, the assessee produced copies of bills, bank statements, confirmations of payment, stock register, etc. to prove genuineness of purchase of goods. However, the Assessing Officer made addition of Rs.5,58,530/- i.e. 20% of the total alleged bogus purchases on the ground that the assessee had failed to produce the parties from whom alleged bogus bills were procured. In first appeal, the CIT(A) restricted the addition to 6% of the alleged bogus purchases. The assessee has declared G.P @ 6.17% during the period relevant to the assessment year under appeal. I am of the considered view that the addition made by Assessing Officer was on higher side. The CIT(A) has rightly restricted it to the G.P declared by the assessee. I find no reason to interfere with the

findings of CIT(A). Accordingly, the same are upheld and the appeal of Revenue is dismissed being devoid of any merit.

5. In the result, appeal by the Revenue is dismissed.

Order pronounced on Monday the 23rd day of November, 2020.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 23/11/2020
Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai